

£KINGDOM OF CAMBODIA

@Human rights violated: government acts to silence critics

Amnesty International is gravely concerned to learn of the arbitrary detention and ill-treatment of four men in Phnom Penh on the night of the 13 - 14 July 1995. The four, three of whom have been employed as bodyguards by the recently expelled National Assembly member Sam Rainsy, were arrested and beaten by 30 to 40 soldiers, interrogated and forced to answer questions for 16 hours. The incident is the latest in a disturbing pattern in Cambodia, where critics of the government and those associated with them are being intimidated in an attempt to silence them. In the last twelve months, Amnesty International has become increasingly concerned that the fundamental rights to freedom of opinion, expression and association are being undermined in Cambodia, as the government seeks to silence all criticism and opposition to its actions. The organization believes that the Royal Cambodian Government is failing to meet its international obligations regarding human rights, and that the basic rights of the individual are being subjugated to the wishes of government ministers. A draft press law, currently being debated in the National Assembly will, if passed, further limit the rights to freedom of expression in Cambodia, and make it increasingly difficult for opponents of the government to express their peaceful political views.

Background

The Royal Government of Cambodia came to power in September 1993, following the end of the mandate of the United Nations Transitional Authority in Cambodia (UNTAC), and the promulgation of the new constitution. The two major parties in the coalition government are FUNCINPEC¹ and the Cambodian People's Party (CPP). The smaller Buddhist Liberal Democratic Party (BLDP) also holds government posts.

Perhaps the most positive legacy of the UNTAC period was the establishment of the roots of civil society in Cambodia, with the growth of a local non-governmental human rights movement and a free press. For the first time, there was a constituency in the country which was willing and able to criticise the government and express views which differed from government policy. However, the rights and ability of this constituency to express peaceful political opposition to the government are being steadily undermined. A

¹ FUNCINPEC is the French acronym for the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia. The leader of FUNCINPEC, Prince Norodom Ranariddh is the First Prime Minister of Cambodia's coalition government.

catalogue of incidents over the last twelve months prove the unwillingness of the government to accept the right of people to express their opinions.

The incident on the night of 13 July, which culminated in four men being arbitrarily detained and beaten solely for their association with a prominent government critic, underlines the concerns Amnesty International has expressed throughout the last year. The organization is calling on the Royal Cambodian Government to provide adequate guarantees for the security of all people, including those whose political views do not coincide with those of the government. In particular, Amnesty International is concerned for the safety of Sam Rainsy and his family, and renews its call to the government to ensure that their safety is guaranteed.²

The case of Sam Rainsy

Sam Rainsy was elected as a National Assembly member for the constituency of Siem Reap. He served with Prince Norodom Ranariddh as one of FUNCINPEC's two representatives on the Supreme National Council during the UNTAC period. Following the formation of the coalition government after the May 1993 elections, Sam Rainsy was appointed Minister of Finance and Economics. In July 1994, he criticised the wording of a draft law which outlawed the Partie of Democratic Kampuchea (PDK, commonly known as the Khmer Rouge), on the grounds that if implemented it could lead to violations of human rights. The law was vaguely worded and could have been used to silence anyone who was regarded as a critic of the government. The law was subsequently amended, although it still raises human rights concerns. In October 1994, Sam Rainsy was sacked from his position in the government, but remained a National Assembly member. He frequently criticised the government on a number of issues, and expressed political opinions at variance with those of the government's leaders. His statements often drew harsh responses, and several pro-government newspapers labelled Sam Rainsy as "pro-Khmer Rouge". In the current political climate of Cambodia this is an extremely serious accusation: there have been a number of cases recently where people accused of having links with the Khmer Rouge have been deliberately and arbitrarily executed by members of the security forces, and their families have been threatened.³

² See Amnesty International *Kingdom of Cambodia: Sam Rainsy MP: Concern for the safety of an elected representative* (ASA 23/09/95 June 1995).

³ See Amnesty International Urgent Action 43/95 *Cambodia: Possible Extrajudicial Executions/Fear for Safety* (ASA 23/03/95, 20 February 1995) and Update (ASA 23/05/95, 13 March 1995).

Sam Rainsy has been the victim of threats against his life. The lives of his family have also been threatened. Some of the threats against him apparently emanate from the highest levels of the Royal Cambodian Government. In March 1995 while he was overseas, his bodyguards were removed from his house by Ministry of Interior police. Several of them later left the employ of the Ministry of Interior, and chose instead to work for Sam Rainsy. In May Sam Rainsy was expelled from his political party FUNCINPEC, and on 22 June he was expelled from the National Assembly. He has questioned the legality of his expulsion. Amnesty International issued an appeal for his safety in June. On the day of his expulsion, the organization also expressed concern for the safety of National Assembly members who had supported him.⁴

The attack on Sam Rainsy's bodyguards

According to a statement released by Sam Rainsy's bodyguards in Phnom penh on 14 July, they were arrested and beaten up by soldiers who wanted them to identify Sam Rainsy as linked with the Khmer Rouge. On 13 July 1995 at 5pm a man called Thea, who was an acquaintance of one of the bodyguards came to Sam Rainsy's house, and invited four people - Sam Rainsy's bodyguards Um Sam-oeun, Seng Sopharith and Nguon Han, and a fourth man Cheav Koab, who is the bodyguard of the Second Deputy Governor of Siem Reap - to go and have dinner with him. The men all went to a restaurant together, and at the restaurant they were greeted by two other friends of Thea. At the end of the meal, the men were preparing to return to Sam Rainsy's house, but the two friends suggested that they go first to their house. They agreed to go, and got into a car with the men. However, they were taken to a military camp, which is known as the base of the research department of the Ministry of Defence. They entered the camp at 9pm, and were met by between 30 and 40 armed soldiers, who forced them out of the car at gunpoint and made them kneel on the ground. The four were handcuffed and searched, and their belongings and weapons were removed. They were then separated, and taken to rooms where they were beaten and threatened. All four were interrogated and intimidated: the soldiers beat them with rifle butts, pointed guns at their heads, punched them and banged their heads on the table. The soldiers tried to make the men answer questions about Sam Rainsy and recorded their answers on tape. The soldiers demanded to know who visited Sam Rainsy and how often. They were told that they had been arrested "for the political crime of involvement with the Khmer Rouge".⁵

⁴ See Amnesty International *Kingdom of Cambodia: Concern for the safety of elected representatives* (ASA 23/11/95, 22 June 1995).

⁵ Joint Statement of the Bodyguards of His Excellency Sam Rainsy, Phnom Penh 14 July 1995. Official Translation.

According to the statement released by the four men, the soldiers tried repeatedly to make them state that Sam Rainsy is a Khmer Rouge agent and a traitor. One of them was told:

"If you don't answer, your head will be soaked with blood ... Even if you are not shot, your head will be smashed to bits, and no one will be able to help you."

The men were forced to respond to questions with answers prepared by the soldiers. The commander of the soldiers listened to the answers, and forced them to repeat them, if he was not satisfied.

After 16 hours in detention the four men were released at 1.30pm on 14 July 1995, following interventions which apparently resulted in a statement declaring that they were not involved in anything which damaged the national interest, and that the interrogators regarded the case as null and void. According to a report in a Cambodian newspaper, Co-Minister of Defence Tea Banh stated on Saturday that the arrest had occurred, as the soldiers were concerned about the man from Siem Reap. According to the article, Tea Banh claimed that the man was not a bodyguard but a soldier stationed in Siem Reap. He denied that the case had anything to do with Sam Rainsy, and also refuted the men's story of torture and ill-treatment, saying they had simply been asked questions.⁶

Amnesty International is gravely concerned at the events which took place on the night of the 13 July 1995. The organization believes the arrest, detention and torture of the four men was a gross violation of their human rights. Amnesty International calls on the Royal Cambodian Government to launch an immediate, impartial investigation into the incident, to make the results of the investigation public and to bring those responsible to justice. It also calls on the Royal Cambodian Government to ensure that all information extracted under torture is discarded as invalid, as stipulated in Article 38 of the Cambodian Constitution:

"The law shall guarantee against bodily assaults on any person ... Confessions obtained through either physical or mental coercion may not be used as proof of guilt."

In the light of this incident Amnesty International again fears for the safety of Sam Rainsy and his family. Sam Rainsy is currently on a visit outside Cambodia, but given the attack on his bodyguards, there is concern that he may be in danger on his return home.

⁶ See "Rainsy Guards Arrested, Asked to Make KR Links" *The Cambodia Daily* 17 July 1995.

The organization believes he should be able to return to his country without fear for his personal security.

Fundamental human rights under threat

Amnesty International believes that the attack on Sam Rainsy's bodyguards is merely the latest incident in a dismal catalogue of restrictions on the rights to freedom of opinion, expression and association in Cambodia in the last 12 months. Since an apparent coup attempt in Phnom Penh in July 1994, the Royal Cambodian Government has become increasingly intolerant of criticism of its ministers and their policies. In his open letter of 20 June 1995 about the draft press law, Amnesty International's Deputy Secretary General noted:

"...in the last year, there has been increasing pressure on journalists and editors not to publish criticism of the Royal Cambodian Government. Journalists have been prosecuted and sentenced to prison terms for articles they have published, and there have been at least two cases where journalists known for their critical views have been killed. No one has been brought to justice for these killings. Outspoken criticism of the government clearly brings increasingly harsh penalties in Cambodia. If the draft press law is passed by the National Assembly in its current form, Amnesty International fears that prisoners of conscience will again be held in Cambodia. The pressures on journalists and editors to exercise self-censorship are likely to increase, and Cambodia will fail to fulfill all its obligations under international human rights standards."⁷

In spite of widespread international criticism of the draft press law, the majority of its articles have already been debated and passed by the National Assembly, including Article 12 which states that "the press shall not publish or reproduce information which affects national security and political stability." Amnesty International believes that such a broadly phrased statement cannot be defined in law, and could potentially be used to punish anyone who publishes articles critical of the government. In addition, this article contravenes article 19 of the International Covenant on Civil and Political Rights (ICCPR), which Cambodia has acceded to and ratified. The law also allows for journalists and editors to be charged under the penal code as well as the press law, and thus possibly be sent to prison for articles they publish, in violation of international law. It is clear from the attitude of the Royal Cambodian Government that the determination to silence its critics comes higher on its list

⁷ See Amnesty International *Kingdom of Cambodia: The Draft Press Law Open Letter to Chea Sim, President of the National Assembly* (ASA 23/10/95, 20 June 1995).

of priorities than the internationally guaranteed rights of all Cambodian people. Amnesty International notes with concern and regret the number of lawsuits brought against journalists in 1995, including two cases where editors were sentenced to prison terms. The defendants are currently awaiting dates for appeals to be heard against their sentences. If the sentences are upheld and they are imprisoned, they may be prisoners of conscience, detained solely for the peaceful expression of their political views.

Further concerns

Amnesty International is increasingly concerned for the safety of elected representatives who have been outspoken on human rights issues and who supported Sam Rainsy in his attempt to prevent his expulsion from the National Assembly. The organization fears that these National Assembly members may be expelled from their political parties, and then expelled from the National Assembly using Sam Rainsy's case as a precedent. Having been expelled they would lose their parliamentary privileges, and may face prosecution for the expression of their peaceful political views. On 22 June the organization expressed concern for the safety of such representatives, in particular for Kem Sokha (BLDP, and Chair of the Parliamentary Commission on Human Rights and the Reception of Complaints), and Ahmad Yahya (FUNCINPEC). Both men had defended Sam Rainsy at the National Assembly on 22 June 1995.

In the light of the attack on Sam Rainsy's bodyguards and the progress of the draft press law through the National Assembly, Amnesty International renews its call to the Royal Cambodian Government to provide adequate guarantees for the security of all elected representatives, including those who have expressed views which differ from the government line. The organization is particularly concerned that due to a split in the BLDP, some members of the party, including Kem Sokha are likely to be expelled, and thus be at risk of losing their National Assembly seats. Kem Sokha has proved himself to be a vocal advocate for human rights in Cambodia in his position as Chair of the Parliamentary Human Rights Commission. Ahmad Yahya has also spoken out on human rights issues on a regular basis.

In a recent speech to the newly formed (and pro-government) Alliance of Cambodian Journalists, Second Prime Minister Hun Sen reportedly accused Kem Sokha of "double standards" on human rights, and said he would be calling on fellow National Assembly members to review the membership of that Commission.

Recommendations

In a major report issued in March 1995, Amnesty International made a number of recommendations to the Royal Cambodian Government, including some relating to the free

exercise of the rights to freedom of expression, opinion and association. The organization stated:

"The newly-established civil society in Cambodia is vital to the country's emerging human rights culture. It is also fragile. The Cambodian Government has a special duty to ensure that journalists, editors, human rights workers and members of political parties are able to carry out their legitimate activities ... and to express their peaceful opinions without risk."⁸

The organization regrets that it has not seen improvements in the human rights situation in Cambodia since March of this year, and that recent events represent a considerable step backwards. In particular, the abduction and torture of Sam Rainsy's bodyguards is reminiscent of tactics not seen in the country since before the 1993 elections. It is a matter of considerable concern that fundamental human rights and freedoms continue to be undermined in the country. Amnesty International repeats its recommendations of March 1995, and calls upon the Royal Cambodian Government to implement them immediately, in order to protect the rights and freedoms of those over whom it rules and who it has a duty to protect:

- ensure that all harassment, threats and intimidation of politicians, journalists, editors and human rights workers cease;
- launch independent, impartial investigations into the killings of and threats against journalists and editors in Cambodia and bring those responsible to justice;
- launch an independent, impartial investigation into the arrest, detention and torture of Sam Rainsy's bodyguards and their friend on 13 July 1995, and bring those responsible to justice;
- revise the draft press law currently being debated in the National Assembly to ensure it conforms to international human rights standards;
- ensure that politicians, political party activists and security personnel linked to political parties are not harassed, threatened or killed for exercising their rights to freedom of expression, opinion and association.

⁸ See Amnesty International *Kingdom of Cambodia: Human rights and the new government* (ASA 23/02/95, 14 March 1995) pp66-67.