Media Statement

Phnom Penh, September 7, 2009

For Immediate Release

The Cambodian Center for Human Rights (“CCHR”) submits an Amicus Curiae Brief to the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) and makes a complaint to the Special Rapporteur on torture in response to the Office of the Co-Investigating Judges (“OCIJ”) Order on the use of torture tainted evidence.

The CCHR will today submit an Amicus Curiae (Friend of the Court) Brief to the Pre-Trial Chamber (“PTC”) of the ECCC to assist it in determining whether or not to uphold the OCIJ Order on use of statements which were or may have been obtained by torture dated 28th July 2009 (the “OCIJ Order”), that dismissed a motion by IENG Thirith requesting a declaration of inadmissibility of all evidence obtained through torture. Further, the CCHR will submit a letter of complaint to the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and copy on this letter the Special Rapporteur on the situation of human rights in Cambodia.

At paragraph 28, the OCIJ Order effectively states that all torture-tainted evidence can be accepted. The CCHR submits that the OCIJ Order is irresponsible and injudicious, because:

• It amounts to a blanket acceptance of torture-tainted evidence, which is in breach of Article 15 of the Convention Against Torture (“CAT”) and is therefore illegal. The OCIJ Order has put the ECCC, and - as the ECCC is part of the Cambodian court system – Cambodia, in breach of the CAT.

• Promises made regarding the ECCC’s legacy – what the Court will leave behind for Cambodia – are fundamental to its existence, and include contributing to the development of the Cambodian judicial system and strengthening rule of law in Cambodia. Judges at the ECCC, including those in the OCIJ, must take into account the implications of their rulings for the ECCC’s legacy in Cambodia. The OCIJ evidently did not do so.

• Against a backdrop of a Cambodian judiciary suffering from corruption, political control and limited capacity, and ignoring the promises for a legacy of judicial reform, the OCIJ Order threatens the fairness of legal proceedings in Cambodia. The Cambodian judiciary could exploit the OCIJ...
Order in order to permit the admission of torture-tainted evidence and to ignore or apply broad discretion in their interpretation of all international law in order to achieve a desired result.

- Against a backdrop of endemic torture practices in Cambodia, and ignoring promises for a legacy of strengthened rule of law, the OCIJ Order could serve to legitimize and perpetuate endemic torture practices in Cambodia.

The CCHR’s *Amicus Curiae* brief concludes with the following appeal: “The CCHR strongly urges the PTC to overrule the OCIJ Order, to safeguard the legacy of the ECCC and - most importantly - the fundamental rights of the people of Cambodia.” The CCHR has requested public classification for this brief and will make a copy of it available online at www.cchrcambodia.org

The CCHR’s letter of complaint to the Special Rapporteur on torture requests that he gives the matter his “urgent attention and take[s] all action necessary to bring, as soon as possible, the concerns relating to the OCIJ Order to the attention of the United Nations Assistance to the Khmer Rouge Trials (UNAKRT) and the Royal Government of Cambodia.” This letter will not be made available to the public.

Ou Virak, President of the CCHR, states: “As we submit in our *Amicus Curiae* brief, at the very least decisions made at the ECCC must endeavour to assist, rather than thwart, Cambodia’s difficult transition towards a functional democracy free from violence and abuse of power. The Cambodian people have been promised much by the ECCC. Our brief reflects fear: fear that these promises have been forgotten, fear that judicial reform and the strengthening of rule of law in Cambodia will be replaced by a legacy of terror.”

For more information, please contact:

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