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1999 UN COMMISSION ON HUMAN RIGHTS

Making human rights work: time to strengthen the special procedures

Appeal case: CAMBODIA

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Amnesty International is a worldwide movement that works to prevent some of the gravest human rights violations wherever they occur. The organization does not grade countries according to their human rights record but concentrates on ending specific violations. The 55th session of the UN Commission on Human Rights (Commission) will meet for six weeks in Geneva from 22 March to 30 April 1999.

Amnesty International is calling on the Commission this year to act on **Algeria, Cambodia, the Great Lakes region of Africa (Burundi, Democratic Republic of Congo, Rwanda), Turkey** and the **United States of America**, where human rights violations and abuses are grave, persistent, and/or widespread. This document summarizes Amnesty International's concerns in one of these countries, Cambodia, and includes one appeal case which illustrates some of Amnesty International's concerns in that country.

Amnesty International urges all governments, whether members or observers, attending the Commission to take up this appeal case as well as Amnesty International's recommendations in their bilateral and multilateral meetings with government representatives of Cambodia. Where the Commission adopts a resolution, takes a decision or its Chair makes a statement on the human rights situation in Cambodia, specific action should also be taken to address the violations in the appeal case.

SUMMARY OF AMNESTY INTERNATIONAL'S CONCERNS IN CAMBODIA

Total impunity for human rights violations continues to be the norm in Cambodia. To date, perpetrators of recent human rights violations, including extrajudicial executions, torture and arbitrary detention -- as well as those who committed acts of genocide, crimes against humanity and war crimes between 17 April 1975 and 7 January 1979 while the Khmer Rouge was in power -- have not been brought to justice.

The authorities have ignored the recommendations made over the last six years by the Commission on Human Rights and its thematic mechanisms, by the General Assembly and the Committee on the Elimination of Racial Discrimination. This situation defies the efforts made by the UN Secretary-General's Special Representative for Human Rights in Cambodia (the Special Representative) and the Cambodia Office of the High Commissioner for Human Rights (COHCHR).

The government's failure to bring to justice those responsible for recent violations -- highlighted for instance by the fact that none of the cases reported by the Special Representative has led to any prosecutions or anyone being sentenced -- has led to a climate where further human rights violations continue unabated in a self-perpetuating cycle. Without the political will to address the ongoing violations and halt impunity, the situation will not improve, and without institutional reform the ability to prosecute alleged violators will remain weak.

Since the violent removal from power in July 1997 of then First Prime Minister Prince Norodom Ranariddh of the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC) by forces loyal to Cambodian People's Party (CPP) then Second Prime Minister Hun Sen, scores of FUNCINPEC supporters have been extrajudicially killed, and hundreds have fled the country.

Elections held in July 1998 were marred by a climate of intimidation and threats. Despite having won, the CPP failed to secure enough seats to form a government. However, a coalition government was formed after talks initiated by the King in November. In September 1998, police violently dispersed demonstrators who had -- by and large -- peacefully demonstrated against election rigging. At least three people were shot dead by the security forces, scores of people were arrested and dozens remain unaccounted for. In the aftermath of the crack-down, two dozen bodies were found in and around the capital Phnom Penh. In this connection, the Special Representative "expressed grave concern at the increasing numbers of arrests, disappearances, and discoveries of bodies". He said that many of the bodies bore signs of torture or other violence including bullet wounds and strangulation marks. Despite the high number of arrests witnessed, the Special Representative noted that Cambodian authorities had acknowledged carrying out only 22 arrests. To date, the Cambodian authorities maintain that the sudden appearance of so many corpses was unrelated to the violent dispersal of the demonstrators. However, no substantive investigations have so far been carried out into these killings.

Human rights defenders, including those working for the COHCHR, were the regular target of official criticism both before and after the July elections; some received death threats and two were arrested in December 1998 in the course of their legitimate human rights work. One Cambodian employee of the COHCHR was beaten in April 1998 by a group of people including uniformed police.

The Special Representative has continued to stress that torture and ill-treatment by the police remains a very serious problem, as documented by Amnesty International. Current police practice routinely denies detainees access to lawyers, their families or medical personnel for the first 48 hours of detention -- the critical period during which all detainees are vulnerable to torture and ill-treatment. Court convictions on the basis of confessions obtained under duress during the first 48 hours of detention are routine.

The Special Representative has also raised problems arising from conditions in prisons, namely lack of food and medical care contributing to serious health problems. In addition, continued shackling of prisoners was reported in a number of provincial prisons.

Impunity remains entrenched in law. Article 51 of the 1994 Law on Civil Servants provides that the Council of Ministers' consent is required for criminal proceedings to be instituted against civil servants -- including law enforcement officials -- effectively preventing the initiation of such proceedings by the competent authorities. The establishment of a National Human Rights Committee -- which lacks any independence, and which so far has not carried out any serious investigations into alleged human rights violations -- is a cause of serious concern, particularly as this body is intended to act as the precursor of a permanent national human rights commission.

As recently as December 1998, the General Assembly in resolution A/RES/53/145 on the situation of human rights in Cambodia reiterated similar concerns outlined in resolution 1998/60 by the Commission, and expressed "grave concern about ... violations of human rights ..." and "called upon the Government of Cambodia to investigate urgently and prosecute all those who perpetrated human rights violations". The resolution reiterates the Special Representative's concerns about "the independence of the judiciary and the establishment of the rule of law, the use of torture, the administration of prisoners and the ill-treatment of prisoners" and stresses that "addressing the continuing problem of impunity...remains a matter of critical and urgent priority".

In November 1998 a group of experts appointed by the UN Secretary-General pursuant to General Assembly resolution 52/135 of 1997, visited Cambodia to examine evidence about serious human rights violations committed between 1975 and 1978 while the Khmer Rouge was in power. In late December 1998, Prime Minister Hun Sen welcomed the defection of two senior former Khmer Rouge leaders as a sign of the success of his policy of national reconciliation. This appeared to contradict previous requests to the UN "for assistance in responding to past serious violations of Cambodian and international law by the Khmer Rouge". This move contributed to the already overwhelming climate of impunity in the country and risked seriously undermining attempts to tackle past and recent human rights violations.

The Commission needs to send a strong message to the new Cambodian government that the cycle of impunity must end, and that strong measures must be taken to protect human rights and prevent violations.

Amnesty International's recommendations to the Commission are featured in the main document: "1999 UN Commission on Human Rights - Making human rights work: time to strengthen the special procedures" (AI Index: IOR 41/01/99), page 14.

Appeal case: DANH TEAV - Torture

Late in the evening of 20 July 1998 Danh Teav, a member of the counter-terrorism unit at the Ministry of Interior, affiliated to the FUNCINPEC political party, was arrested without a warrant with his wife Ly Rosamy, an election candidate for the Sam Rainsy Party (SRP). She was quickly released but Danh Teav was held incommunicado at PJ prison in Phnom Penh.

On 22 July 1998, Amnesty International found Danh Teav at the Municipal Court. He had cuts and bruises on his face and across his chest and back, cuts around his wrists from his handcuffs, was unable to stand without help, and had been coughing blood. He had been beaten and kicked by the Phnom Penh Municipal Police in an attempt to make him confess to the murder of a businessman and the attempted murder of a newspaper editor, which he denied.

At the court, Danh Teav was handcuffed to five young men, several of whom were covered in blood. They had been severely beaten by police, were not informed of the charges against them and had no legal representation. After a preliminary court appearance, Dah Team was returned to incommunicado detention for a further five days, denied access to his family, lawyer and a doctor.

Danh Teav was released without charge in October 1998. His case is illustrative of those of many Cambodians, arrested in violation of proper procedures, tortured in incommunicado detention, and all too often convicted on the basis of confessions obtained under torture.

Amnesty International calls for:

- a prompt, full and impartial investigation into the allegations of torture, for the results to be made public and for those responsible to be brought to justice.

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