Dear Samdech Akkak Moha Ponhea Chakrei Heng Samrin, President of the National Assembly

The Cambodian Center for Human Rights (CCHR) would like to express our concerns arising from the Draft Anti-Corruption Law which was made available to members of the opposition on Thursday 4 March 2010 and which is due to be debated before the National Assembly today, 10 March 2010. In the opinion of the CCHR, the secretive manner in which this law has been drafted – with no consultation sought from civil society – and the amount of time given to the opposition to consider the Draft before debating it in the National Assembly is contrary to the spirit of transparent governance that any anti-corruption law ought to seek to create.

The CCHR notes a number of disturbing provisions and omissions in the current Draft of the law which should be addressed before it is passed through the National Assembly and made law. In particular, the CCHR would like to raise our concerns in relation to the following issues:

- **Lack of Political Independence** – In its current formulation, the Draft Law provides for an Anti-Corruption Body which lacks the necessary safeguards to ensure its political independence. With the exception of the one dignitary to be appointed by His Majesty King Norodom Sihamouni, the entire membership of Anti-Corruption Council will be appointed by institutions that are controlled by the Ruling Party with the Chairperson and Vice-chairperson of the Anti-Corruption Unit to be appointed at the request of the Prime Minister. In the opinion of the CCHR, the failure of the drafters to provide for an independent and autonomous anti-corruption agency is likely to undermine the potential of the Law to confront endemic corruption in the Kingdom of Cambodia.

- **Exclusion of Public Participation and Lack of Transparency** - Despite its stated commitments to ‘public participation’ and ‘good governance’, the Draft Law is marked by a complete lack of provision for public participation and provides instead for the creation of an Anti-Corruption Body which lacks any semblance of transparency. In its current formulation, the Draft Law precludes the publication of any reports by the Anti-Corruption Body which will instead be sent to the Prime Minister only. Moreover, the Draft Law provides that the Declaration of Assets and Liabilities which the individuals who fall into the categories of Article 17 are required to make will be ‘highly confidential’. The opaque procedures provided for under the Draft Law and the absolute exclusion of the public from the fight against corruption, in the opinion of the CCHR, necessarily give rise to concerns as to whether the information gathered by the Anti-Corruption Body will be used to stamp out corruption in the Kingdom regardless of the identity of the people involved.
• **Failure to Protect Sources of Information** – The Draft Law rather than providing the legal framework for the physical and legal protection of the individuals who blow the whistle on corrupt practices, merely provides for the offence – in Article 39 – of Leaking Information on the Source of Corruption. In the opinion of the CCHR, this provision in itself is wholly inadequate as a protective measure for individuals who are seeking to assist the fight against corruption in Cambodia and is unlikely to engender a culture of cooperation with the Anti-Corruption Body. Moreover, the inclusion – in Article 41 – of the offence of Defamation for Providing a False Attestation represents a deterrent to any individuals seeking to come forward with information about corruption. The inclusion of this offence is not only contrary to Prime Minister Hun Sen’s previous pledge to remove the criminal offence of Defamation from the Statute books but is entirely unnecessary given the inclusion of the offence in the recently passed Penal Code.

According to Article 1, the Draft Law serves to promote ‘good governance in leadership and state management’. In keeping with the stated spirit of the Draft Law therefore, the CCHR calls on the Royal Government of Cambodia to immediately move to address the foregoing concerns and to actively seek the participation and consultation of members of the opposition and civil society in their efforts to conclude a law that may end endemic corruption in the Kingdom of Cambodia.

Yours sincerely,

Ou Virak
President, Cambodian Center for Human Rights