



**អង្គការសហប្រជាជាតិ
ការិយាល័យនៃខ្ពត្តបស្ចិមការទទួលបន្ទុកសិទ្ធិមនុស្សប្រចាំកម្ពុជា**



**Statement of the United Nations Office of the High Commissioner for Human Rights
in Cambodia**

Phnom Penh, 29 January 2010

OHCHR regrets once again that the courts have been used to respond to a public interest issue that could have been resolved in a more open, constructive manner, through public debate within Cambodia's democratic institutions. Mr. Sam Rainsy was sentenced to two years imprisonment for damage to property and incitement to racial discrimination (Article 52 and 61 of the UNTAC penal law, respectively). Ms. Meas Srey and Mr. Prum Chea were sentenced to 1 year imprisonment for damage to property. All three were further sentenced to heavy fines and compensation ranging from 5 to 50 millions riels.

Mr. Sam Rainsy allegedly took it upon himself to remove several border demarcation poles on 25 October 2009 in a border village in Svay Rieng province, adjacent to Viet Nam. As a Member of Parliament and a leader of the opposition, he could have raised his concerns about the current process of border demarcation and sought clarification from the relevant authorities or the border demarcation committee, or discussed them at the National Assembly or otherwise publicly.

The trial took place on 27 January in Svay Rieng provincial court. The court building was cordoned off by heavy security forces. A selected number of members of the public including local village and commune authorities and several Members of Parliament from Sam Rainsy Party were allowed in the gallery, although there remained available space. The media were not allowed in. Two human rights observers, including OHCHR, were authorized to observe the proceedings. Whilst it is not the role of OHCHR to determine the merits of the case, it observed that on several occasions the President of the court did not interrupt the civil party lawyer who attacked verbally the accused and their lawyers in an aggressive manner. Due process and international standards provide that trials should be public and respect the principle of equality of arms, whereby all parties must be treated with equal respect.

Border demarcation is an important matter of state sovereignty. It is always a complex and politically-delicate process, involving neighbouring countries, sensitive negotiations and potentially volatile popular feelings. This is an issue which has led in the past to serious conflicts between Cambodia and its neighbours. It is all the more important that the matter is handled carefully by the Government but also by political parties, with patience, tact, reason and responsibility.

In a democratic society, it is preferable that Government policies or decisions are addressed through public debate. From a human rights point of view, the best response to any allegation is to respond to it with the truth, facts and evidence, and to ensure, wherever possible, a transparent process. In doing so, political leaders should refrain from using border issues in an attempt to gain political dividends by stirring popular sentiments against neighbouring countries and peoples. This is a slippery road that may lead to further conflicts, violence and infringements of human rights.