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CSOs call for the immediate release of opposition Senator

On Sunday morning, Sam Rainsy Party (“SRP”) Senator Hong Sok Hour was sent to Prey Sar prison after being charged with forging public documents, using forged documents, and incitement to cause chaos in social order under Articles 629, 630, and 495 of the Penal Code, respectively. Mr. Sok Hour, who holds parliamentary immunity from arrest, detention and prosecution, was arrested at 6a.m. on the morning of Saturday, August 15, by police armed with assault rifles. The arrest came just three days after a speech by Prime Minister Hun Sen, urgently calling for Senator Sok Hour’s arrest for “treason” after the Senator posted a video on Facebook, which included text from a fake 1979 treaty between the Cambodian and Vietnamese governments.

We, the undersigned civil society organizations (“CSOs”), condemn this unconstitutional, politically motivated arrest and detention, and call for the immediate release of Senator Hong Sok Hour.

Article 104 of the Constitution of the Kingdom of Cambodia states that Senators shall be immune from prosecution, arrest, and detention for opinions expressed in the exercise of their Senatorial duties. This constitutional immunity can only be lifted by a two thirds majority vote of the Senate, an event which did not occur prior to Senator Sok Hour’s arrest. The only exception to this requirement arises in cases of “*flagrant delicto*” offences, whereby the perpetrator is caught ‘red-handed’ in the act of committing a crime. This exception was invoked as a justification for the Senator’s arrest by Investigating Judge Kor Vandy. However, the fact that the arrest occurred three days after the video was initially posted, and only upon the intervention of Prime Minister Hun Sen, provides clear evidence that this was not a *flagrant delicto* offence.

Article 495 of the Penal Code states that the crime of incitement to cause chaos in social order requires an act of “direct” incitement. While it may have been irresponsible for Senator Sok Hour to publicize a fake treaty, he plainly did not directly incite anyone to commit a felony. Forgery is defined under Article 626 of the Penal Code as a “fraudulent alteration of the truth.” Article 629 states that the crime of forgery of a public document relates only to “authenticated documents” or documents “issued by a public body for the purpose of establishing a right, an identity or a capacity, or to grant an authorisation.” Mr. Sok Hour’s actions cannot be properly considered as an act of forgery in this context, as there is no evidence that the Senator himself altered the fake treaty.

This unconstitutional arrest cannot be considered in isolation. In recent months, the Royal Government of Cambodia (“RGC”) has been carrying out a far-reaching and systematic attack on dissent and democracy in Cambodia. On 21 July 2015, 11 opposition activists affiliated to the Cambodian National Rescue Party (“CNRP”) were sentenced to lengthy jail terms on trumped up insurrection charges, due to their involvement in protests in Phnom Penh’s Freedom Park. In early August, just two days after Prime Minister Hun Sen called for more arrests, three more CNRP activists were also charged with joining an insurrection movement related to the same protest. The recently promulgated Law on Associations and Non-Governmental Organizations (“LANGO”) is a further example of the RGC’s campaign to stifle critical voices, enabling Ministry officials to arbitrarily shut down CSOs on the basis of non-adherence to “political neutrality.” Just yesterday, three youth members of the environmental NGO Mother Nature were arrested for their protest activities in Koh Kong province. Simultaneously, the RGC is preparing the introduction of a

Cybercrime Law, which proposes to criminalize “people with bad intentions” who “criticize the government”, and a Trade Union Law which aims to weaken the power of organized labor.

All of these developments are deeply interconnected and represent a grave threat to democracy and human rights in Cambodia. The RGC is undertaking a campaign to shut down the dissenting voices that provide the strongest opposition – political opponents, civil society organizations, trade unions, and ordinary people using social media – by exercising complete control over the judiciary and by introducing oppressive laws that violate international human rights standards. We, the undersigned CSOs, deplore these actions by the RGC and reiterate our commitment to democracy and human rights in the Kingdom of Cambodia.

This joint statement is endorsed by:

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3. Cambodian Labour Confederation (CLC), Mr. Ath Thon, 012 998 906
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