

KINGDOM OF CAMBODIA

Human rights at stake

"I've had bad luck my whole life. Every time I settle my family in one place we have to leave because they start fighting again."

[Words of a former resident of Samrong, recently returned to Cambodia having sought refuge in Thailand from the fighting in her home town. Interviewed in northwest Cambodia, December 1997].

Introduction

The words of the Cambodian woman above poignantly capture the weariness and distress experienced by the vast majority of Cambodia's people over the constant political strife in their country. Since the violent ousting from power of First Prime Minister Prince Norodom Ranariddh (from the FUNCINPEC political party) by Second Prime Minister Hun Sen (from the Cambodian People's Party, CPP), in early July 1997, tens of thousands of Cambodians have again fled from their homes, as fighting between rival groups has once more disrupted their lives and torn their families apart. Hundreds of people have been living in fear because of their political beliefs and activities and scores have been killed. Respect for fundamental human rights - already at a critical level before the coup - has declined still further, and there are currently no indications that the situation will improve before the elections which are scheduled to take place in late July this year.

Human rights and security go hand in hand; many Cambodians no longer feel secure enough to exercise their rights to freedom of expression, association and assembly. Much of the human rights progress made in the country since the signing of United Nations-sponsored peace agreements of 1991 has been eroded over the last four and a half years, and there is institutionalized impunity for those suspected of involvement in human rights violations. The Royal Government has made numerous commitments to investigate human rights violations brought to its attention over the years, and particularly since the July coup, but the actions of senior government ministers suggest that the Cambodian authorities are more interested in discrediting the work of human rights monitors than in searching for the truth.

This report draws on observations made by an Amnesty International delegation which visited Cambodia in November and December 1997. At the end of the report are a series of recommendations, to the Cambodian Government and to the international community, which Amnesty International believes would, if implemented, bring about an improvement in the human rights situation in the country.

Background information on Cambodia's recent political and human rights history may be found in an appendix to this document.

Political Developments

In the immediate aftermath of the violence of July 1997, dozens of politicians and activists loyal to the ousted First Prime Minister's party FUNCINPEC, and to two smaller parties - the Son Sann faction of the Buddhist Liberal Democratic Party (BLDP) and the Sam Rainsy faction of the Khmer Nation Party (KNP) - fled the country.¹ The majority went to Bangkok, Thailand, where they formed an umbrella group, the Union of Cambodian Democrats (UCD) to protest about the situation in Cambodia and call for change. FUNCINPEC Foreign Minister Ung Huot who was overseas during the coup, returned to Phnom Penh on 14 July and was appointed as the new First Prime Minister. Opposition politicians have questioned the legality of his appointment which was approved by the National Assembly. The National Assembly also voted to strip Prince Norodom Ranariddh of his parliamentary immunity so that charges could be brought against him.

Sam Rainsy, the head of the KNP returned to Cambodia in late 1997 and has held several political meetings and demonstrations since then, with government permission. However, at a KNP meeting in a temple in Kampot province on 13 February 1998, shots were fired in the air while Sam Rainsy was speaking, allegedly by the chief of the commune police.² The majority of the UCD politicians and activists have now returned to Cambodia, following several advance missions to survey the situation and after receiving guarantees from the government for their safety. Prince Ranariddh remains in exile pending trial in absentia on several charges.

The events of July 1997 have impacted severely on Cambodia's international relations. Cambodia's seat at the UN General Assembly in New York was left vacant following a decision by the UN in September 1997. Cambodia was due to become a full member of the Association of South East Asian Nations (ASEAN) at the end of July. Following the violent ousting from power of Prince Ranariddh, ASEAN deferred Cambodia's membership, and the organization has been closely involved in diplomatic efforts to find a

¹ Many political parties in Cambodia are split into two or more factions and there are ongoing disputes about the right to use the name of several different parties.

² See appendix for information on a previous violent attack against Sam Rainsy and the KNP.

solution to the problem. The Foreign Ministers from Thailand, the Philippines and Indonesia have been at the heart of these efforts for many months, sometimes without much public support from some of the parties involved.

Following on from ASEAN's efforts came the Japanese initiative known as the "four pillars initiative" aimed at bringing about peace and allowing for Prince Ranariddh's participation in the July elections. It was approved by the Friends of Cambodia group³ in the Philippines on 15 February 1997. Prince Ranariddh and Hun Sen have both said publicly that they support the initiative, but there is confusion over how some elements might be implemented in practice. There are four elements to the proposal:

- There should be no military cooperation with the Khmer Rouge;
- There should be an immediate ceasefire followed by a reintegration of military forces
- The Cambodian legal authorities should conclude Prince Ranariddh's trial as soon as possible and the Cambodian Head of State King Norodom Sihanouk should then bestow an amnesty immediately to the Prince on the basis of a petition from his family.⁴
- The Cambodian Government should guarantee Prince Ranariddh's security and safety in Cambodia and should not bar him from participating in the election, as long as he observes Cambodian law.

Amnesty International does not wish to comment on the political aspects of the Japanese initiative to break the impasse which has existed in Cambodia since July 1997. However the organization is concerned about the human rights implications of any political solution. All the signatories of the 1991 Cambodia Paris Peace Accords - of which Japan is one - have a responsibility to uphold human rights in Cambodia, and human rights must be at the heart of any solution to the problems there. Clause three of the Japanese initiative appears to assume that Prince Ranariddh will be found guilty, which goes against the right to presumption of innocence, a fundamental element of any fair trial.

³ This is a group of countries which has an ongoing interest in Cambodia's problems, and includes Japan and the USA.

⁴ King Norodom Sihanouk is the father of Prince Ranariddh. Under the Constitution, the King - who reigns but does not rule - has the power to grant amnesty to individuals. Prince Ranariddh has said that he will not request an amnesty from the King, as he believes that requesting an amnesty would be tantamount to admitting guilt. The Japanese proposal to allow a family member to petition on behalf of Prince Ranariddh is apparently designed to bypass this potential problem.

Legal developments

The nine member Supreme Council of Magistracy, the legal body with constitutional responsibility for ensuring judicial independence was finally convened for the first time on 3 December 1997. There has to date been no progress on convening the Constitutional Council, the body which should decide on whether legislation is constitutional and rules over disputes relating to election of members to the National Assembly. The National Assembly has yet to approve any draft law on the operation of the Council and it seems most unlikely that it will be convened in the near future. As the UN Secretary General's Special Representative for Human Rights in Cambodia most recent report to the UN General Assembly notes:

*"The lack of a Constitutional Council means that there is no legal forum to determine the constitutionality of various legislative enactments, including any election law or political party law. This seriously undermines both the reality and the appearance of the rule of law in Cambodia."*⁵

The electoral law was passed by the National Assembly on 19 December 1997. Very few National Assembly members challenged any of the wording of the law, and its passage through the assembly became essentially a formality. The greatest delay was caused by the difficulty of ensuring a quorum of members in the chamber following the mid-morning recess.

There were a small number of National Assembly members who attempted to challenge points in the law, but they were very much a minority. Under the law, a National Election Commission (NEC) will be responsible for the organization and management of the 26 July election. The law also states that a candidate for the elections must have voting rights, and that voting rights are denied to a person who is a convict.

⁵ Report of the Secretary General: Situation of human rights in Cambodia UN General Assembly document A/52/489, 17 October 1997.

The NEC consists of 11 members, including political party representatives, and representatives from Cambodian society. Concerns expressed by opposition politicians about the neutrality of the NEC were heightened in January, after allegations of vote-buying in the election of a representative from Cambodia's non-governmental organizations to a seat on the NEC. Chea Chamroeun, the candidate who was elected is believed to have close ties to the CPP. Quoted in a local newspaper, he denied allegations of bribery, but said that he had paid for a banquet the night before the vote, and met the travel expenses of some provincial NGO workers.⁶ On 26 January the National Assembly approved the composition of the NEC by 70 votes to 15. Several dissenting members who attempted to speak were prevented from voicing their objections. Each of the political parties represented in the National Assembly is represented on the NEC. However, as the BLDP and FUNCINPEC are both divided parties this in itself gave rise to objections. FUNCINPEC members in exile protested that their nominee Suy Nou was rejected in favour of Defence Minister Tea Chamrath, the FUNCINPEC Minister of Defence who has been working with the government since the coup. The BLDP seat on the NEC went to the nominee of the Ieng Mouly faction of the party, which has remained in Cambodia since 5 July and supports Hun Sen. BLDP members in exile issued a statement condemning what they called the "comedy" of the National Assembly's endorsement of the NEC.

The court case against Prince Ranariddh

On 19 February, it was announced on Cambodian television and radio Prince Norodom Ranariddh's trial would take place on 4 March 1998. The Prince and two others - former Deputy Chief of Staff of the Royal Cambodian Armed Forces, Nhek Bun Chhay, and the head of the Prince's bodyguard unit, Thach Soung - will be tried in absentia.

On 6 August 1997, the National Assembly voted *in camera*, by a show of hands to strip Prince Ranariddh of his parliamentary immunity. Two days later on 8 August, the military court in Phnom Penh issued arrest warrants for Prince Ranariddh, on two counts:

- "crimes against the security in the country on the 4 to 6 July in Phnom Penh"
- "illegally purchasing and importing weapons on 26 May in Sihanoukville"⁷

The announcement that the trial will begin on 4 March made reference only to the charges of illegal importing of weapons. On 20 February the head of the military court, General Ney Thol told a news agency that a second trial on charges of colluding with the

⁶ Phnom Penh Post, 2-15 January 1998.

⁷See "Warrants issued for PM," Phnom Penh Post 15-28 August 1997.

Khmer Rouge will begin about two weeks after the end of the first trial.⁸ The news agency quoted a court official as saying that “the prince will be arrested upon his arrival [in Cambodia] if it is before the second court case.” Although the accusations against the Prince are well known, it remains unclear under what laws he is charged. Prince Ranariddh does not recognise the legitimacy of the charges against him.

Amnesty International is extremely concerned at the assumption, apparently widely held and accepted, that Prince Norodom Ranariddh will be convicted by the court and that amnesty may then be sought from King Norodom Sihanouk, in order to allow Prince Ranariddh’s participation in the scheduled July elections. This widely reported plan completely undermines the fundamental principle of justice, namely that the accused is innocent until proved otherwise. Cambodia’s judicial system is weak and corrupt, and in spite of constitutional guarantees of independence, has yet to prove that it operates independently of political priorities. Trials are routinely unfair, with verdicts decided in advance. This situation is not going to improve if there is a tacit acceptance of the system’s shortcomings. Amnesty International believes that the two trials of Prince Ranariddh are already prejudiced, not least because of the widespread media coverage in Cambodia of government statements which assert Prince Ranariddh’s guilt.

One notable example of such assertions occurred on 23 January 1998, when the government-controlled National Radio of Cambodia broadcast a press conference given by Second Prime Minister Hun Sen following his meeting with the UN High Commissioner for Human Rights. In response to questions from a correspondent about an invitation from the Thai Prime Minister for Hun Sen to visit Thailand, and whether Hun Sen intended to meet Prince Ranariddh in Bangkok, Hun Sen said:

⁸ Reuters, Phnom Penh, 20 February 1998.

“... I wish to say that if I wanted to meet Ranariddh I would have done so long ago ... why should I meet him secretly? I will meet Ranariddh only after he is convicted by the military tribunal. I will pay a courtesy call on him at the prison.”⁹

Article 14(2) of the International Covenant on Civil and Political Rights, to which Cambodia is a state party, says that:

“Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.”

Similarly, Article 38 of Cambodia’s Constitution states:

“Any accused person shall be presumed innocent so long as the court has not yet handed down a final judgment.”

Amnesty International considers that the widespread reportage on state-controlled media in Cambodia, asserting Prince Norodom Ranariddh’s guilt, has seriously prejudiced his right to a fair trial - quite apart from the already well-known shortcomings of the Cambodian judicial system, particularly on political cases.

The killings continue

In the weeks following the events of 5-6 July, Cambodian government ministers argued publicly that everyone who died - with the single exception of Hor Sok, FUNCINPEC Secretary of State at the Ministry of Interior - was killed on the battlefield, or in the heat of the fighting. Even in the case of Hor Sok, where there is an admission that he was killed while in custody, nothing appears to have been done to apprehend the perpetrator(s). Three men were briefly suspended from their positions in the Ministry of Interior for “failing to protect” Hor Sok while he was in detention there, but they have since returned to their jobs or been given new responsibilities. In an interview with Amnesty International in Malaysia on 27 July, the then Foreign Minister Ung Huot told the organization that the events of 5-6 July were military conflict and it was to be expected that people would get killed. He denied the

⁹ National Radio of Cambodia, in Khmer, 1300 GMT, 23 January 1998. Translation from FBIS-EAS-98-024, 24 January 1998.

specific allegations of extrajudicial executions of some of Prince Ranariddh's supporters. However, Amnesty International and other human rights monitors have collected evidence that dozens of people who died during and after the 5-6 July were not killed in the heat of battle but were clearly executed. In addition, the killings did not stop on 6 July. Political killings continue, and the evidence against the security forces is in some cases overwhelming.

The illustrative cases outlined below are just four examples, out of several dozen which have been brought to Amnesty International's attention.

The September killings in Siem Reap

Three men were killed in Choen Tean commune, Chongkal district, Siem Reap province on 25 September, allegedly by six soldiers from the Royal Cambodian Armed Forces. One was Lieutenant-Colonel Por Penh who, before the 1991 Paris Peace Agreements, was a soldier with the non-communist resistance forces on the border. After the 1993 elections, when the various armed groups were united as the Royal Cambodian Armed Forces, he was commander of a regiment in Odar Meanchey province. In June 1997, Lt-Col Por Penh was requested by his commanding officer, who was loyal to FUNCINPEC, to take 100 of his troops to Tang Krasaing base in Phnom Penh. During the July coup, Lt-Col Por Penh stayed with his troops at Tang Krasaing base, and was reportedly injured. He was captured by forces loyal to the CPP and was then reportedly treated in hospital for his wounds. On 23 September, Lt-Col Por Penh returned to Siem Reap province, apparently with a travel authorisation issued by a senior CPP General. He went to his home village of Sre Prang in Chong Tean commune, Chongkal district, with two other people, one of whom was believed to have been in the armed forces, and the other was believed to have been a Thai national. Lt-Col Por Penh stayed at his village for two nights, during which time he reportedly invited soldiers formerly under his command to a party.

On 25 September, six government soldiers arrived in the village, asking for Por Penh.

According to reports received, the six soldiers, carrying AK-47 rifles and dressed in military uniforms, shouted at Por Penh and said that he did not have permission to visit the village. At about 9am, Lt-Col Por Penh and the two other men were led away from the village on foot by the six soldiers. Less than two hours later, the bodies of all three men were found on a track two kilometres from the village. All three had been shot dead. Por Penh's relatives arranged a hasty burial. Por Penh's body was exhumed and cremated in November in the presence of his widow.

In December 1997 Amnesty International forensic pathologists exhumed the body of the man believed to have been a Thai national and carried out an autopsy to determine the cause of death. After a thorough examination, the pathologists concluded that the deceased had been shot twice, and that one of these shots - most likely the second - was immediately lethal, as it caused lacerations of the aorta. Fractures found in the back of the head and the

right overarm were considered to be sustained after the victim had been killed, and were caused by severe blunt trauma. The pathologists concluded that without reasonable doubt, the manner of death was homicide.

These killings took place months after the fighting of 5-6 July. The motivation for the killings appears to have been political. Government soldiers apparently believed that Lt-Col Por Penh was re-establishing connections with soldiers formerly under his command. They may also have believed that Lt-Col Por Penh, who was known to have had close links with senior FUNCINPEC generals, including Nhek Bun Chhay, remained loyal to Prince Ranariddh. No one has been arrested for the killing of these three men.

The October 1997 killings in Takeo

On 1 October five men from one family, all of whom had connections with FUNCINPEC were killed in Takeo province. Brothers Chea Rat and Chea Thy were RCAF soldiers from Phnom Penh, who had come to Takeo to visit their family for a Cambodian festival. Their brother Chea Seng, a Sub-Lieutenant in the Military Police from Kep Municipality was with them. All three were visiting their uncle Sao Sim, a FUNCINPEC activist from Takeo who was a FUNCINPEC nominee for commune elections. His son Sao Sdok also joined the gathering. At 8pm, the commune militia chief (a CPP member), came to the house where the five men were sitting. The men invited him to come up and have a drink for the holiday but he refused and left without saying why he had come. He returned about 20 minutes later with two hand grenades, and collected an AK-47 assault rifle which he had left near the house. He then started to shoot at the men, aiming to kill them one after another. Sao Sim, Chea Seng and Chea Rat died at the scene, while the two others were seriously injured. A relative of one of the injured men went to get a car to transport the two survivors to a clinic for treatment. Relatives carried the injured victims to the car, but then the commune militia chief threw a grenade at them, which killed one of the two wounded men and injured five other people as well. The militia chief threw the second grenade into a nearby house, but it did not explode.

Following the shooting, local police and militia did not intervene to stop the violence or assist the injured. After the grenade attack on the car, no one dared to come and assist Chea Thy, who had been wounded in the shooting incident and was further hurt by the grenade. He was left lying on the road. Two hours later the local police came along the road, but did nothing to assist the victim who eventually died at about midnight, four hours after he had been shot. The following day, district police came and inspected the bodies of the dead, but did not appear to conduct any investigation. The man who carried out the attacks remained at his house in the village for three days afterwards, apparently under no threat of arrest, before moving away.

An arrest warrant for the alleged perpetrator was issued on 9 October, but was dated 9 September and was thus not legally valid. No further action has been taken by the Takeo provincial prosecutor, in spite of requests by human rights workers that a new arrest warrant be issued, and the perpetrator brought to justice. At the end of December, the investigating judge in the case said that an arrest warrant had been issued through the military police, but that the suspect could not be found as he was in "another district" in the province.

The death of On Phuong

On Phuong, 58, a school teacher and resident of Korng Neang village, Preah Sdech commune, Preah Sdech district, Prey Veng province was shot dead by a group of three unidentified armed men on 27 January 1998 at 9.15pm. On Phuong was an active member of the KNP in Prey Veng province since April 1997 and had attended a KNP meeting earlier in the day. On the night of the killing the three men came to On Phuong's house. They shouted at him and demanded money, then shot him through the left side of his chest with an AK-47 rifle. The bullet passed through his body and hit his four year old daughter in the leg.

The men then tied On Phuong's hands behind his back. They shot him twice more in the right side of the chest and he died very soon afterwards. His daughter died several hours later. On Phuong's wife and mother in law tried to help him and the child. They were also shot at, but the bullets did not hit them. The three men took some old clothes from On Phuong's house, which were found the next day, close to his house. They also took a cow which belonged to him. The cow was found dead a few kilometres away, the next day. One of its legs was missing. On Phuong's family - he had a wife and eight children - was one of the poorest families in the village. Another KNP activist in the province who reported the killing has been harassed and threatened by the commune chief and a group of armed policemen, and is currently too afraid to stay at his house, which has been visited twice by groups of armed policemen and militia since he reported On Phuong's killing.

As is common with political parties in Cambodia, the KNP has several factions, one of which has been supported by Hun Sen. Sam Rainsy founded the KNP in November 1995, but was never able to register the party with the Ministry of Interior. The KNP office was ransacked during the coup, and afterwards was handed over to Kong Mony, a former Rainsy loyalist who had split from Sam Rainsy and declared that he would form his own KNP. Sam Rainsy's attempt to register the KNP for the forthcoming elections in July has been turned down by the Ministry of Interior on the grounds that this party is already registered, presumably by Kong Mony. There are reports that the Kong Mony faction of the KNP in Prey Veng had tried to bribe the Sam Rainsy faction to defect. From the information available, it appears that On Phuong may have been killed because of his political activities on behalf of the KNP loyal to Sam Rainsy in Prey Veng province.

The February 1998 Banteay Meanchey killings

On 19 February 1998, three members of the same family were arrested in Kon Tral village, Kotasot commune, O'Chruav district, Banteay Meanchey province. In July 1997, Captain Bun Sovanna left his post with RCAF Division 12 and joined the resistance forces fighting for Prince Ranariddh. After his defection, soldiers from Division 12 came in December 1997 and arrested and detained Bun Sovanna's family for a short period. They were eventually released. In February 1998, a group of unidentified soldiers came to the house of Captain Bun Sovanna and arrested his wife Kea Ron, his 17 year old son Bun Sovvanak and another family member Chea Samnang. The three were marched about 500 metres away from their house and then shot in the head and killed. Two of Bun Sovanna's daughters were not at the house at the time of the killings. They were initially sheltered by local people before being passed into the care of human rights workers. The authorities in the province have yet to launch an official investigation into the killings, which appear to have been politically motivated.

Harassment and detention

Since the events of 5-6 July, the political climate in Cambodia has been one where many people do not feel safe to exercise their fundamental human rights to freedom of expression, association and assembly. In the immediate aftermath of the fighting, all the opposition newspapers ceased to publish, and there were no open signs of peaceful political dissent. The situation has improved somewhat since then, with opposition newspapers publishing once more, and several political gatherings organized by the Khmer Nation Party have taken place in Phnom Penh without interference from the authorities. However, in January 1998 the Ministry of Information ordered six newspapers to suspend publication, on the charge that they had published information which threatened national security and political stability. "National security" and "political stability" have yet to be defined in law, although a sub-decree to define these terms was sent to the Council of Ministers in January. Second Prime Minister Hun Sen has since rescinded these suspensions against the newspapers. Individual journalists have also been targeted. One opposition newspaper editor was shot at in his car by a gunman on a motorcycle on 11 January 1998. Nou Kim Ei, editor of *Nokor Khmer* (Cambodian Kingdom) had recently returned to Phnom Penh following months of exile after the July coup. He and his family escaped unhurt after the attack.

Amnesty International has received many reports from the provincial areas of Cambodia of harassment and intimidation of people who are not CPP supporters. A small number of people have also been arrested because of their political affiliations. In the immediate aftermath of the fighting, dozens of people with FUNCINPEC connections in the provinces were harassed and sometimes arrested, on what appear to be spurious charges of illegal possession of weapons. Amnesty International has received credible reports of known FUNCINPEC supporters being arrested without warrants, detained for several days, and being forced to pay money to the police for their release. The organization has received nine

reports of detainees being beaten. Some of these beatings were severe and took place over several days of illegal detention. The release of most of the detainees was conditional on their agreeing to renounce allegiance to FUNCINPEC.

In January, a KNP activist in Kandal province¹⁰ was harassed and threatened by a policeman about his political affiliations. The policeman told the man that in 1993 a BLDP activist had been killed in that district and the same thing would happen to him if he joined any political party. The man told the policeman that he was not a member of any political party. He has since fled to Phnom Penh, where he remains in hiding.

Arrest and detention in Koh Kong province

On 29 December, two women were arrested by the Deputy Commander of the Provincial Military Forces. He arrived at the house where they were staying, accompanied by armed bodyguards in a pick-up truck with a machine gun mounted on the back. He reportedly asked the two women to come with him “to do some work for a while.” The two women, Ho Chenda and Chen are both members of FUNCINPEC, and had spent some time in Thailand as refugees after the coup. Faced with the group of heavily armed men at the door, they had no choice but to go with them. They were taken to the provincial military headquarters and held there, and later in a private house, for almost a month. Requests by human rights workers to gain access to the two women in early January were refused by the provincial authorities. The sole reason for the women’s detention appeared to be their political connections with Prince Ranariddh’s supporters in Thailand and in Cambodia.

¹⁰Amnesty International is not publishing the name of the man or the location of his village, in order to protect him from further harassment.

On 20 January, Amnesty International issued a public appeal for the women, fearing for their safety in an illegal detention facility, where they were held in incommunicado detention, without any charges laid against them.¹¹ The organization learned that one of the women was suffering from malaria and both were reported to be extremely frightened. On 26 February, following the personal intervention of UN Special Representative for Human Rights in Cambodia during a visit to Koh Kong province, the two women were released into the care of local and international human rights workers. Information was later received that five men, also FUNCINPEC members who had returned from Thailand to Cambodia were also detained under house arrest in the province. They were also released into the care of the human rights workers. The two women were subjected to both mental and physical ill-treatment during their illegal detention. They were deprived of sleep, subjected to mock executions and threatened with death. No action has been taken against the men who detained these women and subjected them to this cruel and degrading treatment.

Human rights workers have also been harassed and intimidated. Local and international human rights workers were temporarily withdrawn from Kampong Cham province in January 1998, following intimidation by security forces. In February, local human rights workers in a northern province of Cambodia were interviewing people who had recently been deported from Thailand. The interviews took place with the agreement of the local police, but after the interviewers had completed less than a quarter of the interviews, one of the policemen drew out his pistol and fired one shot at the feet of an interviewer. A second policeman who was standing further away shouted encouragement to his colleague, calling out "why don't you just shoot them?" The policemen's superiors witnessed this incident, but no disciplinary procedures have been taken against the two policemen.

It is in this political climate that exiled politicians are returning home and attempting to prepare for the coming elections. Party activists and human rights workers in the provinces are being threatened and harassed, and some have even been killed. Without security, ordinary people cannot exercise their basic human rights to freedom of expression and association. Greater security guarantees will be necessary if political campaigning is to be undertaken in safety throughout the country. As the international community scrutinises preparations for the polls, human rights protection should be a critical measure of free and fair elections.

Government criticism of human rights workers

¹¹See Amnesty International Urgent Action 19/98 (AI Index: ASA 23/01/98, 20 January 1998), Cambodia, Fear for Safety/Medical Concern.

The Cambodian Field Office of the UN Centre for Human Rights (UNCHR) has played a central role in ensuring that information about human rights violations - including extrajudicial killings, illegal detention and torture - committed during and after the coup has been brought to the attention of the Cambodian authorities. While the UN Centre and organizations such as Amnesty International have been issuing reports on human rights violations since the coup, Second Prime Minister Hun Sen has repeatedly denied that such violations took place. In August 1997 he publicly accused the staff at the UN Centre for Human Rights in Phnom Penh of spreading false information and intimidating supporters of Prince Ranariddh into fleeing the country and he asked for the removal of certain staff members from the Centre. Hun Sen also accused the Centre and Amnesty International of failing to produce evidence in support of claims of human rights violations by government security forces, and demanded an apology. His comments were broadcast on Cambodian radio and printed in newspapers.

Impunity

On 4 September Thomas Hammarberg, the UN Special Representative of the Secretary General for Human Rights in Cambodia, met with the Second Prime Minister and discussed his 21 August 1997 memorandum to the Royal Government on Evidence of Summary Executions, Torture and Missing Persons since 2 - 7 July. Hun Sen said that a serious investigation into allegations of human rights violations would be

undertaken. During the Special Representative's visit to Cambodia in December 1997 the authorities did not give him a progress report and it was apparent that the serious investigations had yet to begin. In fact, between the September and December meetings other extrajudicial killings occurred.

Government criticism of the staff at the UN Centre heightened again in January 1998 following an incident at Phnom Penh's Pochentong airport. UNCHR officials were escorting FUNCINPEC military policeman Chao Sokhon to the airport, as he feared for his safety, following his release from prison after the Appeals Court had overturned convictions against him for drug-smuggling. At the airport, Phnom Penh policemen attempted to enter the UN vehicle and arrest Chao Sokhon without a warrant. UNCHR officials refused to hand Chao Sokhon over, but reached an agreement to accompany him and the police to a prison in Phnom Penh. The UNCHR later complained to the Cambodian Government that their diplomatic immunity had been violated. Ung Huot and Hun Sen wrote a letter to UN High Commissioner for Human Rights Mary Robinson and UN Secretary-General Kofi Annan, strongly protesting the action of UNCHR officials in accompanying Chao Sokhon in the first place, and calling for the UNCHR staff to apologise for their actions or be replaced. The three appeal court judges who overturned the convictions against Chao Sokhon have been suspended. Chao Sokhon remains in custody.

The UN High Commissioner for Human Rights Mary Robinson visited Cambodia in January. Her visit coincided with the first visit for 1998 of the Special Representative. In the course of her visit she met

with both Ung Huot and Hun Sen. Mary Robinson obtained verbal assurances from Ung Huot and Hun Sen that the UN Centre would be allowed to stay in Cambodia after its Memorandum of Understanding with the government expires at the end of March 1998. During the High Commissioner's visit, the Second Prime Minister attempted to discredit the contents of the 21 August 1997 memorandum of the Special Representative by parading at a press conference four men who he claimed had been named as dead in the report. In reality, one of the four men displayed at the press conference had never been mentioned in the Special Representative's memorandum, while two had been listed as reported missing at the time the report was completed. The name of the fourth man Chao Keang did appear in the report, because of a spelling error mistaking him for his younger brother Chao Kong who was killed, along with another brother Chao Tea. No mention was made of these two deaths at the press conference, and no one has been brought to justice for these killings.

The National Human Rights Commission

In August 1997, the government announced that a National Human Rights Commission would be established, the first duty of which would be to examine the 21 August 1997 memorandum from the Special Representative into extrajudicial killings and torture. The government proposed that local human rights workers should be among those to serve on the Commission. Non-governmental organizations in Cambodia drew up a proposal for an independent Commission and submitted it to the Second Prime Minister's office. At the beginning of this year during a meeting at the Ministry of

Justice it was stated that the establishment of the Commission is a priority for the government, and that the Commission's mandate would overlap with that of the UN Centre for Human Rights. It is not clear however whether concrete steps have been made towards the establishment of the Commission.

In several countries in Asia, National Human Rights Commissions have been established, and have been able to perform vital work. However, for a National Human Rights Commission to function properly, complementary state institutions, especially the judicial system, must also be independent and fully functioning. Some governments have been quick to support the idea of National Human Rights Commissions in all countries, without necessarily taking into account the situation in an individual country. Amnesty International believes that in Cambodia, the first priority before establishing new state human rights institutions, should be to support and build up existing ones, most notably the judicial system, without which a National Human Rights Commission will be of little use to the Cambodian people.

Recommendations

Amnesty International urges the Royal Government of Cambodia to:

- initiate full, independent inquiries into human rights violations in the country, including those associated with the events of 5-6 July. While such inquiries are in progress, all those implicated in human rights violations, including the killings, should be suspended from duty pending prosecution or disciplinary action.

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- repeal laws, particularly Article 51 of the 1994 Law on Civil Servants, which provide impunity for state employees.
 - ensure that legislation relating to the elections upholds the rights of all Cambodians to freedom of expression, association and assembly and that firm measures are enacted to assure the neutrality of all security force personnel and the physical security of all candidates and activists during the election campaign.
 - ensure that the staff of the Cambodia Office of the UN Centre for Human Rights, and the Special Representative of the Secretary General for Human Rights in Cambodia are able to carry out their work in the country with the full support of the government, and that a new Memorandum of Understanding between the High Commissioner for Human Rights and the Royal Cambodian Government be signed without delay.
 - ensure that the harassment and threats against opposition party activists and human rights workers, particularly in provincial areas, cease immediately.

Amnesty International calls on the international community to:

- pass a strong resolution at the upcoming session of the UN Commission for Human Rights in Geneva, that includes clear benchmarks on human rights in the context of the scheduled July election.
- give full political and financial support to the Secretary-General's Special Representative for Human Rights in Cambodia, and the Cambodia Office of the High Commissioner for Human Rights in carrying out the tasks mandated to them by the UN Commission for Human Rights and the UN General Assembly.
- urge the conclusion of a new, written Memorandum of Understanding on the presence of the UN Centre for Human Rights in Cambodia.
- urge the Royal Cambodian Government to ensure that human rights protection is an integral part of the preparations for the forthcoming election, and monitor the situation carefully to make sure that international human rights standards are upheld in the country.
- urge the Royal Cambodian Government to promote the safety and security for local human rights defenders, who continue to work throughout the country, in difficult and often deteriorating situations.

Appendix

Background

The Royal Government of Cambodia took power in 1993, following elections organized by the United Nations Transitional Authority in Cambodia (UNTAC). Voter turnout for the May 1993 elections was high, and the result was a victory for FUNCINPEC, the party led by Prince Norodom Ranariddh. The Cambodian People's Party (CPP) led by Hun Sen came second and the smaller Buddhist Liberal Democratic Party (BLDP) was third. Following an abortive secession attempt led by CPP politicians in the east of the country, a coalition government was formed, with Prince Norodom Ranariddh as First Prime Minister and Hun Sen as Second Prime Minister. Power-sharing in the ministries and the provinces was agreed upon, but in practice, FUNCINPEC was never able to break the hold that the CPP had on government, and in the provincial areas in particular, there was no more than cosmetic change.

During the period of the UNTAC mandate, Cambodia became a party to all the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR). Some of the rights and freedoms enshrined in the international human rights standards to which Cambodia is a state party were included in the new 1993 Constitution.¹² During the UNTAC period, human rights education and training began in Cambodia, and a local human rights movement was formed. A large number of non-governmental organizations were formed, concerned with the broad spectrum of human rights, including civil, political and economic rights. A free press flourished for the first time in Cambodia, although journalistic standards were - and remain - fairly low, reflecting a lack of experience with freedom of the press following years of tight government controls.

Human rights deterioration 1993 - 1997

¹² See Amnesty International *Kingdom of Cambodia: Human rights and the new constitution* (AI Index: ASA 23/01/94, January 1994).

After the relatively high level of promotion and protection of human rights in Cambodia during the UNTAC period¹³ there followed a period of deterioration. In particular, as political tensions within the coalition government became increasingly apparent, the fundamental rights to freedom of expression, association and assembly once again came under threat. The Royal Government lacked the political will to bring those implicated in serious human rights violations to justice, and impunity for agents of the state has become institutionalised. Although Cambodia's constitution states that the judiciary is an independent power, in practice the court system is unfair, lacks independence and the presumption that the accused is innocent until proven guilty is conspicuous only by its absence. Judges are very poorly paid, often have only minimal training for their positions, and in some provincial courts do not even have copies of relevant legislation. Amnesty International and other human rights monitors have brought numerous cases to the attention of the government since 1993, but there has been an almost uniform lack of progress in resolving these cases and bringing those allegedly responsible to justice.

30 March 1997 grenade attack

One of the most stark, recent examples of the Royal Government's failure to investigate and bring to justice those suspected of involvement in human rights violations is the 30 March 1997 grenade attack on a peaceful, authorised demonstration by opposition Khmer Nation Party (KNP) activists, led by party president Sam Rainsy. The demonstration was called by Sam Rainsy to protest about the Cambodian judicial system and to call for the release of KNP security chief Srun Vong Vannak, who had been illegally held in incommunicado detention for 17 days before being brought before a court and formally detained on charges of involvement in the killing of Kov Samuth, brother-in-law of Second Prime Minister Hun Sen in November 1996. Four grenades were thrown at the demonstrators, at least 16 people were killed and over 100 injured, some of them seriously. Eye-witnesses reported that a group of heavily armed soldiers, apparently members of Hun Sen's personal bodyguard unit stood about 200 metres from the demonstration, and that two people who threw the grenades were allowed to run past the soldiers, who then prevented demonstrators from pursuing them. Commitments from the Royal Government to investigate the attack and bring those responsible to justice have not resulted in any concrete action, and, since 5 July, this case appears to have been completely - and conveniently - forgotten by the authorities.

In September 1997 Srun Vong Vannak was convicted of involvement in the murder of Kov Samuth and was sentenced to 13 years' imprisonment, following an unfair trial in Phnom

¹³ This is not to suggest that there were no human rights violations during the UNTAC time. For details of the ongoing problems see Amnesty International reports: *Cambodia: Human Rights Developments 1 October 1991 to 31 January 1992* (AI Index: ASA 23/12/92); *State of Cambodia: Update on human rights concerns* (AI Index: ASA 23/04/92); *Cambodia: Human rights concerns July to December 1992* (AI Index: ASA 23/01/93); and *Cambodia: Arbitrary killings of ethnic.../ Vietnamese* (AI Index: ASA 23/05/93).

Penh. Amnesty International believes he is a prisoner of conscience, convicted on politically motivated criminal charges, solely because of his peaceful political affiliation to the KNP, and Sam Rainsy. The organization believes he should be immediately and unconditionally released.