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# STATE OF CAMBODIA @Human Rights Developments: 1 October 1991 to 31 January 1992

This report covers human rights developments in the State of Cambodia between 1 October 1991 and 31 January 1992, to the extent that these are relevant to Amnesty International's mandate and that the organization has been able to gather information about them. From 8 to 28 December 1991, Amnesty International was allowed for the first time to visit the State of Cambodia, and this made it possible for the organization to conduct a preliminary on-the-spot assessment of human rights developments, including positive steps and continuing or new problems.

The first part of the report describes the background to human rights developments in the period covered. The other sections describe releases of prisoners of conscience and political prisoners in connection with the Cambodian peace agreement signed on 23 October 1991, changes in laws relevant to political detention; bodies empowered to arrest, detain and interrogate political prisoners; and political arrests and killings of political figures and during civil unrest between 1 October 1991 and 31 January 1992.

The report raises concern about possible extrajudicial executions by government security forces; about the continued detention of political prisoners, including possible prisoners of conscience, without charge or trial or after unfair trials; about practices that involve cruel, inhuman or degrading treatment of political prisoners, including possible prisoners of conscience, through prolonged periods of incommunicado detention during which prisoners are kept shackled in "dark cells"; and about the practice of intimidation against released political prisoners, among them former political prisoners of conscience, that appear to be aimed at preventing them from exercising their fundamental human rights.

The report's conclusions explain the basis for Amnesty International's concerns by making reference to the relevant international human rights standards and makes recommendations about how the human rights situation can be improved by the State of Cambodia. The organization urges that independent and impartial investigations be conducted into extrajudicial executions with a view to bringing those responsible to justice. It urges that steps be taken to ensure that the conditions imposed on released political prisoners do not prevent them from exercising their fundamental human rights, and in particular that they be protected from death threats. It urges the immediate and unconditional release of any prisoners of conscience still held by the authorities. It urges that political prisoners accused of recognizably criminal offences but not yet charged be released unless they are to be charged and fairly tried. It urges a review of the cases of all political prisoners held after unfair trials with a view to releasing any against whom there is no evidence of involvement in recognizably criminal offences and

giving those against whom there is such evidence the opportunity to have a new and fair trial. It urges an end to prolonged incommunicado detention, shackling and the use of "dark cells". It urges wide-ranging legal reform to incorporate international human rights standards into Cambodian law and specific steps to fundamentally reform the judiciary and the functioning of the legal profession.

## Background

On 23 October 1991, four Cambodian parties and representatives of 18 other countries signed an Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, the aim of which is "to restore and maintain peace in Cambodia" and "to promote and ensure the exercise of the right of self-determination of the Cambodian people through free and fair elections". The agreement formally ended the international and domestic armed conflict which had affected the country since 1979, when the Government of Democratic Kampuchea (more commonly known as the "Khmer Rouge") had disintegrated when confronted with a large-scale military intervention by Viet Nam. The regime, ruled by the Communist Party of Kampuchea, had been responsible for hundreds of thousands of extrajudicial executions and for widespread torture and other gross human rights violations.<sup>1</sup> A group of Cambodian opponents of the regime who were attempting to organize an armed movement against it received the support of Viet Nam to set up a new regime, the People's Republic of Kampuchea. This regime subsequently became the State of Cambodia (SoC).

Many members of the Cambodian group that set up the new government had also been members of the Communist Party of Kampuchea, and the regime they set up was ruled by a reorganized communist party called the Revolutionary People's Party of Kampuchea (RPPK). Just before signing of the peace agreements, the RPPK changed its name to the Cambodian People's Party (CPP), reorganized its leadership structure, dropped all references to Marxism, Leninism and socialism from its ideology, and adopted a new platform espousing a multi-party political system and human rights. The platform declared that the country's "political structure is that of liberal democracy and is multi-party". It added that the CPP would "respect citizens' rights and freedoms as stipulated in the Universal Declaration of Human Rights", including freedom of "religion, association, education, writing, publishing, setting up newspapers, travel, setting up a domicile, playing politics, defending oneself in court and independently setting up trade unions and other social organizations".

After 1979 Democratic Kampuchea retained the country's seat in the United Nations because of international opposition to Viet Nam's involvement in overthrowing it by invasion. Democratic Kampuchea forces formed a Coalition Government with two other groups opposed to the Vietnamese presence in the country. Their forces conducted guerilla warfare against the Vietnamese and the SoC.

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<sup>1</sup>Amnesty International has repeatedly called for the bringing to justice according to international human rights standards of those responsible for extrajudicial executions and torture while the Communist Party of Kampuchea was in power. In an open letter addressed on 14 November 1990 to Cambodian figures and foreign governments involved in the peace negotiations, the organization stated its belief that "bringing to justice the perpetrators of gross human rights violations in Cambodia to justice ...will contribute greatly to preventing future human rights violations in the country." It warned that unless this was done the future of human rights protection in Cambodia could be seriously jeopardized.

The October 1991 peace agreement was a revised version of a draft agreed in November 1990 by the Five Permanent Members of the United Nations Security Council. It confirmed a cease-fire that had been in effect in Cambodia since May 1991. The Cambodian parties to the agreement include the SoC and the three groups that had comprised the coalition against it: the Partie of Democratic Kampuchea (successor to the Government of Democratic Kampuchea), the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia, and the Khmer People's National Liberation Front.

The SoC government administers most of the country from Phnom Penh, the country's capital, and is headed by Hun Sen, Chairman of the SoC Council of Ministers. The chairman of the CPP is Chea Sim, and Hun Sen is its vice chairman. Chea Sim is also Chairman of the SoC National Assembly and of the Kampuchean National United Front for Construction and Defence<sup>2</sup>. Chea Sim currently holds no post in the SoC Government. However, he was formerly the Minister of Interior.

The Partie of Democratic Kampuchea (PDK) administers some areas along Cambodia's border with Thailand and several remote rural areas, as well as several camps in Thailand. Its President is Khieu Samphan and its Vice President is Son Sen. There have been many reports that the most influential PDK leader continues to be Pol Pot, who led the regime that was overthrown in 1979, although the PDK has stated that Pol Pot currently plays no significant political role in the movement.

The National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (known by the French acronym for its name, FUNCINPEC) also administers small parts of Cambodia and a refugee camp in Thailand. It was formerly led by Prince Norodom Sihanouk.<sup>3</sup> It is now led by Prince Norodom Ranariddh, his son. The faction of the Khmer People's National Liberation Front (KPNLF) that signed the peace agreement is led by Son Sann, and also administers only a small part of Cambodia and refugee camps in Thailand.<sup>4</sup>

Pursuant to the draft agreement, the four Cambodian parties formed a Supreme National Council of Cambodia (SNC) before they signed the final peace treaty. They agreed that the SNC would be chaired by Prince Norodom Sihanouk. In addition to Prince Sihanouk, the SNC comprises six representatives from the SoC, two from the PDK, two from the KPNLF and one from the FUNCINPEC. According to the agreement, the SNC is "the unique legitimate body and source of authority in Cambodia in which...national sovereignty and unity are enshrined, and which represents Cambodia externally", including at the United Nations. However, it has no executive functions. The peace agreement recognizes the existence of no government in Cambodia, but instead provides that after multi-party general elections a constituent assembly

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<sup>2</sup>This official body groups mass-membership organizations sponsored by the CPP.

<sup>3</sup>In addition to previously leading FUNCINPEC, Prince Sihanouk was also formerly President of the Coalition Government of Democratic Kampuchea, which grouped the PDK, the FUNCINPEC and the KPNLF. He resigned from both posts and declared his political neutrality before assuming the chairmanship of the Supreme National Council of Cambodia (see below).

<sup>4</sup>Another KPNLF faction - led by General Sak Sutsakhan - controls a larger population. It says it will abide by but is not bound by the agreement.

and ultimately a government will be formed.

The SNC is supposed to be seated in Phnom Penh, and on 14 November 1991 Prince Sihanouk resumed residence in the capital. All four Cambodian parties to the peace agreement have since affirmed that they consider him to be the country's chief of state.

### The Peace Agreement of October 1991

According to the peace agreement, the four Cambodian parties undertake "to ensure respect for and observance of human rights and fundamental freedoms in Cambodia" and "to adhere to relevant international human rights instruments". They also undertake "to support the right of all Cambodian citizens to undertake activities which would promote and protect human rights and fundamental freedoms", and they commit themselves to taking "effective measures to ensure that the policies and practices of the past" which allowed gross human rights violations to take place "shall never be allowed to return".

The other states-party to the agreement at the same time undertake "to promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia as embodied in the relevant international instruments and the relevant resolutions of the UN General Assembly, in order, in particular, to prevent the recurrence of human rights abuses."

The peace agreement provides that during the transitional period between 23 October 1991 and the formation of a new government as a result of elections, a United Nations Transitional Authority in Cambodia (UNTAC) "with full civilian and military components" should be established in the country. The agreement also requires that the SNC "delegate to the UN all powers necessary to ensure [its] implementation". With regard to elections, the agreement declares that:

"In order to ensure a neutral political environment conducive to free and fair general elections, administrative agencies, bodies and offices which could directly influence the outcome of elections will be placed under direct UN supervision or control. In that context, special attention will be given to foreign affairs, national defence, finance, public security and information. To reflect the importance of these subjects, UNTAC needs to exercise such control as is necessary to ensure the strict neutrality of the bodies responsible for them."

The agreement provided for the appointment of a Special Representative of the UN Secretary-General to oversee implementation of the peace agreement. He is empowered to "issue directives to the above-mentioned agencies, bodies and offices", which "will bind all Cambodian Parties". Moreover, the Special Representative is empowered to install in these agencies, bodies and offices "UN personnel who will have unrestricted access to all administrative operations and information", and also to "require the reassignment or removal of any" Cambodian "personnel" of such organs.

UNTAC is made "responsible during the transitional period for fostering an environment in which respect for human rights shall be ensured." UNTAC's mandate includes "general human rights oversight during the transitional period", and it is empowered to carry out "the investigation of

human rights complaints", and, "where appropriate", take "corrective action". UNTAC may investigate violations or take remedial action in consultation with the SNC or on its own.

The agreement also spells out the obligations of states-party "in the event of a violation or threat of violation" of any of the commitments contained in this instrument, including those related to human rights. In general, the states-party "undertake to consult immediately with a view to adopting all appropriate steps to ensure respect for these commitments and resolving any such violations". It explains that "such steps may include, inter alia, reference of the matter to the Security Council", as well as calling "upon the assistance of the co-chairmen of the Paris Conference". It also describes additional steps that may be taken "in the event of serious violations of human rights". In such case, the states-party "will call upon the competent organs of the UN to take such other steps as are appropriate for the prevention and suppression of such violations in accordance with the relevant international instruments".

The agreement specifies that "all civil police will operate under UNTAC supervision or control, in order to ensure that law and order are maintained effectively and impartially and human rights and fundamental freedoms are fully protected." In addition, UNTAC will "supervise other law enforcement and judicial processes throughout Cambodia to the extent necessary to ensure the attainment of these objectives". UNTAC's responsibilities also include "the establishment...of a system of laws, procedures and administrative measures necessary for the holding of a free and fair election" which are "consistent with respect for human rights".

Finally, the agreement lays down the "principles for a new constitution for Cambodia" specifying important aspects of the political and human rights regimes that are bound to come into being after the transitional period. It states that:

"the constitution will contain a declaration of fundamental human rights, including the rights to life, personal liberty, security, freedom of movement, freedom of religion, assembly and association including political parties and trade unions, due process and equality before the law...and freedom from racial, ethnic, religious or sexual discrimination...The declaration will be consistent with the provisions of the Universal Declaration of Human Rights and other relevant international instruments. Aggrieved individuals will be entitled to have the courts adjudicate and enforce these rights."

It adds:

"...An independent judiciary will be established, empowered to enforce the rights provided under the constitution."

The United Nations was not in a position to deploy UNTAC immediately upon the signing of the peace agreement in October 1991, and in the meantime only a United Nations Advance Mission in Cambodia (UNAMIC) was established on the ground in Cambodia. UNAMIC's mandate was primarily to "assist the Cambodian parties to maintain the present cease-fire". Its head, Ataul Karim, was also empowered to conduct "liaison with the SNC on the preparations for the deployment of UNTAC". He arrived in Cambodia on 9 November 1991. On 9 January 1992, the United Nations Secretary General appointed Yasushi Akashi as his Special Representative to

head UNTAC. He visited Cambodia from 22 to 27 January. At this time it was envisaged that deployment of UNTAC would begin in March or April 1992 and hoped that it would be completed by July 1992, by which time it would be in a position to start exercising its full mandate, including its human rights functions.<sup>5</sup>

## Releases of political prisoners in connection with the peace agreement

Articles 21 and 22 of the draft peace agreement provided for the release under the auspices of the International Committee of the Red Cross (ICRC) of all prisoners of war and "civilian internees" held by the Cambodian parties. Article 21 declares: "The release of all prisoners of war and civilian internees shall be accomplished at the earliest possible date under the direction of the ICRC..." Article 22 defines the term "civilian internees" as "all persons who are not prisoners of war and who, having contributed in any way whatsoever to the armed or political struggle, have been arrested or detained by any of the parties by virtue of their contribution thereto."

At a meeting on 1 September 1991 at which the SNC discussed the provisions of the draft agreement, the Cambodian parties affirmed their agreement to Articles 21 and 22.

In the context of the affirmations made by the SNC on 1 September, the ICRC continued to press its long-standing request to the SoC and other Cambodian parties that it be allowed access to all detainees captured in combat or detained for security reasons and to those sections of all detention centres where such people were detained. The ICRC had been asking to have meetings in privacy with any detainee; to be able to make repeat visits to detainees; and to obtain lists of all detainees and have the opportunity to verify them with the detainees themselves. These requests were made in accordance with the conditions which the ICRC applies in its prisoner-visiting work in all countries.

On 13 September 1991, SoC Minister of Foreign Affairs Hor Nam Hong reaffirmed that, "when we sign the agreement, we will release all the political prisoners", but added he believed that "some of these people" would be released before the agreement. The Minister of Foreign Affairs also explained that the SoC and the ICRC had not yet agreed on visits by the humanitarian organization to detainees because the SoC was not yet willing to allow it to see those who were merely in "temporary custody while undergoing investigation pending charge and trial". He said that in the SoC's view, these untried detainees were not really prisoners<sup>6</sup> and therefore the ICRC's request to see them was inappropriate. This position was eventually dropped, but as shall be seen immediately below, it has been replaced by other attempts to place reservations over which prisoners should be covered by provisions of the peace agreement.

The SoC meanwhile indeed began conducting large-scale releases of political prisoners just

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<sup>5</sup>UNTAC was formally inaugurated in Cambodia on 16 March 1992, the day after Special Representative Akashi returned to Phnom Penh to take up residence in the capital. As of March 1992, UNTAC deployment was continuing.

<sup>6</sup>In Khmer such untried detainees who may be culpable for an act punishable by imprisonment are termed pirutachun; detainees who are serving prison sentences are termed tondeut, or "convicts".  
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before the peace agreement was signed. These releases were conducted before the SoC had agreed to allow the ICRC to visit prisoners under the conditions laid down in the organization's mandate, and the releases took place without the ICRC supervision agreed to in principle on 1 September. The SoC also continued to release political prisoners without allowing ICRC access to them and without any ICRC supervision for a period of 12 weeks after the peace agreement was signed on 23 October 1991, until mid-January 1992. After that date, they began allowing ICRC access to prisoners and releasing them in a manner consistent with the peace agreement.

## Political and "criminal" prisoners

While releasing prisoners, the SoC authorities have attempted to differentiate between those they consider political prisoners and those they consider criminals. The precise criteria for the distinctions made by the SoC authorities are not entirely clear, and they appear to have been drawn up without consultation with UN officials.

In a meeting with Amnesty International on 18 December 1991 Sin Sen, an SoC representative on the SNC who was then the SoC Deputy Minister of Interior in charge of political security, explained that since 23 October 1991, the Standing Committee of the Central Committee of the CPP had been meeting to "scrutinise the agreement's contents and its implementation". He said that as a result, the SoC State Council had issued a decision to the effect that its human rights provisions must be carried out by the relevant administrative authorities throughout the country.

While in Cambodia, Amnesty International obtained a number of official documents relevant to the discussions and decisions on release of political prisoners mentioned by Sin Sen. The documents outlined the system of categorizing prisoners and identified the SoC bodies involved in the release process. One document said that at a meeting of the CPP Standing Committee on 5 November 1991 it was "decided in principle to...release untried prisoners and convicted prisoners and prisoners of war who committed offences of treason against the revolution of a purely political character". The Standing Committee said that those to be released should include: "convicts who have been tried and condemned for the crime of treason against the revolution who are currently held in penitentiaries"; "detainees for whom there are no case dossiers or against whom there is insufficient evidence"; "persons in regard to whom provincial and municipal people's courts and military tribunals are preparing to hold court hearings"; and "persons against whom the public prosecution...or military prosecution are preparing to bring charges". The decision called on the Ministries of Interior, National Defence and Justice, the Public Prosecution General, the Supreme People's Court and the Cabinet of the State Council to "cooperate...with a view to dealing expeditiously with release files by drawing up statistics and lists and classifying cases as belonging to either the purely political category or to the category of politics involving ordinary criminality".

Other official documents reveal that at meetings on 12 and 13 November 1991, the State Council discussed the Standing Committee's decision. The State Council assigned the Ministries of Justice and National Defence to draw up lists of convicted prisoners currently serving sentences for treason against the revolution "for assessment and a decision about release". It assigned the Council of Ministers to order the Ministries of Interior, National Defence and Justice to cooperate with the Public Prosecution General "with a view to assessing the cases of all persons temporarily detained for the offence of treason against the revolution and bringing about their quick release".

Finally, according to a document dated 27 November 1991 and signed by Bou Thang, then the Vice Chairman of the SoC Council of Ministers, this body assigned the Ministries of National Defence, Interior and Justice to cooperate with the Public Prosecution General "to make an assessment as regards the quick release of all persons temporarily detained for the offence of treason against the revolution".

According to reports of an interview he gave to foreign journalists on 13 November, Sin Sen divided the political prisoner population into two broad categories. In the first category were those "who did not create any loss or destruction against the people". He said the SoC would "release all of them after we fully implement the peace agreement". He described the release of those in the first category as an "immediate task", and said, "the sooner they are freed, the better." Defining a second category, he declared "any prisoner who caused loss or destruction against the people, we do not tolerate this kind of political prisoner." He reportedly said prisoners in this category would have to continue to be punished according to the law because the "people will not be happy if we set them free." Sin Sen defined a third category comprising of ordinary criminal prisoners who had committed offences such as robbery, and said "the State will have to take some measures against them in order to maintain social order and security." Finally, he said that the authorities were still planning to "consult" with the ICRC about its requests for access to all detainees and places of detention.

At a news conference on 17 November, Hun Sen declared that in his view, "according to the agreement, all prisoners who are not criminals will be released." He said that "as for prisoners of war and other prisoners involved in politics, nearly all of them" had already been released. He made a distinction between those he described as "prisoners of war and other prisoners involved in politics", on the one hand, and "criminal prisoners" who had "committed crimes such as rape or robbery". Those who had "robbed people, raped women or murdered others constitute a second type of prisoner" whom "no one can set...free". However, he also said that the release of two very specific groups of prisoners was "being considered". He described them as the "only two groups left to be released".

Hun Sen said the first group was arrested in Phnom Penh in early 1990 for having caused explosions "not...in the middle of a military barracks but...in the city." They had been "sentenced for harming social stability". The second set were prisoners the Chairman of the Council of Ministers said had been involved in an alleged plot to assassinate him.

During Amnesty International's meeting on 12 December 1991 with Nuon Saret, the Deputy Minister of Interior in charge of social order, the organization was told that SoC authorities were still "in the process of differentiating various categories of offences", and that they considered it necessary "to make a case-by-case investigation in order to assess categories of prisoners precisely". Uk Bun Chheuan, the Minister of Justice, told Amnesty International on 17 December that he defined the two different categories of political prisoners established by the authorities as:

"First, those clearly involved in political activities;

"Second, those who killed or committed criminal offences, then fled to enemy zones to seek enemy protection, and then became part of the enemy structure. If their crimes date to a time before they joined the enemy ranks, they...[will] not be released under the terms of the Paris agreement."

In its meeting with Sin Sen on 18 December 1991, Amnesty International asked the deputy

minister for further clarification about the SoC's categorization of prisoners. He said that the "suspects" in SoC custody must be divided into three categories. One category was those whose activities had had "negative repercussions on the lives and property of the people, whose offences were recognizable as criminal". Detainees in this category "would have to remain in custody and could not be released". The second category comprised people "whose activities were political, but which nevertheless had negative repercussions on the lives of the people, such as through the use of mines or bombs", as in the cases of those who had used "explosives to interdict rail lines". These, too, "would have to be kept in custody". However, there would "have to be consultation about their cases among SNC members and with UNTAC." Also included in this category, Sin Sen said, was a subcategory of detainees "who had been assigned by another organ, another party to murder our leaders". They would also be held pending consultations with the SNC and UNTAC. The SoC side would present a "complete dossier" to UNTAC about them. In this regard, he said that arrangements had been made to present the public prosecution with the dossier of Kang Tong Heang, who was arrested in connection with a purported plot to assassinate Hun Sen.<sup>7</sup>

The third category comprised "political prisoners whose activities had had no negative repercussions on the lives and property of the people, who had only engaged in politics, only spoken and only wanted to do what was wanted by one party in opposition to another and engaged in no terrorism". They would "be released more quickly than the rest" once "the bureaucratic formalities were completed and in cooperation with the competent international organizations". Sin Sen averred that all of detainees in the third category were included among the prisoners named in documents given to Amnesty International as "political prisoners", but that prisoners in the first and second categories might appear in either the "political prisoner" or "criminal prisoner" lists.<sup>8</sup>

### Releases of prisoners of conscience

Among the first political prisoners to be released after the SNC meeting on 1 September 1991 were six prisoners of conscience arrested in May 1990 in connection with efforts to set up a legal opposition to the RPPK, the predecessor of the CPP. The six freed in late September and early October included Ung Phan, who at the time of his arrest was Minister of Communications, Transport and Posts and a member of the RPPK Central Committee and SoC National Assembly who was widely seen as a political associate of Hun Sen. The five others, Khay Matoury, Thun Saray, Kan Man, Nou Saing Khan, and On Sum, held lower-ranking official posts.<sup>9</sup> Together with at least one other person, Yang Horn<sup>10</sup>, they had been arrested for alleged involvement in plans to establish a Liberal Social Democracy Party (LSDP). They are said to have believed that the RPPK was incapable of reforming itself and of coming up with solutions to Cambodia's problems that were appropriate to the country's circumstances, in part because of what they believed was continuing Vietnamese influence over the RPPK policy-making

<sup>7</sup>See below, pp. 29-32.

<sup>8</sup>For a description and discussion of these lists, see below, pp. 13-15.

<sup>9</sup>For more information on the six and the background to their arrest, see *Cambodia: Arrest and Detention of Government Officials*, AI Index ASA 23/02/90, and *Cambodia: Recent Human Rights Developments*, AI Index ASA 23/07/90.

<sup>10</sup> He had been released earlier in 1991.

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process.

Discussion of such plans had reportedly begun when some top leaders of the RPPK were considering the idea of allowing a legal opposition with a view to holding multi-party elections that might exclude participation by armed opposition groups, such as the PDK. Those who supported such an idea are understood to have argued for a formal end to the one-party system and in favour of what was described at the time as a "political opening". It is said that security forces conducted the arrests after the idea met with strong opposition from other RPPK leaders who insisted on a continuation of a strictly one-party system. It has been reported that Chea Sim stated after the arrests that he ordered them because he believed that the activities of Ung Phan and his supporters threatened to destabilize the SoC.

Several of the six were reportedly arrested by elements of Political Security Directorate 2 of the Ministry of Interior<sup>11</sup> and then sent for interrogation at T3 prison in Phnom Penh. High-ranking political security officers interrogated them about their political activities, including possible links between themselves and Cambodians living outside the country. At least one of those detained was reportedly arrested after being summoned to a meeting with Deputy Minister of Interior Sin Sen. Another was reportedly interrogated in T3 by the deputy minister himself. There are no reports of torture during interrogation, but at least some of the six prisoners were allegedly held shackled in dark isolation cells for lengthy periods of time before being moved to places where conditions of detention were less severe. None was ever charged or brought to trial.

Although by early October 1991 the six were allowed to return to their homes and some freedom of movement, they were allegedly not released unconditionally. Political security and T3 prison officials are said to have warned them not to resume their political activities, and in particular not to undertake open opposition activities against the CPP. None of the six was given the official release papers normally given to freed political prisoners, an omission which they reportedly believed implied that they were at risk of rearrest. Moreover, the ex-prisoners of conscience were told that since international inspection would make it difficult to re-imprison them, other means would be used to deal with them if they "meddled in politics again". In at least some cases, warnings from political security officers against resuming political activities were allegedly accompanied by death threats.

The conditions imposed on the six and fears that the death threats might be genuine were evidently sufficient to deter them from engaging in open political activities before mid-December 1991.

#### Release of other political prisoners between 10 October 1991 and 31 January 1992

In his meeting with Amnesty International on 18 December 1991, Sin Sen elaborated on the criteria SoC authorities were applying in deciding when to release political prisoners in general. His explanation seemed to suggest that strictly political factors played a role in deciding when prisoners would be released. The Deputy Minister of Interior declared that it was true that, "in order to defend our political administration," the authorities had for many years been arresting those who were involved in "all kinds of opposition and destructive behaviour" against it. He

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<sup>11</sup>For a description of this body and its functions, see below, pp. 27-28.  
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said that those among them who were "excessively ruthless" had been detained in various centres so they could be "re-educated" according to the law after having been tried before the courts. However, he said that even before the peace agreement there had already been releases of those who, after some "re-education", had "understood the realities of the country's situation", and who also realized that their behaviour had resulted from "misconceptions" and "mistakes" on their own part.

Sin Sen said that since the peace agreement a "certain number" of additional detainees had been released after "an assessment of the degree of their offence" and the extent to which they achieved "an awakening of their political consciousness" as a result of their "re-education in detention". He added that "arrangements had already been made", in accordance with the "spirit of the agreement" and in cooperation with the relevant international organizations and agencies for the quick release of those still in detention. He said the SoC authorities for their part would make every effort to expedite the matter in order to ensure that there would no longer be any limitations on the extent to which the detainees enjoyed their human rights.

### General statistics on political prisoners detained and released

In May 1991 the SoC Ministry of Interior had reportedly said it was holding approximately 4,000 prisoners in all of its prisons. Of these, some 1,200 were described as "security prisoners", a term understood to refer to political prisoners. Another 800 were described as prisoners of war. The remaining 2,000 were described as being detained for ordinary criminal offences.

On 30 October 1991, the official SoC news agency announced that earlier in the month the authorities had released 442 political prisoners, 483 prisoners of war and 109 "other offenders", to make a total of 1,034. The announcement quoted Sal Sakhan, a Ministry of Interior official, as saying that "more detainees, especially political ones, would be freed in accordance with the latest developments" in Cambodia. The next day, Hor Sothun, the Deputy Director of the Press Department of the Ministry of Foreign Affairs, was quoted by the official news agency as saying that "most political prisoners" had now already been released. Foreign press reports quote him as also having said these included "some political prisoners" who had been released after 23 October.

On 5 November 1991, the official news agency quoted the Ministry of Interior as saying that during the last week of October, the authorities had released another 45 political prisoners and 65 criminal prisoners. It said this brought the total number of political prisoners released during October to 484.<sup>12</sup> This figure would suggest that more than 700 of the estimated 1,200 "security case" prisoners were still being held.

On 13 November, Sin Sen said in an interview that authorities were still holding "more than 2,000" detainees, including ordinary criminals and people he described as having "created losses and destruction against the people". He said that "with regard to political prisoners, their number is less than 1,000".

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<sup>12</sup>This total is three less than that obtained by adding 442 and 45. The reason for this discrepancy is unclear.

On 12 December 1991, Amnesty International was told by Deputy Minister of Interior Nuon Saret that the SoC was holding 1,260 political prisoners and prisoners of war. According to other official information obtained by Amnesty International while in Cambodia, 794 of these prisoners were said to have committed "crimes against the state", a figure that also appears to confirm earlier estimates. The remaining 466 were described as prisoners of war. Most of the political prisoners were said to be untried. The total prison population was said to be 2,370 in civilian-administered centres and some 120 in centres run by the armed forces.

### List of prisoners given to Amnesty International

While in Cambodia Amnesty International was able to visit the administrative offices of six of the 28 SoC detention centres the authorities said had held political prisoners before the peace agreement. The 28 included 26 prisons administered by the civil police (*nokorbal*) authorities of the SoC's 21 provinces and municipalities, and five detention centres administered by the Ministry of Interior, namely the central national prison known as T3 and the rehabilitation centres known as T5 (in *Kampung Cham* province); T6 (in *Chhoe Kach* subdistrict of *Prey Veng* province); T7 (in *Svay Rieng* province); and *Prey Sar* (on the outskirts of *Phnom Penh*). They also included two centres administered by the Ministry of National Defence: a prison in *Phnom Penh* known as *Tuol Sleng*<sup>13</sup> and a rehabilitation centre in *S'ang* district of *Kandal* province. Amnesty International was told that T6 and T7 had recently been closed and converted into agricultural worksites, with their inmates being either released or transferred to T5. Unofficial sources corroborated this statement, and explained that most of the detainees in the two centres had been prisoners of war.

It was also explained to Amnesty International that a decision had been made in principle that a part of T3 which had long been used by the *Phnom Penh* Municipal Police to detain prisoners was going to be turned over to the direct authority of the Ministry of Interior. The organization was told that the *Phnom Penh* Municipal authorities had been using part of T3 because the detention centre at their headquarters was too small to hold all the prisoners in their custody. According to the Ministry of Interior, the decision was expected to be implemented at the end of December 1991.

The six detention centres visited by Amnesty International were the national centres at T3 and *Prey Sar* in the *Phnom Penh* and the local civil police prisons of *Phnom Penh*, *Takaev*, *Kampung Speu* and *Siem Reap-Utdar Meanchey*. At the administrative offices of all of these except the *Phnom Penh* municipal prison, the organization was given lists of names of people who the authorities said were still held in these centres or who had been recently released from them. These lists identified detainees according to three broad categories: political prisoners, prisoners of war and criminal prisoners. The lists provided by the detention centres visited by Amnesty International gave the names of some 354 people classed by SoC authorities as political prisoners released between 1 January and mid-December 1991, including at least 20 released after the peace agreement on 23 October. The detention centre lists gave the names of 209 political prisoners still held as of mid-December, including 12 prisoners arrested after the

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<sup>13</sup>This "Tuol Sleng" centre, located at the end of *Phnom Penh's* Road 360, is not to be confused with the *Tuol Sleng* Genocide Museum, the former main detention centre of the Democratic Kampuchea security service. The military prison is merely located in the same neighbourhood as the museum.

agreement.

In addition to these lists obtained directly from detention centres, Amnesty International also received lists compiled by the Ministries of Justice and National Defence. The Ministry of Justice list gave the names of all people who the authorities said had been tried and sentenced for political offences since 1980. According to the list, 272 people had been tried and sentenced for political offences in 72 trials conducted since 1980. Of the 272, 132 were still detained and 140 had been released; the latter had either been freed after warnings, been given suspended sentences, had finished serving their sentences, or had been amnestied by the SoC Council of State. The Ministry of Justice information did not give details about the offences for which prisoners had been sentenced, nor did it say where they were imprisoned.<sup>14</sup>

At the Ministry of National Defence, Amnesty International was told that the military had not been holding any political prisoners, only prisoners of war and military personnel and some civilians accused of criminal acts. The ministry provided the organization with the names of 42 prisoners of war who it said had been released recently and of 136 military and civilian prisoners held in connection with criminal offences before the peace agreement and without reference to the ICRC. The Ministry of National Defence lists included the names and other details about these various prisoners.

#### Political prisoners listed as released before Amnesty International's visit

Information on the Ministry of Interior-administered side of T3 prison listed 50 untried political prisoners who had been released in early October 1991<sup>15</sup>, and this figure was confirmed to Amnesty International by released prisoners whom it interviewed while in Cambodia. Information from Prey Sar detention centre said two convicted political prisoners had been released from there shortly before the agreement.<sup>16</sup> Information from Takaev named 27 untried political prisoners released between January and September 1991, seven more released in October before the agreement, and seven more released after the agreement, either in late October or during November.<sup>17</sup> Information from Kampong Speu province named 27 untried political prisoners released in 1991 without specifying the date, although notations indicated that at least one prisoner had been released after the peace agreement.<sup>18</sup> Information from Siem Reap-Utdar Meanchey named 229 political prisoners - all described as untried - released in 1991.<sup>19</sup> In most cases, the date of release was not given, although it was indicated that the last

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14A translation of the Ministry of Justice document is attached to this report as Appendix I.

15This list is attached as Appendix II. The list did not include the names of Ung Phan and the five other prisoners of conscience held there in connection with the formation of the LSDP.

16The two political prisoners named as released were Chan Mi and Khieu Say.

17The list also included the names of five political prisoners released in 1991 without specifying the exact date. This list is attached as Appendix III.

18This list is attached as Appendix IV.

19Of these 229, 135 were described as people working as "links" for opposition groups or as having "crossed through a prohibited area", while the remaining 94 as having been "soldiers" or members of the "militia" of opposition groups. It appears that other SoC authorities might have classified the latter 94 as "prisoners of war", rather than as political prisoners. This information was contained in three lists given to Amnesty International, which are attached as Appendices V A, V B and V C.

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batch of 13 had been freed on 10 December 1991.

According to notations on the lists from these five detention centres, almost all of those released had originally been arrested because they were suspected of engaging in activities on behalf of the KPNLF, FUNCINPEC or PDK. Of the 155 untried political prisoners for whom dates of arrest were given, 42 had been held for more than two years, which according to the SoC legislation in force before the signing of the peace agreement was the maximum period political suspects could legally be held without bringing a case against them before the public prosecution and the courts.<sup>20</sup>

While in Cambodia, Amnesty International attempted to make spot checks to confirm that those named as released in these lists had in fact been freed.<sup>21</sup> To the extent that this was possible, the evidence suggested that the lists were accurate.

### Political prisoners listed as still held at the time of Amnesty International's visit

The T3 list given to Amnesty International named 118 political prisoners still held in the Ministry of Interior part of the prison, including 65 said to be from the KPNLF, 28 from the FUNCINPEC and 24 from the PDK.<sup>22</sup> Only eight of the 118 were said to be serving prison sentences imposed by the courts.<sup>23</sup> Evidence against 92 of the 110 remaining untried was said to be sufficient to bring them to trial, but Amnesty International was told this had not yet been done. An examination of the arrest dates of the untried prisoners shows that 89 of them had been held for more than two years.

The Prey Sar lists named 56 political prisoners still held, including 2 from the KPNLF, 18 from the FUNCINPEC and 36 from the PDK, all of whom were said to have been tried.<sup>24</sup> Amnesty International was told that as a matter of policy Prey Sar was not used for pre-trial detention of political prisoners or to hold political prisoners who were undergoing interrogation.<sup>25</sup> The Prey Sar lists also named 161 prisoners of war, including 90 from the KPNLF, 41 from the FUNCINPEC and 30 from the PDK.<sup>26</sup>

The Kampung Speu information named 24 political prisoners still held, including two under

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20See the discussion of Article 28 of SoC Decree Law 27 DL, pp. 18 and 24-25, below.

21 Some of those interviewed showed Amnesty International official release papers (likoet dahlaeng) which said they had been freed on the order of a deputy minister of the Ministry of Interior because they were considered to have "refashioned themselves well" after "a period of rehabilitation".

22This list is attached as Appendix VI.

23There were also notations indicating that eight of the 118 were concurrently considered prisoners of war. T3 authorities also provided Amnesty International with a list of 79 "criminal prisoners", of whom 58 were said to be untried.

24A translation of this list is attached as Appendix VII.

25Amnesty International was told that in addition to political prisoners, Prey Sar was holding 73 prisoners serving sentences imposed by the courts for ordinary criminal offenses and 67 "petty criminal offenders" who were undergoing short-term "re-education" without charge or trial.

26Also given were the names of 73 people tried in connection with what were described as ordinary criminal offenses.

court-imposed sentences.<sup>27</sup> Twelve of the 20 were arrested after 23 October 1991.

The Takaev list named 11 untried political prisoners still held, including six who had been held for more than two years.<sup>28</sup>

The Siem Reap-Utdar Meanchey provincial prison authorities stated that since the releases of 10 December, they were no longer holding any political prisoners and that none had been arrested since the peace agreement.<sup>29</sup>

At the offices of the Phnom Penh Municipal civil police, Amnesty International was told that some 20 political prisoners were held at the detention centre at the police headquarters. The organization received no official information about the numbers or names of political prisoners held in the part of T3 prison administered by Phnom Penh Municipality. However, prisoners recently released from T3 told Amnesty International they estimated this part of T3 might hold up to 400 detainees, including a significant number of political prisoners.

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27This information was included in two lists, which are attached as Appendices VIII A and VIII B. Other Kampong Speu information included the names of 56 prisoners held in connection with common criminal offenses, of whom only 12 had been tried.

28This list is attached as Appendix IX. The Takaev authorities also provided a list of 131 people still held at Takaev in connection with criminal offenses, of whom 25 had been tried and sentenced and 106 were awaiting trial.

29The authorities said they were still detaining 92 people in connection with criminal offenses, and provided a list with their names and other details about them.

## Treatment in detention and conditions on the release of political prisoners

In its discussions with Ministry of Interior and T3 officials, Amnesty International was told that recently arrested detainees could be held in solitary confinement for up to three months while they were undergoing interrogation. They organization was also told that "in very serious cases", detainees would be held incommunicado.

The authorities' remarks may underestimate how long prisoners can be held under these conditions. In fact SoC law appears to allow incommunicado detention for up to seven months, and SoC prison regulations appear actively to encourage it. The relevant legislation includes Decree Law 27 DL<sup>30</sup> and the Law on Criminal Procedure.<sup>31</sup> Both contain wide loopholes through which incommunicado detention can be implemented.

According to Article 31 of Decree Law 27 DL, "a person who is temporarily detained may have contact with his or her family or relatives in accordance with the system stipulated by the penitentiary". However, according to Article 32, the authorities may withhold news of a suspect's detention from his or her relatives "if the provision of news leads to delays and difficulties in the investigation". In such cases, news may be withheld until "after the investigation and inquiry is completed". Before its suspension at the time of the peace agreement, Article 28 of the decree law allowed investigation to take up to two years in cases where the alleged offence is one "having an adverse effect on [the] political security" of the SoC. Moreover, according to other articles, in common but serious criminal cases the investigation period may last up to seven months.

According to Articles 22 and 23 of the Decree-Law, criminal suspects arrested in flagrante delicto or otherwise for "obvious offences" ordinarily may not be held for more than 31 days without informing the public prosecution or the courts and requesting a decision from the public prosecution about whether the prisoner should be charged or released. However, according to Article 25, in such cases the provincial or municipal police can ask the head of the provincial or municipal administration and the public prosecution and courts for an extension of up to six months of detention without charge in order to carry out further "investigation and inquiry". According to Article 27, in cases where a suspect has been arrested pursuant to a warrant, the chairman of the civil police or of either of the two Ministry of Interior bodies now combined as the Political Security Directorate 2<sup>32</sup> can on their own authority detain a suspect in a serious criminal case for up to four months. "In instances of necessity" the detention can be extended for another two months. In the case of prisoners held by the civil police, this can be done on the authority of the chairman of the relevant SoC provincial or municipal administrative committee or on the authority of the minister of interior. In the case of prisoners held on the order of Political Security Directorate 2, the authorization must come from the minister of interior.<sup>33</sup>

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30Decree-Law 27 DL was promulgated on 12 March 1986. It deals with the authority to "arrest, temporarily detain, release and search".

31Passed in July 1989.

32See below, pp. 27-28.

33Moreover, according to an "Additional Report Presented to the 21st Session of the First National Assembly" on 8 August 1991 by then Public Prosecutor General Chan Min, detaining authorities often ignore the provisions of Decree Law 27 DL that require them to obtain legal authority to continue the

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Similarly, according to Articles 7 and 17 of the Law on Criminal Procedure, an accused enjoys the right to "self-defence or to rely upon a lawyer or a defender to assist in his or her defence", and legal counsel has "the right to examine the case dossier" and "to enter into detention facilities and meet the accused without the presence of others". However, the law defines "an accused" as "someone who has been charged by the Public Prosecution", and such charges may be delayed until investigation and inquiry are completed.

While in Cambodia, SoC officials provided Amnesty International with a copy of an 18-point set of regulations entitled "Everything Which Cadre and Combatants Working in Detention Centres Are Stringently Prohibited To Do". According to point four, "untried detainees undergoing interrogation are absolutely not allowed to meet or converse with any human beings other than those whose duty it is to have responsibilities in their regard." According to point two, even untried detainees who have completed interrogation and convicted prisoners "are strictly prohibited...to have contact, meet or converse with ordinary people or their families...about the work that goes on within detention centres [and] interrogation work". Finally, according to point ten, it is also "strictly prohibited to allow the revelation of secrets about...conditions of detention...to any human being who is not in charge of detention centre work". Amnesty International was informed by SoC officials in December 1991 that these regulations, dated October 1984, are still in force.

Ministry of Interior and T3 officials also told Amnesty International that suspects in very serious cases could be shackled during interrogation, because "every measure would be taken to prevent them from escaping". On the other hand, the officials denied that political prisoners had been subjected to severe physical abuse or that "totally dark cells" existed in T3 for holding political prisoners during interrogation. These denials responded to long-standing allegations about the use of such cells and of torture.<sup>34</sup>

These denials were contradicted by the testimonies gathered by Amnesty International from political prisoners released in October, including those arrested in the late 1980s and 1990-91. They alleged that dark cells have continued to be used in recent years to hold political prisoners incommunicado and in shackles for periods of several or more months while undergoing interrogation. Those released also alleged that some political prisoners had been severely beaten during interrogation in recent years. Former political prisoners whose arrests were most recent told Amnesty International that one of the main purposes of the ill-treatment inflicted on political prisoners was to compel them to "confess" or otherwise provide information about the extent to which the organized underground networks of the PDK, FUNCINPEC and KPNLF had the capacity to link up with politically dissatisfied SoC officials and ordinary people in Phnom Penh and provincial towns. However, the testimonies gathered by Amnesty International

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detention of prisoners without reference to the courts and without charge or trial. He noted that of 385 cases of prisoners held for investigation of which his office had been made aware by detaining authorities, some 100 were "detained in excess of the period stipulated by law."

<sup>34</sup>See *Kampuchea: Political Imprisonment and Torture*, AI Index ASA 23/0/87. The organization concluded not only that physical abuse amounting to torture was being routinely used during interrogation, but also that conditions of detention constituted cruel, inhuman and degrading treatment or punishment of political prisoners.

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suggested that in recent years torture was not routinely inflicted on political prisoners, as had been the case up through the mid-1980s.

Finally, Amnesty International's spot-checks indicated that like the prisoners of conscience held for attempting to set up the LSDP, those held for activities on behalf of the FUNCINPEC, KPNLF and PDK were not being freed unconditionally. They told Amnesty International that political security and prison officials warned them not to resume opposition political activities, including not to engage in election campaigning activities on behalf of the PDK, KPNLF or FUNCINPEC. Some were allegedly told that if they did, reasons would be found to rearrest them, and a few were allegedly admonished they might find themselves the victims of "serious accidents" if they were "too politically active". According to their release papers, they were also required to report with their release papers to the local authorities within three days of their release, a requirement they said was designed to allow political security officers to maintain surveillance over them.

Amnesty International was told that such threats against former prisoners of conscience and other political prisoners were taken seriously among them because of unofficial reports circulating in Phnom Penh during the organization's visit there that at least two special and secret security force units had been formed whose duties included keeping track of and obstructing the activities of people who might pose a threat to the political future of the CPP. Both units were said to have been recruited primarily from veterans of the A3 police force units.<sup>35</sup> Members of one of these units had allegedly been told that they might be called upon to kill political opponents. Amnesty International was unable to confirm these allegations, but was convinced that former political prisoners took them extremely seriously.

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<sup>35</sup>For further information about these units, see below, pp. 28-29.  
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## Political prisoners released in January 1992

In a meeting on 1 January 1992 with a member of the United States Congress, Hun Sen reiterated the SoC's commitment to abide by the terms of the peace agreement in releasing "all political prisoners in the future". The SoC indeed began in January to release political prisoners pursuant to the agreement. It appears that many of those released from T3, Prey Sar and Kampung Speu prisons were political prisoners whose names were on lists of political prisoners arrested before the peace agreements and still held in these centres when Amnesty International visited their administrative offices.

The release process was at first delayed by the continued refusal of SoC authorities to allow the ICRC access to detainees and detention centres in accordance with terms by which the humanitarian organization operates worldwide. Because of this refusal, both ICRC and UNAMIC boycotted SoC plans to hold a release ceremony originally scheduled to take place on 4 January 1992 at the T3 and Prey Sar detention centres in Phnom Penh, and SoC authorities therefore cancelled the releases. Explaining the ICRC's position, its chief in Cambodia declared, "Just to be invited to watch [a] release is a useless exercise as far as we're concerned. It's also a violation of the peace agreement." He added, "It is very difficult for us to work with this government. They haven't let us near a prison in 12 years." In response, Hun Sen declared that "a process of consultation between our government and the ICRC" was continuing, and Minister of Foreign Affairs Hor Nam Hong promised improved cooperation with it.

Also on 4 January, Hun Sen indicated there might also be delays in the release process while the SoC continued to separate what it considered criminal offenders from political prisoners. He declared, "Some political prisoners were implicated in penal crimes, for example robbery, killings or rape. Therefore we will have to endeavour to clarify this problem."

On 5 January, Prince Sihanouk held a meeting with diplomats accredited to the SNC by the five permanent members of the United Nations Security Council and with the UNAMIC head Ataul Karim. According to a broadcast over the official SoC radio, "the meeting examined ways to implement the Paris accord, particularly the annex on human rights, according to a request presented by the ICRC, which demands that all the Cambodian parties cooperate on the release of political and war prisoners."

On 14 January, the SoC authorities began to allow the ICRC to have unrestricted and repeated access to prisons and prisoners. Between that day and the end of the month, the ICRC met privately with and registered 518 detainees considered by the SoC authorities as political prisoners or prisoners of war. By the end of January, the ICRC had presided over the release of 453 of these detainees.

The detention centres where the ICRC visited detainees in January included the Ministry of Interior-administered part of T3, the Prey Sar national rehabilitation centre, the provincial prisons of Kampung Speu and Kampung Cham and the T5 national rehabilitation centre in Kampung Cham near the border with Viet Nam. At each of these detention centres, the ICRC met privately with detainees deemed political prisoners and prisoners of war to record their

identities, check their health conditions and gather other information from them.

The ICRC reportedly registered 116 prisoners in T3 and 182 prisoners in Prey Sar. On 15 January, 280 of the total of 290 were reportedly released, including 110 political prisoners. All were said to have been detained without trial, some for more than ten years.

The ten political prisoners not released included eight people held in T3 who were serving sentences imposed by SoC courts. Also not released were some 57 tried political prisoners who were serving sentences in Prey Sar and who were not registered until 18 January. According to the ICRC, the SoC authorities had stated that their release would have to await formal commutation of their sentences by the courts.<sup>36</sup>

The 15 January release ceremony was presided over by Prince Norodom Sihanouk, who was quoted as saying that the SoC had "promised me to release everyone, political prisoners and war prisoners," but that still some remained in jail.

Also reportedly present at the prison gates were persons believed to be political security officers, and because of their presence most released prisoners declined to talk with news media about their experiences in prison. Nevertheless, some reportedly complained about having spent years in shackles in dark cells and about having been subjected to beatings and other severe physical abuses, especially during the earlier stages of their captivity. Some said treatment they considered abusive, such as being kept constantly in shackles, had continued up until the first week of January 1992. One alleged that 15 prisoners were not present for the release ceremony because they were receiving medical attention at a military hospital for illnesses caused by abuses they had suffered in prison.

On 17 January 1992, the SoC announced that five political prisoners had "recently" been released from the Kampong Speu provincial prison. It named these as Pol Phan, Pol Kung, Meah Mai, Mam Say and Kang. All of these except for possibly the last had apparently been arrested after the agreement in connection with alleged activities on behalf of the PDK.<sup>37</sup> It seems they may have been released without ICRC supervision. The next day Prince Sihanouk reportedly attended another release ceremony in Kampong Speu at which 18 more detainees, all described by the SoC as political prisoners, were released from the provincial prison after having been registered by the ICRC.

On 22 January, the ICRC registered three detainees described as political prisoners and eight as prisoners of war in the Kampong Cham provincial prison. The next day, it registered 20 political prisoners and 113 prisoners of war at T5. On 29 January, Prince Sihanouk attended a third ceremony at which the 23 political prisoners and 121 prisoners of war were released. Those released included 74 who were said by the SoC to belong to the FUNCINPEC, 51 from the KPNLF and 19 from the PDK.

Thus, by the end of January 1992, 152 of 794 political prisoners whom SoC authorities said

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<sup>36</sup>It is not clear who the other two political prisoners not released on 15 January were, or why they were not freed.

<sup>37</sup>See below, pp. 33-36.

were still held in December were reportedly released, apparently leaving 642 still detained at the end of that month. These appear to have included the 65 tried political prisoners not freed from the Ministry of Interior-administered part of T3 and from Prey Sar, leaving some 577 political prisoners still held elsewhere.

Among these 577 prisoners may have been some 37 political prisoners who were reportedly held in T3 as of early October 1991 yet whose names did not appear on any of the lists the authorities gave Amnesty International. Their names were obtained by Amnesty International from political prisoners released at that time. Although a few were said to be held in the Phnom Penh Municipality side of T3, most were said to be held in the part administered directly by the Ministry of Interior. They were not among those listed as released or still held at T3, nor were they on the Ministry of Justice list of political prisoners who had been tried. The 37 were:

1. Hau Peng<sup>20</sup>. Pov Sichun
2. Chea Sopheap<sup>21</sup>. Keum Kandara
3. Sang Phen<sup>22</sup>. Thach Prach
4. Than Sarun<sup>23</sup>. Sam Sarim
5. Hi Nhang<sup>24</sup>. Thuon Thol
6. Kaen Saong<sup>25</sup>. Chin Than Thol
7. Kung Bunthan<sup>26</sup>. Sip Khon
8. Ouch Heng<sup>27</sup>. Ret Nhan
9. Sav Than<sup>28</sup>. Run [surname unknown]
10. Mav Lao<sup>29</sup>. Keum Seun
11. Haol [surname unknown]<sup>30</sup>. Han Bun Theuan
12. Chea Saraen<sup>31</sup>. Hoy Bun Theuan
13. Thay Lay<sup>32</sup>. Thach Pao
14. Papa Chivi<sup>33</sup>. Suy Seng
15. Mam Veul<sup>34</sup>. Van Chun
16. Run Vanna<sup>35</sup>. Chum Hien
17. Thach Veung<sup>36</sup>. Song Pheng Sari
18. Kaul Sauni<sup>37</sup>. Thach Voan
19. Chea Sitha

## Changes in SoC law at the time of the peace agreement

In meetings on 13 December with Chan Min, the SoC Public Prosecutor General and on 17 December 1991 with Uk Bun Chheuan and Chem Snguon, the SoC Minister and Deputy Minister of Justice, respectively, Amnesty International was told that as of 23 October 1991, there was no longer any legal basis in the SoC for the arrest or detention of political prisoners. These SoC authorities said in particular that the provisions of the two most important SoC laws relevant to arrest and detention on political grounds had been "suspended". The modified laws were Decree-Law 02 DL, which is the SoC's Criminal Code, and Decree-Law 27 DL.

According to the Ministry of Justice officials, all the provisions of Decree-Law 02 outlawing "treason against the revolution" were suspended, including both provisions covering armed



insurrection and peaceful opposition activities.<sup>38</sup> However, it was noted that this did not decriminalize offences covered by other provisions of this law, such as those against murder, assault and robbery. Also suspended was Article 28 of Decree-Law 27. As mentioned above, this article provided for two or more years of detention without charge or trial of people suspected of activities deemed to have an "adverse impact on political security". Although administrative and preventative detention without charge or trial for political suspects are now illegal, the ordinary criminal provisions of Decree-Law 28 allowing up to six months incommunicado detention without charge or trial were left in place.

Amnesty International also asked the Justice Ministry to explain how the peace agreement had changed the legal situation as regards the staging of public demonstrations and the formation of new political parties, political associations and news media. Similar questions were posed during Amnesty International's meeting with Deputy Interior Minister Sin Sen.

In answers given before the demonstrations of 21 December 1991<sup>39</sup>, the authorities explained that no legal basis existed for prohibiting public demonstrations as long as they did not turn violent in a way that was in violation of the remaining criminal provisions of Decree-Law 02. They also stated that those wishing to stage public demonstrations were under no legal obligation to obtain permits or otherwise seek the permission of or even inform the authorities in advance. In particular, Deputy Minister Sin Sen told Amnesty International that the demonstrations that had taken place up through 18 December constituted the legal exercise of the demonstrators' "democratic rights" to manifest their dissatisfactions. He said that as long as they did not destroy public or private property and remained non-violent, their activities were legal, even if they had not requested the advance permission of the authorities. He noted that these demonstrations were not aimed at "the government as a whole, but at certain individuals at the ministerial level within it."

With regard to formation of new political parties or associations and the setting up of independent news media, the authorities stated that in principle there was no legal bar to any of this. However, they insisted that in these cases, permission should first be obtained from the SoC Government. As the Minister of Justice put it, if "enemy organizations" wanted to exercise the "rights to freedom of speech and expression, to form political parties and associations and the like, they must seek our permission". Amnesty International was told that a request would have to be put to the SoC Council of Ministers, which would then make a decision based on the policies of the CPP. As of mid-December 1991, it was stated, no such requests had been received.

Finally, Amnesty International asked the Ministry of Justice and judicial and public prosecution officials whether the SoC had begun any steps towards reform of the judicial system, and in

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<sup>38</sup>Decree-Law 02 was promulgated on 15 May 1980 and provides the penalties for "treason against the revolution and other criminal offenses generally". Amnesty International was told that its Articles 2, 3 and 4 had been suspended in their entirety. For a discussion of the provisions of this law, see Amnesty International, Kampuchea: Political Imprisonment and Torture (AI Index ASA/23/05/87, June 1987), pp.24-27.

<sup>39</sup>For a description of these demonstrations and remarks by other SoC authorities about them, see below, pp. 38-52.

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particular whether any measures had been taken to ensure the independence of the judiciary vis-a-vis the SoC government and the CPP. In raising these questions, the organization referred to its long-standing concern that SoC courts are legally obliged to serve the government's political agenda, that the country's laws contain no guarantees of judiciary independence or safeguards against political interference in judicial decisions, and that therefore people suspected of political offences cannot be assured of receiving fair trials.<sup>40</sup>

Amnesty International was told that so far no changes or improvements had been made in these spheres. It was told that it would be difficult to achieve anything immediately because of the high degree of "confusion and ignorance" within the SoC administration about the concept of an independent judiciary; because of the continuing high degree of political and financial dependence of courts and of provincial and municipal judges on the SoC provincial and municipal officials<sup>41</sup>; and because of the generally acute lack of people with genuine legal qualifications or training.

## SoC bodies empowered to arrest, interrogate and detain

Amnesty International's conversations with various SoC law-enforcement and judicial officials about the situation since 23 October 1991 indicated that primary authority for arrest, interrogation and detention remain with the civil police. However, they also indicated that "political security" bodies previously responsible for political arrests continue to have some arrest and interrogation responsibilities.

The role of political security bodies was discussed in some detail during Amnesty International's meeting with Sin Sen, the SoC official in charge of them. In explaining their role following the signing of the peace agreement, the Deputy Minister of Interior emphasized what he described as an upsurge in criminal activities by the PDK.

Sin Sen said there had generally "not been a lot of problems with political offences" since the signing of the peace agreements, except for those "arising from violation of the agreements themselves". He affirmed the authorities would "not take measures against anything that was in accordance with the provisions of the agreements we've signed, because they enjoyed the...legal right to do them".

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<sup>40</sup>See *Kampuchea: Political Imprisonment and Torture*, AI Index ASA 23/0/87, p. 62

<sup>41</sup>In a "Report on Actions in Implementation of Specialized Tasks by the Supreme People's Court During the First Semester of 1991 Presented to the 21st Session of the First Term of the National Assembly", the Chairman of the Supreme People's Court Khang Sarin said on 12 August 1991 that "some provincial and municipal people's courts are compelled by their provincial and municipal [administrative] committees to report about every aspect of every matter in both criminal and civil cases. If they want to convene hearings, the case file must be taken in and cleared with them for approval. Those which they like and strike their fancy are the ones that are allowed to be opened. Those which don't please them personally get bogged down." He added that "interference in the court by those claiming authority and power pose hardships for courts at every level, with the result that at some times and in some places the decisions reached by courts in some instances cannot be completely and correctly predicated on the ideals of justice."

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Sin Sen said that although all the Cambodian parties to the agreement had affirmed their determination to respect and implement it, the PDK had continued to violate it since it was signed. He alleged that in violating the agreement, the PDK was acting in an "even more brutal fashion than before". Referring specifically to alleged incidents in Stong district of Kampong Thom province, he said they had attacked outlying villages and subdistricts and employed their forces "to rob and pillage the people, pure and simple". He alleged that the PDK had also begun killing people who opposed its activities in the countryside. He said that as a result of PDK activities since the agreement, 52 people had died, including ordinary villagers and local SoC authorities.<sup>42</sup> He said that it was in order to deal with such killings the SoC authorities had begun concentrating forces in certain areas in an attempt to ensure the safety of the population.

Sin Sen said that since the peace agreements a number of PDK personnel had been arrested in outlying subdistricts and districts, but to his knowledge, the number of such people detained was small, totalling "perhaps four". He said that it was impossible for the SoC authorities to release them because they "had committed crimes such as robbery or cold-blooded murder", or because "to put it in general terms, had done things that had negative repercussions vis-a-vis people's lives and property". Their release, he explained, "would create social complications".

Sin Sen said the security forces under his authority included five directorates, and official Ministry of Interior documents seen by Amnesty International identify these as Defence of Political Security Directorates 1, 2, 3, and 4 and a body named the Body Guard/Aide de Camp Directorate (neayukathan angkareak)<sup>43</sup>. Sin Sen said Directorate 1 was responsible for "assessing intelligence on matters relevant to national problems"; Directorate 2 for "counter-terrorism"; Directorate 3 for the "regulation (krupkrong) of all international figures, all foreigners, and for their protection"; and Directorate 4 for "internal defense, with its most important duty being the protection of the cadre at every [SoC] institution". He said Directorate 5 was in charge of "employing forces to provide personal protection" to those responsible for setting the "major political objectives" of the SoC.

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<sup>42</sup>Sin Sen and other central SoC authorities who spoke to Amnesty International about alleged PDK killings after 23 October 1991 were unable to provide details about specific incidents. However, during visits to Siem Reap-Utdar Meanchey and Kampong Speu provinces, the organization was able to gather information on three post-agreement incidents during which nine people were allegedly killed by elements of the National Army of Democratic Kampuchea (NADK), the armed wing of the PDK. On 26 November 1991, some ten NADK combatants allegedly entered Sophea village, in Kontreang subdistrict, Siem Reap district of Siem Reap-Utdar Meanchey village and opened fire on the village guardpost, killing six people: Maeuv Ran, the village chairman, and five villagers: Leng Leat, Phon Phan, Tiev Chiev, Douch Doan and Moan Mai. On 12 December, two NADK elements said to be from Regiment 91 of NADK Division 980 allegedly entered Reuhsei Khlach village, in Sang Veuy subdistrict, Chi Kreng district of the same province, and opened fire on two local militiamen, both of whom were killed. On 10 November 1991, about 20 NADK elements said to be from Regiment 18 of Division 305 allegedly entered the seat of Kap Phluk subdistrict in Bausaet district, Kampong Speu province, and abducted the subdistrict chairman, Lang Bun Teuan, a 42-year-old father of five. They then allegedly took him to a spot some three kilometers away where they shot several times in the face and body.

<sup>43</sup>This description refers to the situation before the reorganization of the security apparatus at the end of January 1991, when a new Ministry of National Security was established and the functions of the Ministry of Interior were redefined.

Sin Sen explained that the Defence of Political Security Directorate 2 combined the duties and functions of two earlier Ministry of Interior Directorates, the People's Security Directorate and the Research and Interrogation Directorate. He confirmed that since the end of 1987, Directorate 2 had taken over the two former directorates' authority to order "the arrest, temporary detention and release" of suspected offenders, as set forth in Article 18 and 19 of Decree-Law 27 DL.<sup>44</sup> He said that Directorate 2 had the authority to order arrests throughout the transitional period up through the formation a new Cambodian government as a result of general elections, but that the extent to which this authority would be exercised would be "contingent upon the concrete situation". He emphasized that the situation had changed with the signing of the peace agreements; that since then the security authorities "were concentrating their efforts on overt acts that would have negative repercussions on the lives and property of the people."<sup>45</sup>

Sin Sen said, however, that Directorate 2 did not itself maintain detention centres to hold suspects arrested pursuant to its orders. He said that the only such centres in existence were those maintained by the Ministry of Interior directorate responsible for the supervision of detained suspects and convicted prisoners. According to the deputy minister, Directorate 2's authority extended only as far as "taking suspects into custody in accordance with the legally correct decisions of the higher levels of the Ministry of Interior, and then handing them over to another location to be detained and re-educated and the like". He said the crucial aspects of Directorate 2 therefore comprised only "detecting, arresting and interrogating" suspects. He said that although "according to the law", they were liable to be detained for a period for interrogation, during their interrogation they would not be detained in a Directorate 2 centre, but in places such as T3 Prison in Phnom Penh, where they could be questioned by Directorate 2 personnel.

Sin Sen affirmed that since the peace agreements, Directorate 2 itself had not conducted any arrests, and that all of the people it had arrested before the agreements had been turned over to the usual authorities of the civil police for detention.

During his meetings with Amnesty International Sin Sen also explained the history of a security force known as the "A3" police, which the PDK and other opposition groups have alleged continues to operate against political opponents of the SoC. The Deputy Minister of Interior said that after the Vietnamese army withdrawal, the A3 forces had been created from among civil police personnel at the district, provincial and ministerial levels to deal with the threat he said

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<sup>44</sup>Decree-Law 27 DL specified that such orders could be issued by the head of these directorates with the agreement of the Ministry of Interior. In a report published in June 1987, Amnesty International estimated that approximately 20 per cent of political arrests were being carried out by the People's Security and Research and Interrogation Directorates. See Kampuchea: Political Imprisonment and Torture (AI Index ASA/23/05/87, June 1987), p.30. The report noted that "personnel attached to the People's Security or Research and Interrogation Directorates, usually operating in plain clothes, apparently have the authority to arrest anywhere in [Cambodia] suspects who are named by the Ministry [of Interior] and its [other] directorates."

<sup>45</sup>According to other sources, Political Security Directorate 2 is believed to be the same body known more widely known by its code name, S-21, and is located in an unmarked building near the intersection of Roads 51 and 184 in Phnom Penh.

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arose as a result of attempts by the PDK, FUNCINPEC and KPNLF to concentrate their guerrilla troops for simultaneous attacks on many SoC positions. He described himself as their "commander", and said he had set them up in October 1989. He said they had been armed with "weapons gotten on loan from the Ministry of National Defence," and remained in existence for only three months. He said that starting in early 1990, the elements who had comprised the A3 forces had begun returning to their districts of origin, and that by the time of the peace agreements, they were reintegrated with the population in the districts and subdistricts. He said it was therefore impossible that they continued to engage in arrests.

## Political arrests, 1 October to mid-December 1991

While in Cambodia in December 1991, Amnesty International gathered information on the cases of 25 people who were arrested or reportedly arrested between 1 October and mid-December 1991 because of their alleged activities on behalf of the KPNLF, FUNCINPEC and PDK. These included some people arrested just before the peace agreement who at the time of their arrest seem to have been officially considered political suspects, but who were apparently reclassified later as criminal suspects because they were allegedly involved in a purported plot to assassinate SoC leaders. They also included some people arrested after the agreement by civil police officers who seem to have continued to believe people could be detained on strictly political grounds. Finally, they included people whose post-agreement political activities seem to have been deemed essentially criminal.

### Kang Tong Heang and Kuch Siek

At a press conference on 17 November 1991, Hun Sen said that he had been the target of nine assassination plots since 1979. All of these, he said, had been drawn up by the PDK and KPNLF. He said that some of those involved in the first eight plots had been arrested, but all had later been released. However, he said the latest group of suspects had just been arrested. He declared:

"The price put on my head was seven million dollars...They were supposed to assassinate me before the elections. The order to kill me was given on 28 May 1991, after the cease-fire went into effect. Their special mission was to assassinate Mr Hun Sen and they were captured."

At his press conference, Hun Sen further said that he was considering handing over the suspects in this purported plot "to UNTAC because this is an act of terrorism that the world despises." He described those arrested as "criminals" rather than political prisoners, and said that as in the case of other criminal prisoners, "we cannot release them because their crime is one of terrorism condemned by the whole world. If UNTAC releases them, then it is the responsibility of UNTAC."

Hun Sen did not name those allegedly involved in carrying out the plot, but while in Cambodia Amnesty International was able to identify two of those arrested as Kang Tong Heang, aged 41 and a native of Kracheh province, and Kuch Siek, believed to be in his early 50s and a native of Siem Reap province. Both men are of ethnic Chinese origin and had participated in the

activities of a recently-established SoC Overseas Chinese Association.<sup>46</sup>

At the time of his arrest, Kang Tong Heang was in charge of international capital investment for the National Bank of Cambodia. Several persons who know him told Amnesty International they were surprised when they heard he had been accused of attempting to assassinate Hun Sen. They said that to their knowledge, he was a strong admirer of Hun Sen. He was also said to have spoken out against corruption during internal meetings at the National Bank.

Kang Tong Heang had been previously held without charge or trial in T3 from 18 July 1983 to 26 October 1988 for what are described in official SoC documents as "political suspicions". At the time of this arrest, he was already employed by the National Bank, after having worked previously at the Phnom Penh Municipal Bank. It is said that in the period before his arrest in 1983 he worked with SoC officials in a program to uncover and confiscate the financial resources of the PDK and other armed opposition groups. According to unofficial sources familiar with his case, he was released because a top-level review of his case by the Ministry of Interior ascertained that there was no real basis for the accusations against him, and that he had been "arrested by mistake"(chap chralam). Official documents specify that he was released on the order of the Minister of Interior.

Kang Tong Heang was reportedly arrested at his home around midnight on the night of 19 October 1991. First, two men are said to have come to his home claiming that an official from the local municipal subward needed to see him urgently at the subward civil police station, but he turned them away, saying he would attend to the business in the morning. Shortly thereafter, a police car and several police motorcycles arrived. A large number of political security and civil police officers, most of them in plain clothes, entered his home. They presented him with an order from the Ministry of Interior summoning him to the ward civil police station to answer questions about "activities by reactionaries". The security officials told him he would only be going to the ward civil police station briefly and then returning home. Instead, he was driven to the Municipal civil police headquarters. However, when his family inquired about him there, the municipal civil police reportedly denied that he was in custody. The next morning, someone else managed to meet him there briefly in the municipal jail, and Kang Tong Heang reportedly told this person that he had been "framed", using as a pretext the fact that he had been previously arrested. According to official records, he was transferred to T3 the same day. When the family heard of this, they reportedly asked the authorities there for permission to visit or at least send food and medicines to him<sup>47</sup>, but prison officials refused to confirm that he was held in the prison. The authorities also refused to explain why he had been arrested except to say it was "a serious political case". The next day a group of ward civil police officers led by a senior political security officer and carrying a warrant signed by Sin Sen reportedly came to search Kang Tong Heang's home, but provided no further information about his whereabouts or the reasons for his detention.

At the time of his arrest, Kuch Siek was making his living as a merchant, selling fish both to the

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<sup>46</sup>The association was reportedly set up in December 1990 and is believed to be the first organization which the SoC has allowed private individuals to set up. Its establishment is understood to have been authorized by Chea Sim in his capacity as the Chairman of the KNUFCD.

<sup>47</sup>Kang Tong Heang reportedly suffers from heart trouble.

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SoC armed forces and for export to Thailand via the port of Kampong Saom and the coastal province of Kah Kong. He is not known to have been previously arrested. However, he reportedly was acquainted with one former political prisoner who is believed to have been arrested in 1979. At that time, the acquaintance was reportedly a high-ranking SoC police official in the province of Kampong Chhnang. Before his arrest, he is said to have helped finance Kuch Siek's resumption of the latter's fish-trading business in the wake of the overthrow of the Democratic Kampuchea regime. After his release from T3, which is believed to have taken place in 1988, the former political prisoner reportedly came to Kuch Siek for money to purchase medicines to treat health problems that had resulted from his conditions of imprisonment. The former political prisoner then fled to the Thai-Cambodian border, where he is believed to have become a Buddhist monk in a camp administered by the KPNLF.

Kuch Siek's assistance to the former political prisoner reportedly came to the attention of SoC political security authorities, and thereafter he was apparently kept under surveillance. According to one source who spoke to Amnesty International about Kuch Siek's case, the authorities had "wanted to arrest him ever since he helped the former political prisoner". Suspicions about Kuch Siek reportedly increased after his half-brother also went to the KPNLF-administered camp to become a monk.

Kuch Siek was reportedly also arrested at his home on the night of 19 October, around 10.00 pm. The arrest is said to have been carried out by a group of around a dozen plainclothes civil police and political security officers carrying an arrest warrant signed by Sin Sen. The officers reportedly said that he was being taken to the ward civil police station in connection with alleged but unspecified "political offences" and "contacts with the enemy". When the family went there the next morning to inquire, the authorities reportedly denied any knowledge of his arrest. The family is understood later to have learned through unofficial sources that he was in T3.

A source who spoke about the Kuch Siek case with civil police officers working in T3 told Amnesty International that the officers said that he was a "political prisoner" arrested because of his alleged "connections with the Son Sann and Khieu Samphan groups". The officers explained to the source that because the United Nations officials were expected to inspect T3, "such prisoners were being shoved into murder cases because of fears that otherwise they would all be released". The civil police told the source that in fact Kuch Siek wasn't guilty of "anything serious", but that he and other political suspects were being "shoved into this category" in order to continue their imprisonment.

According to reports, Kuch Siek was held in shackles in a dark cell for more than two weeks before being moved to a standard cell. He is said to have lost weight and become anaemic as a result of the conditions he experienced while in the dark cell. At one time, a political security official reportedly ordered that no one from outside the prison be allowed to speak to Kuch Siek, but later his family is said to have been allowed to speak to him.

The names of Kang Tong Heang and Kuch Siek appear on the list the authorities gave Amnesty International of criminal prisoners held in T3, with the notation that they are accused of attempted homicide.<sup>48</sup>

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<sup>48</sup>According to the list, Kang Tong Heang was arrested on 10 December 1991 and entered the prison the Amnesty International April 1992AI Index: ASA 23/02/92

Amnesty International raised the case of the two men during the organization's meeting with Deputy Minister of Interior Sin Sen. He confirmed that they were being held for allegedly "being on Son Sann's payroll", but made no further comments about their case. Asked about their cases, Minister of Justice Uk Bun Chheuan said the ministry had received no information about their arrest or detention, but suggested that the Ministry of Interior might have sent their dossiers to the public prosecution or the courts, either in order to request that they be charged or to request an extension of their detention. Amnesty International raised their cases with public prosecution and judicial officials, who reported that they had not yet received any information or requests from the Ministry of Interior about the two men's cases.

### Other alleged KPNLF activists

On 12 October 1991, the Phnom Penh Municipal civil police arrested Sok Seuan Sarun for alleged KPNLF activities. At the time of his arrest, Sok Seuan Sarun, who is believed to be 56 or 57 years old, was a Buddhist achar (lay preceptor) at the Voat Srah Chak Buddhist monastery in the capital. According to eyewitnesses, he was approached at Voat Srah Chak by officials of the Religious Affairs Department of the Phnom Penh chapter of KNUFCD and told by them he was needed to attend a meeting. When he arrived at the site of the supposed meeting, he was arrested by the civil police and taken to its Phnom Penh Municipal headquarters. According to reports, he was initially held in shackles in a dark cell, but was later moved to a "medical treatment cell". He is described as suffering from heart trouble.

On 19 December 1991, Amnesty International raised Sok Seuan Sarun's case with officials of the Ministry of Interior and the civil police of Phnom Penh Municipality. They explained to Amnesty International that he had been arrested because he was a member of the KPNLF underground apparatus in Phnom Penh. They said he had had repeated contact with KPNLF operatives based on the Thai-Cambodian border who had assigned him to disseminate KPNLF political propaganda among Buddhist monks and other Buddhist circles in Phnom Penh. According to other sources, his work comprised in particular the dissemination of the ideas contained in a pamphlet The Doctrine of Buddhist Liberal Democracy by KPNLF Secretary General Ieng Mouly.<sup>49</sup> At the time of Amnesty International's visit, Sok Seuan Sarun was still held without charge by the Phnom Penh civil police at their headquarters. The organization was told it was likely that he would be released under the provisions of the peace agreement, but Amnesty International does not know whether this has happened.

Soen Sieng, another alleged KPNLF operative, was reportedly arrested on 21 November 1991, almost a month after the peace agreement. He was believed to have been seized near Phnom Penh's Pochentong airport that day, when KPNLF President Son Sann arrived in the capital to participate in the SNC. According to the available information, Soen Sieng was apparently arrested because he was suspected of being involved in an attempt to organize some sort of public welcome for Son Sann. According to one report, he was later seen by other political prisoners held at Prey Sar Rehabilitation Centre. However, he did not appear on the namelist of

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same day. These dates appear to be mistaken. The records correctly indicate that Kuch Siek was arrested on 19 October 1991 and entered T3 on 20 October 1991.

<sup>49</sup>Ieng Mouly is one of the two KPNLF representatives on the SNC.

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prisoners held there given to Amnesty International by Prey Sar authorities, and Ministry of Interior officials declined to comment on his case when it was raised with them by Amnesty International.

### Alleged PDK activists

According to official records provided to Amnesty International, between 13 November and 6 December 1991, civil police authorities in Kampong Speu province arrested nine people for alleged PDK activities: Ut Mean, 31; Koy Sok, 19; Yaem Sophal, 48; Pov Pheuan, 28; Sin Von, 31; Nheum Et, 28; Un Chheun, 31; Yaem Yan, 31; and Sou Mean, 31. The nine were allegedly cadre or combatants of various units of the National Army of Democratic Kampuchea (NADK), the armed wing of the PDK. Kampong Speu civil police authorities told Amnesty International during a visit to the province on 14 December that the nine had been arrested because they were allegedly involved in attempting to organize peasants in Kampong Speu province to participate in a PDK-sponsored march to welcome the homecoming of Prince Sihanouk on 14 November 1991, and also in various PDK "election propaganda" activities. Amnesty International was shown SNC flags which the civil police said the PDK had distributed to peasants for use in the march, which apparently did not take place. The organization was also told that the civil police had confiscated two pistols from those arrested. It was informed that as of 14 December, two of the nine (Ut Mean and In Chheun) had been transferred to the custody of the Ministry of Interior in Phnom Penh, while the other seven remained in Kampong Speu provincial prison. None were yet charged.

Official records from Kampong Speu also list nine other people arrested in the province in the period between 23 October and mid-December, apparently also on suspicion of involvement in PDK activities. Four of these nine were named on 17 January as having been recently released.<sup>50</sup> The fifth person whose release was announced by name does not appear in the records. The status of the five other recent detainees whose names do appear remains uncertain, but it appears they may still be held. They are Pov Pheap, Top Han, Nut Kang, Khoem Huot and Suon Sen.

### Arrests of FUNCINPEC activists

In early December 1991, civil police officers of Kandal province arrested two men from the province's Kah Thom district and a woman from Phnom Penh. The three are believed then to have been brought to the provincial civil police headquarters in Ta Khmav and detained in the provincial jail there. According to reports they were arrested carrying a large number of photographs of Prince Sihanouk. On 19 December 1991, Amnesty International made inquiries with the provincial authorities in Kandal. They declined to name the detainees but agreed to provide some information about the reasons for their detention. They said that the three had been arrested for "doing propaganda on behalf of Prince Sihanouk". When it was pointed out to them that the SoC considered the Prince chief of state, the Kandal officials added that the three prisoners had also allegedly conducted "political propaganda on behalf of FUNCINPEC". When Amnesty International remarked that the FUNCINPEC and the SoC had signed a formal political

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<sup>50</sup>See above, p. 22.

alliance, and the provincial authorities declined further comment about the specifics of the reasons for their arrest. However, they confirmed that the three were so far held without charge.

## Demonstrations and civil unrest in Phnom Penh, 17 November to 20 December 1991

Other post-agreement arrests took place during the serious civil unrest that developed in Phnom Penh after a series of public demonstrations in the capital. These serious disorders erupted on 21-22 December, and also resulted in the killing of a number of civilians by security forces.

### Anti-PDK demonstrations, 17 to 27 November 1991

On 15 November 1991, Hun Sen stated in a press conference that certain "groups and individuals" whom he declined to name had requested permission to demonstrate against the return to Phnom Penh of PDK leaders such as Khieu Samphan and Son Sen, the PDK's members on the SNC. Both were also leaders of the Democratic Kampuchea regime overthrown in January 1979, and they have been repeatedly accused of involvement in the large-scale extrajudicial executions and torture which took place under this regime. With regard to the request to hold demonstrations against them, Hun Sen declared:

"If we refuse or if the demonstration takes place and we use force to control [the demonstrators], then we will be accused of violating human rights. I find myself in a very difficult situation, but I have appealed to my people to keep quiet to allow the SNC members to come and work."

He warned that if permission for a demonstration were granted, it would "probably go into the Khmer Rouge residence and maybe commit some violence". In that case, his responsibility would be "to provide protection".

On the morning of 17 November, after the arrival in Phnom Penh of Son Sen, a small peaceful demonstration broke out near his hotel. Later that day, Hun Sen said this gathering had been unauthorized, declaring:

"over the past few days the people have petitioned us for permission to stage demonstrations. We have refused to grant it on the grounds of maintaining good order."

He said again if on the other hand he sent "the police against the demonstrators," the government "would be accused of violating human rights". He said therefore his "government's measures are just to appeal to our compatriots to maintain calm and stability and to return home".

In a 21 November 1991 interview broadcast by the SoC official media, Chea Sim also expressed opposition to demonstrations. Asked to comment on Hun Sen's remarks "about preventing people from taking action against" PDK leaders, he responded, "we want to maintain calm. Therefore, we have persuaded the public not to stage demonstrations."

Nevertheless, on 27 November, a large demonstration was held protesting the return that day to Cambodia of Khieu Samphan. This demonstration resulted in an assault on the residence and persons of Khieu Samphan and Son Sen. According to most accounts, the demonstration began with some degree of official sponsorship, but may have gotten out of control when police and security forces acting under orders to exercise restraint in dealing with the demonstrators failed to prevent a small number from actually entering the room where Khieu Samphan and Son Sen had sought shelter.

On the morning of 27 November, some ten thousand people converged on the PDK residence after students who accused them of being murderers had demonstrated along the route that Khieu Samphan took from Phnom Penh's Pochentong airport. The student demonstration was reportedly organized by the officially-sponsored students' committees of the University of Phnom Penh and the national Technical Institute. At the PDK residence, some among a core of several hundred to a thousand demonstrators who were shouting "kill them, kill them" breached the perimeter and climbed up into the house.

Initially, some 25 police equipped with nightsticks but no firearms were posted around the residence. Later, hundreds of security forces arrived, but were reportedly under orders from the Ministry of Interior not to open fire. Hun Sen, standing on a balcony of a building across the street, urged the crowd to remain calm and commit no killings. Security forces did not intervene until after a few demonstrators armed with makeshift weapons cornered Khieu Samphan and strung up a wire from which to lynch him. In the course of the assault, Khieu Samphan received a gash on the head. Finally, he and Son Sen were rescued by SoC military forces and escorted to a plane which flew them out of the country.

In a message to the nation on 28 November, Hun Sen described the violence of the 27 November incident as "regrettable" and "unplanned". He declared that the SoC Government "respects the citizens' right to organize meetings or demonstrations" but that "violent demonstrations that cause damage to property or bodily injury or death" were unacceptable. With regard to Khieu Samphan and Son Sen, he said: "Attacks or murders of a few Khmer Rouge leaders cannot solve the problems of the entire nation," adding that "what we need to resolve the present problems is nonviolence." He called on those opposed to the return of the PDK leaders to Phnom Penh not to vote for them in the UN-sponsored general elections and to support their being "tried by a national or international court...according to the law" for their alleged complicity in human rights violations.

#### Anti-corruption demonstrations, 17 to 20 December 1991

Between 17 and 20 December 1991, another series of demonstrations broke out in Phnom Penh. These demonstrations took place after Chea Sim and Hun Sen publicly reaffirmed the authorities' position that non-violent demonstrations would be allowed. These remarks were made in relation to the question of whether people could stage new demonstrations against leaders of the PDK, but were evidently interpreted by the public as having broader implications.

In a 2 December speech marking the anniversary of the KNUFCD, Chea Sim said that "the people have been granted all kinds of rights and freedoms", and indicated demonstrations could

be held as long as they remained non-violent. A 4 December statement by Hun Sen similarly indicated that public demonstrations would be allowed, so long as they did not turn violent again. Then, in a commentary on human rights on 17 December, Hun Sen said:

"I have no right to ban people from demonstrating...People have the right to demonstrate...As for the government, which is in charge of social order, we do not want demonstrations to take place. However, if these occur spontaneously, what do we do? I categorically declare that we will not use violence or weapons to repress demonstrations...We [are] willing to let our policemen face danger from demonstrations. We will not fire on demonstrators..."

The demonstrations that broke out on 17 December and continued until 20 December were not directed against the PDK but rather against alleged corruption among SoC officials. The demonstrators did not denounce the SoC Government as such, and in most cases insisted that they supported the government and were opposed only to certain corrupt individuals. The demonstrations were led by and organized primarily among workers and staff of SoC state enterprises who accused their superiors of pocketing money made from selling off or leasing factories and official residences to private entrepreneurs, particularly foreign firms. The demonstrators included employees from the Ministry of Industry, Ministry of National Defence, Ministry of Propaganda, Bank of Phnom Penh, Ministry of Planning and Ministry of Communications, Transport and Posts. The demonstrations were generally peaceful, but over the four days that they took place were marred by increasingly significant instances of violence, including the symbolic burning of government property and holding a government official hostage.

The largest and most destructive demonstration was one of several that occurred on 20 December. More than 250 people, reportedly led by a core of students, ransacked and burned a house said to have been misappropriated by Ros Chhun, the Minister of Communications, Transport and Posts. The demonstration spilled over into a nearby market, and looting took place while some demonstrators prevented fire engines from reaching the scene and others threw rocks at police.

Protestors said the house had been a government office until Ros Chhun decided to make it his personal residence and ordered ministry workers to leave the premises, allegations that were corroborated to foreign journalists by the Ministry of Foreign Affairs. Some 50 police carrying shields and truncheons restored order while the official news media broadcast an announcement by Hun Sen that Ros Chhun had been relieved of office. His three deputy ministers were also dismissed.

Amnesty International observed most of the demonstrations between 17 and 20 December and interviewed both participants and armed civil police officers who were present. Participants told Amnesty International that the civil police had not intervened, even in cases where there had been some violence, and that they had not arrested or ill-treated demonstrators. Civil police officers told Amnesty International that they were under orders not to act against demonstrators, and this policy was corroborated during a meeting with Ministry of Interior and Phnom Penh civil police officers on the afternoon of 20 December. They told Amnesty International that government policy was not to ban or block demonstrations unless "things went to extremes".

However, from meetings earlier that day with junior officials of the Phnom Penh Capital Administrative Committee, the organization learned that leading municipal officials were conferring with civil police and army officers about the possible deployment of additional civil police and army elements at key points around the city. Amnesty International was told that there was already concern that dissatisfaction was spreading from the specific issue of corruption to general opposition to the government, and that unrest might take on increasingly mass proportions.

## Deaths and arrests during civil unrest in Phnom Penh, 21 to 22 December 1991

### The unrest of 21 December 1991

Amnesty International also observed much of the civil unrest that broke out on 21 December. The following account, which elaborates on and revises one published earlier by the organization<sup>51</sup> is based in part on its own observations. It includes information obtained from eyewitnesses it interviewed at the time and published reports. It incorporates and responds to information provided in official SoC accounts, including statements and correspondence to Amnesty International by leading SoC officials and published SoC declarations.

#### SoC Government warnings

At 8.00 am on 21 December, the SoC official radio broadcast a speech by Hun Sen recorded three hours earlier in which he called for an end to violence in anti-corruption demonstrations. In contrast to the official statements made earlier in December, he said demonstrations would not be allowed unless the authorities granted permission in advance. He declared:

"The people have the right to express their views, protest or make demands in accordance with the law. However, the demonstrations of the past few days were essentially not in accordance with democracy and human rights. They were strikes using violence in violation of the law, creating social instability, fear and confusion among the people in general, and seriously threatening the stability needed for implementing the peace agreement...

"...Some aspects of the demonstrations that took the form of strikes over the past few days were inappropriate... They were staged without request for permission; they were staged secretly; people created confusion, destroyed buildings, took people hostage to demand ransom and attacked police forces. A number of people took advantage of this to loot."

The Chairman of the Council of Ministers insisted on several conditions for allowing demonstrations. First, "permission should be sought in advance to stage a demonstration. Only after permission is granted can the demonstration go ahead." Second, "the use of violence - which destroys people's and public property and causes bodily harm or endangers...lives and so on" was "absolutely banned". Finally, protests against alleged

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<sup>51</sup>See, *State of Cambodia: Killings of Demonstrators*, AI Index ASA 23/01/92, published in January 1992. Amnesty International April 1992AI Index: ASA 23/02/92

corruption must "be accompanied by clear proposals and evidence." There must be "some evidence for the courts or competent authorities to check out and deal with".

Hun Sen concluded that the authorities would not accept "unrest stirred up by a small number of people", and that "law-keepers...have the right to maintain order" in order to prevent the possibility of a "coup d'etat" or "military offensive" by means of "clandestine strikes" against his government. He said it would "take appropriate measures to maintain law and social order" and would not "remain indifferent to acts that are against the law".

Hun Sen's 21 December speech was broadcast in the context of expectations that PDK leaders Khieu Samphan and Son Sen might attempt to return to Phnom Penh that day, and that new anti-corruption demonstrations would be staged, including one planned by orphans and staff at an orphanage on the premises of the former French Embassy. Although Hun Sen announced that the PDK leaders had cancelled their return, and also insisted that no corruption was involved in plans to return the orphanage's premises to diplomatic status, serious civil unrest broke out throughout the rest of the day.

SoC authorities have admitted to the deaths of only three civilians during the unrest. They name the victims as Yin Thon, Tang Lon and Mak Keum Thi, and say that only the first two were hit by security force gunfire, in both cases "accidentally". However, Amnesty International believes that security force action during the demonstrations and riots resulted in the death of at least eight people. It appears some of them may have been killed unlawfully when individual members of the civil police and army used lethal force disproportionate to that needed to control the crowd violence, and that some of the dead may have been the victims of extrajudicial executions.

#### Events on the morning of 21 December

Early on the morning of 21 December, even as Hun Sen's speech was being broadcast, civil police arrested someone identified by the authorities as Yin Rumduol, a 22-year-old student at the SoC Faculty of Law. The arrest took place along Achar Mean Boulevard close to the headquarters of the Phnom Penh Municipal Administrative Committee and the orphanage at the former French Embassy. The exact circumstances of the arrest are not clear. In a letter addressed to Amnesty International on 11 January 1992, Sin Song, the SoC Minister of the Interior, said Yin Rumduol was one of "a group of suspicious persons who had concentrated themselves" there. During a meeting with municipal police officials while Amnesty International was still visiting Cambodia, Yin Rumduol was accused of having come to the area "just to agitate" and of having "called on the students to set up a demonstration". During a meeting with an official of the Ministry of National Defence, Amnesty International was told that the incident developed after traffic police had stopped some students demanding to see their identification cards and that other students produce titles of ownership of motorcycles they were riding.

According to unofficial sources, the group accompanying the student identified as Yin Rumduol was composed mostly of students from the nearby University of Medicine on their way to classes. They had apparently come together out of curiosity about the unusual police presence on the edge of the campus. Some of them reportedly began cheering another group of people who were trying to initiate an anti-corruption demonstration to be staged at the headquarters of

the Phnom Penh Administrative Committee. According to these accounts, Yin Rumduol's arrest took place after police ordered the students to disperse. When some of them refused, arguing they had the right to assemble there, an altercation ensued between the police and the students. In the course of this altercation, a police officer struck one student in the face with a rifle butt and took him away with "blood pouring down his face", according to one student present. In addition to Yin Rumduol, five other students were also seen being taken away by police, and some of them were allegedly punched and kicked as they were seized.

One young person who was among those seen to have been taken away and injured was Chhuon Pharin, a student said to be registered at both the Administrative and Legal Cadres' School<sup>52</sup> and the School of Economics. His injuries were apparently serious enough to require medical attention. According to the Minister of Interior, Chhuon Pharin went to the Ministry of Interior hospital for treatment<sup>53</sup>, after which he sought refuge with his brother and left Phnom Penh. He did not return to Phnom Penh until 3 January 1992, when he met with Hun Sen. In an interview on 5 January, Hun Sen told foreign journalists that Chhuon Pharin had been taken to the hospital by "one of his friends, who happened to be a policeman". Hun Sen said the student's brother had gone to the University of Medicine to report that Chhuon Pharin was all right, but students there had accused the brother of "being a secret agent of the police, so he was afraid." Hun Sen said the two brothers had fled because they feared being attacked by what he described as "two mystery men".

Cambodian education officials interviewed by Amnesty International on the morning said they believed Chhuon Pharin had been arrested on the morning of 21 December. These sources said he left police custody around noon, and agreed that he then went into hiding, although they said he had done so because he feared for his safety if he were detained a second time.

Students and others who witnessed the incident near the University of Medicine were also convinced that Chhuon Pharin had been taken into custody. In response, what appears to have been an entirely spontaneous demonstration to demand his release broke out, spearheaded by medical students angry at what they saw as arbitrary arrests and police brutality. The demonstrators are said also to have acted out of fear that anyone arrested might be held incommunicado, and that political security and police officials might even deny the authorities had them in custody. Such fears were evidently a result of the SoC's long-standing practice of incommunicado detention and frequent refusal to inform families or others about the detention of political prisoners.

The demonstrators assumed that Chhuon Pharin and other students they feared had been arrested had been taken to the Phnom Penh Municipal civil police headquarters, which is not far from the Ministry of Interior hospital. The demonstrators marched to the police headquarters to

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<sup>52</sup>For students whose studies concentrate on legal matters, this is commonly known as the Law School.

<sup>53</sup>After the unrest of 21 December Amnesty International inquired at the Ministry of Interior hospital and was told by a senior official there that only three people - all police officers - were admitted for treatment there on that date. However, a person who was able to briefly examine official admission records there for 21 December told Amnesty International these indicated that two other people, including one student, were also admitted for treatment in connection with the unrest.

demand their release. The authorities then produced Yin Rumduol, and denied that they had Chhuon Pharin in custody. Not satisfied with this explanation, the demonstrators then marched on the headquarters of the Phnom Penh Municipal traffic police, where a violent confrontation ensued. Official and unofficial sources agree that demonstrators threw stones at the police station; that police fired in the air; that blows were exchanged between police and demonstrators; and that the police used force to subdue demonstrators. They describe shoving matches that deteriorated into fist-fights and how some police officers who walked into the crowd were surrounded and beaten by demonstrators.

In his letter to Amnesty International, Minister of Interior Sin Song says that there were no casualties among those who demonstrated at the traffic police headquarters. However, according to eyewitnesses interviewed by Amnesty International, one of the demonstrators sustained serious head injuries as a result of being hit repeatedly on the head with a police truncheon. Amnesty International has direct testimony that the injured demonstrator was taken by students to Calmette Hospital, where he was admitted in a semi-conscious state as a result of a severe skull fracture. He was unable to speak, and the students who brought him in could not identify him, although some said that he was reportedly the son of a high-ranking military official. He died shortly after admission, and his body was taken away by unknown persons. Meanwhile, another ten to 15 students or other demonstrators were admitted to the hospital for light injuries they said resulted from police beatings.

The Minister of Interior also denies that anyone was detained during the confrontation at the traffic police headquarters. However, eyewitnesses told Amnesty International that at least three demonstrators were thrown into police vans, one of them while being beaten over the head with riot shields. The three are said to have been detained for a couple of hours before being released. They were described as a law school student, a high-school pupil from the orphanage on the premises of the former French Embassy, and a motorcycle mechanic, and Amnesty International was told that two of them may have been named To Vichara and Touch On.<sup>54</sup> Another young demonstrator was seen with blood flowing from his mouth while being dragged into the police station by six officers surrounded by a circle of others firing guns. Eyewitnesses said one more demonstrator was about to be detained after he was injured by police beatings, but was allowed by the authorities to leave the scene after he produced documents identifying himself as a plainclothes police officer.

Events during the afternoon of 21 December

Following these incidents, which ended by noon on 21 December, medical students and others angered by the morning's events began to put up handwritten leaflets criticizing the SoC Government for allegedly violating human rights, and reiterating demands for the release of all student and other demonstrators. "Cambodian students need human rights" said one. "Do not trample the human rights," said another. The students vowed that they would resume demonstrations by mid-afternoon. Meanwhile, a police officer at the Phnom Penh municipal civil police headquarters told Amnesty International that four demonstrators arrested earlier in the

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<sup>54</sup>In his letter, the Minister of Interior told Amnesty International that there was no record of any people with these names having been placed under arrest. It seems possible that the police released them without making any formal report.



day had already been released by early afternoon. It is not clear which four people the officer was referring to; however a higher-ranking municipal police officer later told Amnesty International that Yin Rumduol was released about noon, and according to the letter addressed to Amnesty International by the Minister of Interior, he was released the same day he was arrested. The minister's letter identified one other student arrested and then released by the police on 21 December as Tit Van Seap.

Nevertheless, students resumed their demonstration in the afternoon and marched to the National Assembly. They were joined by others along the way, including poor and unemployed migrants from the countryside and former soldiers in the SoC army. The student demonstrators addressed their appeals for human rights and for the release of Chhuon Pharin and all others they feared might be detained to Assembly Chairman Chea Sim. The demonstration proceeded for two hours. It was mostly peaceful, although some protesters threw stones at police on guard around the assembly building. Police are said to have shown considerable restraint at this juncture. One group of officers remained calm despite the rock throwing. Their commander, unprotected by a helmet, raised his arms in the air to ask for calm. In response to this gesture, student leaders appealed successfully to the crowd to cease violence. After two hours, tensions were further reduced when a person was presented to the crowd as an emissary of the National Assembly. He was described to Amnesty International by students present as the leader of an official students' organization. He announced through a loudspeaker that Chhuon Pharin had been freed and allowed to return home.

Events on the evening of 21 December

This announcement evidently satisfied most demonstrators, but others remained sceptical. Thus, while most of the demonstrators and onlookers dispersed as evening fell, others continued protest activities. Official and unofficial sources agree that one group of perhaps 300-400 protesters marched on the headquarters of the national Defence Police (tamruot kangpear), while another headed for the Traffic Police headquarters where violent confrontations had occurred in the morning. It appears that the group that marched on the Defence Police headquarters may have originally intended to march on the Phnom Penh Municipal Civil Police headquarters. They found all routes of access to it guarded and blocked, and after throwing some rocks at the guards and at the headquarters building, they entered a compound containing Defence Police headquarters which was not heavily defended.

Official and unofficial sources agree on the following elements of what happened next. Many demonstrators were able to get inside the compound, and it appeared initially the crowd might be able to storm and seize the headquarters building. While some students used loudspeakers to call for an end to the demonstration and for the crowd to disperse, some members of the crowd began throwing rocks at the headquarters building and other structures inside the compound, resulting in injuries to the Defence Police on duty. Other members of the group set fire to vehicles and small buildings in the area and tore down fences. Defence Police on duty began firing in the air to disperse the crowd.

However, eyewitness testimonies gathered by Amnesty International and other unofficial accounts do not corroborate statements by the Minister of Interior and other leading officials that the demonstrators were armed with smoke and hand grenades; that they seized automatic weapons from the police; or that they shot at the police. At the same time, although unofficial accounts confirm the Minister of Interior's statement in his 11 January letter to Amnesty International that the Defence Police generally did "not employ their weapons to fire randomly into the...demonstrators", they contradict the official version according to which no demonstrators were killed at Defence Police headquarters. They insist that while other officers were indeed firing in the air, one Defence Police officer lowered his automatic rifle and fired at the ground just in front of an unarmed demonstrator who had apparently already turned to flee. The demonstrator was hit by in the lower back by a ricochet bullet. The victim was later identified to Amnesty International as Mock Paeng, a 16-year-old high school student. As some demonstrators in the crowd began shouting, "he's dead, he's dead!" other demonstrators who could see he was still alive rushed him to Calmette Hospital.

According to Calamette's medical records he was admitted at approximately 6.30 pm, and died about 20 minutes later. According to medical personnel and medical records consulted by Amnesty International, which also viewed Mock Paeng's corpse and wounds shortly after his death, he died due to injuries to the lung and near the heart from a bullet which hit him from below and passed through his body, exiting near the collarbone. Eyewitnesses present when Mock Paeng was shot were of the opinion that his death was unnecessary because the Defence Police had already begun to disperse the crowd by firing in the air.

According to some of the accounts gathered by Amnesty International, news of the shooting and

death of Mock Paeng triggered violence among the second crowd of demonstrators who were meanwhile marching and running up Achar Mean Boulevard. They began converging on the Traffic Police headquarters, which is located just off this main city street. According to Amnesty International's observations and information gathered from other eyewitnesses, while some student leaders using loudspeakers attempted to avert further confrontation by calling on demonstrators to disperse, others in the crowd began throwing rocks and other objects at the headquarters building. Well-armed police reinforcements then arrived in the area and attempted to clear Achar Mean Boulevard and adjacent streets. While chasing away demonstrators, they also ordered local residents to go into their homes and told onlookers from other parts of Phnom Penh to leave the area.

At the Traffic Police headquarters, some demonstrators continued to throw rocks from behind cover, but eventually fled after police responded by firing into the air. Meanwhile, more heavily-armed security forces believed to be regular army soldiers from the SoC's Seventh Division began arriving and taking up positions at crossroads and participating in attempts to clear the streets. Also seen to be involved in security force operations were two truckloads of young males who were armed with wooden sticks, iron pipes and handguns. They were said to have been mobilized by the army, and were heard to be screaming threats to kill demonstrators who did not flee. Over the next several hours, the army appears to have replaced the police as the main security force involved in clearing and securing the area. Its infantry forces were supported by armoured vehicles and heavy weapons squads. Thus, not only automatic rifles but also heavy machine guns were employed in efforts to end the unrest.

As demonstrators and bystanders began to scatter, stones were thrown on the security forces from the windows or roofs of several tall buildings along Achar Mean Boulevard, including one next to the Monorom Hotel and one across the street which houses a post and telephone office. While confirming that such attacks were launched on the security forces, eyewitnesses present in the area of the Monorom and nearby Sukhalay hotels, including an Amnesty International representative, cannot corroborate official statements that demonstrators still in the area of the Monorom Hotel were armed with Molotov cocktails.

According to these eyewitness accounts, security forces deployed along Achar Mean Boulevard opened fire in response to the rock throwing, and thereafter army and police gunfire continued sporadically for many hours, with repeated periods of intense and sustained firing not only into the air, but at the facades and tops of buildings. Bursts were reportedly also fired down main and side streets. On several occasions, security forces appeared to be attempting to target the rockthrowers on rooftops, and some police and soldiers apparently feared or believed they were coming under sniper fire. However, eyewitnesses do not confirm that this was the case, nor the more specific later official accounts according to which shots were fired at the security forces from the roofs or the upper floors of the Monorom or Sukhalay hotels or any adjacent building in the area. They did not hear or see anything to indicate that pistols or shotguns were fired at the security forces, as various officials have stated. In particular, they cannot corroborate official accounts that one gunman was hit and fell to the ground with an AK-54 automatic pistol in his hand. Neither the Amnesty International representative present in the area nor any of the many other foreign and Cambodian eyewitnesses the organization interviewed saw anyone fall from a rooftop after being hit by security force gunfire.

While Amnesty International is obviously not in a position to rule out the possibility that security forces came under fire, eyewitnesses' accounts suggest other possibilities that might explain why the soldiers and police officers might have thought that was the case. It seems that confusion arose very quickly as rounds fired into the air came back to ground. The chaos intensified as members of different security force units not used to tactical cooperation in such a situation sometimes found themselves in each others' lines of fire. Not long after heavy security force shooting began, rumours circulated among police officers that one of them had been shot and perhaps fatally wounded by a soldier. Particular confusion arose when some members of the security forces themselves began taking up positions on certain rooftops in search of snipers and rockthrowers. Observers with the best vantage points could see these security forces carrying rifles and binoculars moving from one rooftop to the next, but their identity may not always have been obvious to other members of the security forces on the ground.

Deaths during the unrest on the evening of 21 December

According to Amnesty International's information, the heaviest firing by security forces took place between around 7.00 and 10.00 PM. According to a variety of eyewitness reports, some army officers either failed or made no attempt to impose discipline on troops, a number of whom shot randomly and wildly into the air and at the facades and rooftops of buildings, and at balconies, windows and doorways from which no rocks or other objects were being thrown. On the ground, one army armed personnel carrier was seen careening through the streets as 12 soldiers fired automatic weapons in various directions. Between 7.00 and 10.00 pm, an Amnesty International representative witnessed five civilians being admitted to Calamette Hospital with bullet wounds.

The last to be admitted, Yin Thon, aged 43 or 45 years and an employee of the municipal water works, later died. He had been hit by two bullets, one in the right elbow and another ricochet round which entered his body through his lower back and passed upward through it before lodging in his armpit. In the letter addressed to Amnesty International by the Minister of Interior, Yin Thon was included among the three civilians identified as killed in the unrest, but nothing was said of the circumstances. According to eyewitness reports, Yin Thon was shot by a soldier while the victim was standing along Achar Mean Boulevard at a point about 30 metres south of the Sukhalay Hotel. The incident took place as soldiers were renewing demands that local residents return to their homes. One of the soldiers, who appeared to be in an agitated state, approached a group of eight to ten cyclopouse drivers and other people standing on the sidewalk. They raised their arms to show they were unarmed and started to try to explain to the soldier that they posed no threat to the security forces. However, the soldier lowered his automatic rifle, and while shouting at the group opened fire at close range with a sustained burst of fire that emptied his magazine. Army officers close enough to have witnessed the incident did not apparently intervene or react to the soldier's behaviour. Yin Thon died within hours of his admission to Calamette Hospital.

Between around 8.30 and midnight, six people were admitted with gunshot wounds to another medical centre, the 17 April Hospital. One, Tang Lon, a 21-year-old automobile mechanic from the Tuol Svay Prey area of Phnom Penh, died from a bullet in the head. To Amnesty

International's knowledge, although the authorities admit he was killed, they have not made any specific statement about the circumstances of his death. Amnesty International also has no specific information about how he died. The other people admitted to the 17 April Hospital included a 27-year-old woman who was shot in the neck and was paralysed in all four limbs as a result, a 74-year-old woman who was shot in the back, and a 28-year-old man believed to be an off-duty police officer who was shot in the stomach.

The third civilian named in official accounts as having died in the nighttime unrest is Mak Keum Thi, a 16- or 17-year-old student of the Bak Touk secondary school who reportedly lived in a flat off Achar Mean Boulevard near the Monorom Hotel. According to official accounts, he was shot and killed not by security forces, but by an armed opposition element who was shooting at soldiers and police. Unofficial information obtained by Amnesty International confirms that Mak Keum Thi was not a demonstrator, but not the authorities' other claims. This information indicates that he was killed by a ricocheted bullet fired by security forces.

Amnesty International's information describes the death of two other people on the night of 21 December or in the early morning hours of 22 December.

Late on the night of 21 December, several eyewitnesses reportedly saw soldiers shoot an unarmed man twice near the gate to the Monorom Hotel. One bullet entered the right side of his stomach and the other the left side of his chest, and the man fell to the pavement but was still alive. A soldier reportedly approached him, and as the man pleaded for his life, the soldier struck him repeatedly with a rifle butt until he died. His body was said later to have been taken away bound to the back of a police motorcycle.

Also on the night of 21 December, police brought another man to the Military Hospital with a severe bullet wound in the head, according to what Amnesty International was told by medical personnel there. The police reportedly told hospital staff they would return to pick up the wounded man, said to be around 18 years old, but he soon died and the police never came back. The dead man had no identification, and the only items found on his body were said to be a cigarette lighter and a small quantity of Cambodian money. As of 27 December, no one had come to claim the body, and Amnesty International was informed that medical personnel had received strict instructions to say nothing more about the man, whose body remained in the hospital mortuary.

Amnesty International also received information about three possible other deaths on the night of 21 December or in the early hours of the next day. Medical personnel of a third medical centre, the 7 January Hospital, told the organization that two people fatally wounded during the unrest on the night of 21 December were admitted there. However, the organization has no other information about these deaths. Finally, shortly after midnight a witness saw the body of another unidentified man about 300 meters south of the Pailin Hotel, but no other details are available about this case.

Latenight arrests on 21-22 December

According to sources interviewed by Amnesty International, at almost midnight on 21 December,

12 students of Phnom Penh's Law School were arrested by soldiers of Division 7. Eleven were part of a group of 30 students who had been performing regular guard duty at the Law School. They were arrested near Phnom Penh's central market when they went by motorcycle to see the situation in the downtown part of the capital for themselves. The twelfth law student was arrested in a separate incident, but he, too, was described as not involved in the demonstration. In his letter to Amnesty International, the Minister of Interior confirms the detention of 12 law students and says they were held at the Military Intelligence Commissariat of the Ministry of National Defence. Eleven of the 12 names given by the government match those given to Amnesty International by its unofficial sources<sup>55</sup>, who said the 12 whose arrests they described were held at the Tuol Sleng military prison. The Minister of Interior says that the 12 law students he names were released on 22 December, and Amnesty International's sources agree that the students they identify were freed, although they say they were released later than 22 December.

Unofficial sources also told Amnesty International that the total number of people detained by the military at Tuol Sleng prison on the morning of 22 December was not 12, but 24. However, they were unable to name any of the additional 12, and Amnesty International has no information about the circumstances of their arrest or other details about them, except that they were believed to include students from the University of Phnom Penh, the School of Economics and the national Technical Institute. In a meeting with Amnesty International on 28 December, Preap Tan, the Vice Chairman of the General Political Department of the SoC army, confirmed that according to information provided to him by the Military Prosecutor and the Military Tribunal, 24 people had been "taken in" by the military during the unrest on 21 December. He noted that all had been "detained in one place", and said that all had been released on 25 or 26 December. He explained that the military had consulted with the Ministry of Interior about their cases, and "agreed with the Ministry of Interior [to] release...all of them because...we had no evidence against them." Preap Tan said in particular that there was no evidence that they were responsible for "criminal offences" such as causing injury to police officers. He also said, however, that a "condition" of their release had been that they agree "not to engage in further agitational activities or demonstrations". Amnesty International has no reason to doubt the assurance from the military authorities that all 24 people detained by them in connection with the unrest on 21 December were released, although the organization has not corroborated this from unofficial sources.

## Aftermath of the demonstrations

### SoC official statements

At dawn on 22 December, the official SoC radio broadcast the authorities' first major statement about the previous day's events. A Ministry of Interior announcement declared that the original

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<sup>55</sup> The names on which the Minister of Interior and unofficial sources agree include those of ten of the eleven students arrested near the central market: Im Chantha, Paen Thearoat, Maen Roatha, Pol Vanna, Kaeu Mani, Chiep Long, Leng Vut, Nan Voreakneat, Sok Sina, and Eung Vannarit. They also agree on the name of the student arrested separately: Khat Sopheak. The discrepancy is in the name of the eleventh student arrested near the central market. Student sources name him as Huot Pov. The Minister of Interior instead gives the name Leua Khemara.

medical students' demonstration the previous morning had been "instigated by armed reactionaries". It said that "these reactionary elements took part in, ordered and incited the students to accuse the People's Police Force of arresting a student and demanded his release." Apparently referring to Yin Rumduol, the ministry said the police had "arrested a reactionary element who moved around inciting the demonstration and showed this element to the students". It did not mention he had been released without being charged. Describing events at the Defence Police and Traffic Police headquarters in the evening, it said, "the demonstrators, at the instigation by the reactionary elements, then attacked...using hand grenades...the reactionaries fired gunshots from buildings in the direction of the demonstrators, killing and wounding a number of people...The security forces fired at these reactionaries, causing one of them to fall from a building with a pistol in his hand." The statement warned that the "People's Police Force will continue to maintain public order and check any reactionary act that causes unrest and hampers public order and the people's security."

Later in the morning, SoC Minister of Foreign Affairs Hor Nam Hong declared in an interview that the unrest had been "an armed insurrection with a political aim", explaining that "having a political aim meant that they want to create instability for the government". When asked for clarification who "they" were, he said, "we don't know exactly" but said it was his "impression" that the PDK had been involved, although he had "no official information to say so." Elaborating on the Ministry of Interior statement about the participation of "armed reactionaries" in the unrest, he said more than ten had been operating from hiding in the central part of the city near the Monorom Hotel. He said all but one who was shot dead had apparently escaped. He described the dead man as being more than 40 years old with long hair and no identification papers.<sup>56</sup>

The same day, the Ministry of Interior issued a second statement which claimed some "bad elements" had gone "up to the top of the Sukhalay Hotel and fired gunshots at the demonstrators and security forces." It said it was bullets from these elements, and not from the security forces that had killed the young secondary school student Mak Keum Thi. It said that in response, "security forces were compelled to fire their guns in the air", and this was how "a 40-year-old bad element whose name was not known" was killed and had fallen "from the roof of the building to the ground with a pistol in his hand".

On 5 January 1992, Hun Sen said in an interview that the body of the long-haired man who allegedly fired on security forces had not yet been claimed. He also reiterated that this man was responsible for the death of Mak Keum Thi. He said the man had also shot and killed a police officer who had attempted to come to the aid of Mak Keum Thi. To Amnesty International's knowledge, no other SoC officials have claimed a police officer was killed in this or any other fashion.<sup>57</sup> Apparently referring to Yin Thon and Tang Lon, Hun Sen said only two other people

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<sup>56</sup>Three days later, on 25 December, Hor Nam Hong declared that the authorities were still "in the process of searching for" the other "armed elements" who had been involved in the demonstrations, but indicated none had been apprehended. On 27 December, Hun Sen told foreign reporters that the authorities were still "investigating who were the people behind" the demonstration and said they had captured "almost ten guns", but made no mention of any arrests.

<sup>57</sup>In his letter to Amnesty International, the SoC Minister of Interior said a number of members of the security forces had been injured, but made no mention of any having been killed. A senior official of the Amnesty International April 1992AI Index: ASA 23/02/92

had been killed in the unrest. He said "they were not protesters" but employees of a city waterworks plant. He described their deaths as accidental and said they had taken place not at the site of confrontations between demonstrators and security forces, but in other places where armed attacks on the security forces had "forced our police to retaliate and defend themselves".

Further developments: another possible killing and additional arrests in connection with new demonstrations on 22 December

Despite the warnings contained in the Ministry of Interior communique broadcast at dawn, on the morning of 22 December, students at the campus of the University of Phnom Penh attempted to renew protest activities. During the night students from all of the capital's colleges and institutes had reportedly planned to assemble to protest the security forces' behaviour. The students who had arrived at the University of Phnom Penh said they believed four students were still missing, and that they would continue demonstrations until their whereabouts were confirmed. A group of about 60 attempted to march from the campus to the city centre. Signs carried by the marchers read "Don't use weapons on us" and "Cambodian students need human rights." The march was reportedly stopped by a line of police and warning fire. "First the police fired at us and we all sat down," one student reportedly said. "Then they fired again and we all ran away."

It appears it may have been in connection with these student activities that a man was shot at very close range near a police station along the road between Phnom Penh and the Pochentong airport late on the morning of 22 December. According to an eyewitness interviewed by Amnesty International, police took the man into a nearby shop. Shortly thereafter, a police vehicle driven by plainclothes officers arrived and took away the man, who by then appeared to be dead.

Arrests on 22 December

Around the same time that students were demonstrating near the University of Phnom Penh, a group of seven students registered there were arrested near the University of Medicine by Municipal civil police officers, according to information given to Amnesty International by student sources. In the afternoon, two more students, both from the University of Medicine, were also arrested near it, in this case by soldiers. Amnesty International was told they were taken to the military barracks known as Banteay Slak.

In his letter to Amnesty International, the Minister of Interior confirms the detention of these nine students. He also confirms that the seven arrested in the morning were detained by the Municipal civil police and the two arrested in the afternoon were detained by the Municipal Military. The names given by him also match those given to Amnesty International by unofficial sources.<sup>58</sup> Finally, the minister and testimonies gathered by Amnesty International agree that

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Minister of Interior Hospital interviewed by Amnesty International after the unrest told the organization that the police officers admitted for treatment there had received what he described as light injuries from being hit on the head by various objects. He said no police officers had been admitted for treatment for gunshot wounds.

58 The seven arrested in the morning were Ret Vut, Tang Keum Sreng, Heang Sothea, Aem Sokha, Prum AI Index: ASA 23/02/92Amnesty International April 1992



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those held by the civil police were released the same day as their arrest, and that those held by the military were released on 25 December. According to Amnesty International's sources, those held by the civil police were interrogated briefly, given a meal and released in the evening. Those held by the military were released after consultations between the military, the Minister of Health and officials of the University of Medicine.

Although Amnesty International was previously concerned that some people arrested in connection with the events of 21-22 December might still be held by the authorities<sup>59</sup>, the organization now considers that there is no evidence that this is the case.

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Phearom, Koam Sina and Chheng Saraen. The two arrested in the afternoon were Ao Sophanni and Keap Piseut Thari.

<sup>59</sup>This concern was expressed in the organization's initial description of the unrest, *State of Cambodia: Killings of Demonstrators*.

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## Demonstrations end

On 22 December, the authorities announced the imposition of a 6.00 pm to 5.00 am curfew, and the next day declared the temporary closure of universities. An unnamed senior government official was quoted by journalists as saying that, "if there is another demonstration, there will certainly be more shooting. The order is there to shoot; the green light is on. The government has no choice now but to show that it is in control or it will collapse."

On 23 December, several small groups of angry students reportedly gathered outside closed university campuses. One group at the Institute of Agriculture numbered 200. The student groups vowed to launch new demonstrations against the security forces, but apparently these did not materialize.

## Extraordinary session of the National Assembly on 27 December: Legislation regulating demonstrations passed

The demonstrations and unrest of November and December prompted the passage of legislation regulating public gatherings. This took place at an extraordinary session of the SoC National Assembly on 27 December. According to foreign press reports, the new law was adopted after heated debate within the SoC leadership during which strong reservations were expressed by Minister of Foreign Affairs Hor Nam Hong and Minister of Interior Sin Song, who were said to consider its provisions too moderate.

Opening the assembly session, Chea Sim declared:

"over the past few days the unrest in Phnom Penh has created a tense atmosphere resulting in the most regrettable death and destruction of the property of the people and the state...This is a serious threat to the stability, security, social order, and daily life of the masses and people throughout the country. This also creates a new obstacle unfavourable to the implementation of the... peace agreement.

"...If the situation continues to worsen, the hope for peace in the future will vanish and a new tragedy full of horror will confront us. Rights, freedom, honour, dignity, and the people's legitimate interests would be shaken and would rapidly disintegrate. Vengeance and the use of violence would create social and national confusion. Administering the state and society by the government would be problematic."

He said the National Assembly should therefore adopt legislation regulating demonstrations. He said the legislation:

"on demonstrations [is a] basic one which our people need in this historical phase in which our state has undertaken political and economic liberalization in order to give our people further rights and freedoms in accordance with true democracy to express their views in an orderly manner and in conformity with the laws. This is in order to avoid violence and inappropriate acts which affect security, stability, and social order."

Closing the extraordinary session after the law had been passed, Chea Sim declared it had properly taken account of "the real situation which our country and nation are going through - one that is full of tension which is due to strikes and meddling by armed reactionaries whose goal is to destroy the nation's internal unity and the implementation of the peace agreement." He vowed that the SoC continued to recognize "the people's right and freedom to express their wishes and views through legal meetings and demonstrations with the use of non-violent means in a democratic manner", but warned that it could not "allow any citizen or group to use violent means to cause disaster and undermine public tranquillity, order and security contrary to the law".

### Provisions of the law on demonstrations

Article 1 of the new law declares that "meetings and gatherings of groups and crowds for staging demonstrations are acceptable. However, meetings of groups or crowds in public places or on public roads, or marching demonstrations which can be detrimental to public tranquillity, order or security, are categorically prohibited."

Article 2 specifies the three conditions under which "marching demonstrations on public roads to express views on any issue" can take place. First, "violence cannot be used and arms or any other dangerous instruments cannot be carried". Second, "public tranquillity, order and security cannot be jeopardized". Third, local authorities must "be informed at least three days beforehand in writing" of the demonstration, of the names and addresses of three of its organizers, and of the "objectives; locations; dates; streets; and the number of people participating in the demonstration."

According to Article 3, local authorities may ban the demonstration if they think that it has "characteristics conducive to causing turmoil", although the organizers are allowed to appeal the ban "to higher authorities". Article 4 allows local authorities to "take measures to forbid demonstrators on the site" of an unauthorized demonstration. After two warnings, the authorities must "act to disperse the demonstrators with the use of equipment that does not endanger life". According to Article 5, "if demonstrators are armed with dangerous weapons or equipment," security forces can disarm them. If the "demonstrators persistently refuse to hand over the weapons and equipment", they can be detained in order to be disarmed. They are then to be released, "except when other offences are found". Finally, if any demonstration "turns into [a] violent demonstration or riot" Article 6 allows the authorities to "take the most appropriate measures to stop it".

The law does not provide for any penalties. Rather, its Article 7 says that existing law should be used to punish "any demonstrator resorting to violence to cause damage to other people's property or to create bodily harm or death to other people or officials on duty" and people who disguise themselves as demonstrators or incite other demonstrators "to use violence". Similarly, Article 8 provides that penalties in existing law should be used to punish officials who, in the course of exercising their duties during a demonstration, causes "damage to people's property or public property" or "injury or death to other people".

### Political killings in January 1992

## Background: the issue of new political parties

In December former prisoners of conscience began openly defying the warnings they had been given about not engaging in public opposition activities. They were reportedly also acting contrary to an internal circular signed by Sin Sen instructing the SoC's political security forces to "struggle against" those elements associated with the SoC who wanted to organize new political parties in addition to those who were parties to the SNC. The circular was said to indicate that elements who wanted to establish new political parties were considered a threat to Cambodia's national unity and the people's interests.

On 19 December, Kan Man, one of the six prisoners of conscience released in early October, said in an interview with a foreign journalist that the six had begun meeting after their release. He revealed that they decided to go ahead with plans to relaunch the Liberal Social Democracy Party (LSDP) with a view to contesting the UN-supervised elections. Kan Man said they had yet to begin organizing because "the circumstances don't allow it yet. We don't have the freedom". He explained that they had been warned at the time of their release not to resume political activities. He said the relaunched party's program would stress multi-party democracy, human rights, national independence and free-market economics, and that its leader would be Ung Phan, the former Communications, Transport and Posts Minister. He added that consideration was being given to the possibility that the party would form an alliance with one of the non-SoC parties to the SNC.

The former prisoners of conscience appear to have suspended their open activities in the immediate aftermath of the events of 21-22 December. However, they resumed them in January 1992 after both the SoC and the SNC formally declared that Cambodia had become a liberal democracy.

At an extraordinary National Assembly session held on 27 December, Article 4 of the SoC Constitution was amended to remove the obstacle it had formerly posed to the implementation of the CPP's platform of liberal democracy. This article, which defined the CPP as the "leading force of the Cambodian society and state and the core force of the great national solidarity of and unity of all political forces," had previously been interpreted to exclude the existence of other political parties. Assembly Chairman Chea Sim explained in his opening speech that its amendment was aimed at making the constitution "appropriate to the new development in political liberalization in accordance with democracy, national reconciliation, and particularly making it conform to the implementation of the peace agreement". In his closing speech he said that with the amendment, the SoC was implementing "a liberal, democratic and multi-party system, with all political parties competing peacefully."

At a meeting on 14 January 1992, the SNC reportedly decided that any group wanting to form a new political group could do so by making an application to the SNC. For the time being, these groups would be political clubs or associations. They could later become political parties under the terms of the peace agreement once UNTAC was formed, if they could fulfil the agreement's requirement that at least 5,000 registered voters sign up as members. The SNC also decided that each of the four parties represented in it could distribute their own political material. It

decided that in principle anyone could establish new and independent news media, but this freedom was to be subject to regulations to be drawn up by the SNC Secretariat.<sup>60</sup> Two days before SNC meeting, the KPNLF had vowed it would begin distributing copies of its bulletin to test the extent of freedom of expression in the SoC, and it reportedly began doing so on 15 and 16 January.

On 16 January, Hun Sen reportedly said that as a result of the SNC decisions two days earlier, the political atmosphere in Phnom Penh had improved and become one of optimism. The next day, Prince Sihanouk declared that the SNC's decisions meant the beginning of a "new Cambodia" of "liberal democracy", and predicted that one or two new political parties would soon be formed.

The same day, former prisoners of conscience Khay Matoury and Thun Saray submitted an application to the SNC to set up a Cambodian Human Rights Association (known as ADHOC, according to the acronym for its French name L'Association des droits de l'homme au Cambodge). Khay Matoury explained that they had been motivated in part by their jail experiences: "When we were in prison, we were deeply moved by the mistreatment of all prisoners, physically and morally." He and Thun Saray also alleged some prisoners had died because of ill-treatment.

In an introduction letter presenting the ADHOC charter to the SNC, the two wrote that: "We are engaged in a struggle for the respect of human rights of all Cambodians, no matter what their political affiliation or beliefs". The charter declared that ADHOC would try to "rally all citizens of Cambodia who want to defend human rights" and seek to "eliminate all measures of political intimidation, particularly arbitrary detentions." It pledged that the organization would make a thorough investigation into all political prisoners still held by the SoC and fight to prevent the recurrence of the mass extrajudicial killings committed during the Democratic Kampuchea era. Khay Matoury said he supported the idea of putting PDK leaders on trial for involvement in the killings.

ADHOC also called for a campaign to change existing laws to bring them into compliance with international human rights standards. The organization said it planned to distribute translations of documents on human rights, such as the United Nations Universal Declaration of Human Rights. Khay Matoury was quoted as saying that ADHOC's "first objective is to educate the public about human rights", describing this as "a pre-requisite for democracy". He also reportedly said he hoped that it would eventually become a full-fledged opposition party, but that even as a human rights organization ADHOC would not begin its activities before being given formal authorization to do so by the SNC.

ADHOC reportedly had 15 founding members, including architects, engineers, a doctor and an artist. They also included five former political prisoners, among them two jailed for membership in the KPNLF. Khay Matoury described Ung Phan as an "honorary member" of ADHOC.

On 17 January, Ung Phan said in his first public interview since his release from detention that

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<sup>60</sup>This SNC decision coincided with the SoC's opening of prisons to the ICRC, which made possible the large-scale political prisoner releases that began on 15 January.

he had already reorganized the LSDP. He reportedly said an opposition party was needed because Hun Sen and other government leaders were allegedly corrupt, and that there was corruption "in every single department in every single ministry". He said he believed that because CPP leaders "all know they are going to lose the election,...everyone is trying to fill their pockets before being thrown out of office." He dubbed them "millionaire communists." He added that "my family and I have been threatened many times since I was released. The death threats come from the government."

In another interview on 20 January, Ung Phan promised to announce the LSDP's existence "openly very shortly". He said among those who had signed up as members were many former political prisoners including Kan Man and Yang Horn. Referring to the establishment of ADHOC by their fellow former prisoners of conscience Khay Matoury and Thun Saray, he explained, "We have to divide the work. What they want to do is quite different."

In this interview, Ung Phan accused the CPP of not putting into practice the political reforms it had promised, and said of its leaders: "The communists have only changed their colour. They say one thing, but they do differently. I see no change." When asked about his current relationship with Hun Sen, he said, "We have chosen different paths to walk. We are still friendly, but we have different opinions."

He explained that he was disclosing his activities and plans publicly because he hoped that international knowledge of them would protect him from dangers allegedly emanating from SoC authorities. He said, "After my release from prison, they threatened me not to make any political activity. I have been threatened a lot by the government, but I cannot give up." He added, "I am afraid of being thrown in prison again, or that they will try to shoot me or assassinate me." He said he believed that security for people such as himself who were critical of the authorities "is not very good in Cambodia", and that he hoped it would improve with the arrival of UNTAC.

### Killing of Tea Bun Long

Two days after Ung Phan's second interview, on the evening of 22 January, an SoC official named Tea Bun Long was reportedly abducted from in front of his home and subsequently killed. A 59-year-old Cambodian of ethnic Chinese origin, he was at the time of his death a member of the Standing Committee of the KNUFCD and Chairman of its Religion Directorate. He is said to have been taken away by two men in a Soviet-made jeep of a type often driven by SoC security forces. He was reportedly abducted after hosting a delegation of Thai Buddhist monks who visited Cambodia in the company of Cambodian Buddhist monks resident in France and in a camp along the Thai border controlled by the KPRLF. His last official act was participation in a "pray-for-peace" ceremony at Onnalaom Monastery, the main Buddhist monastery in Phnom Penh. His body was later found in a field near a picnic spot in Tonle Bati, Takaev province, with his hands bound behind his back and a bullet hole in his head. The body had been stripped of all identification papers and was not identified until 24 January.

Mourners at a funeral ceremony held on 25 January 1992 told foreign journalists they had been warned to remain silent about the killing. Although Tea Bun Long's relatives refused to speak about what had happened out of apparent fear, other mourners described his death as a

"political assassination". They said he had recently spoken out against corruption in the SoC, particularly about the alleged pocketing of international aid destined for the victims of flooding that struck Cambodia in 1991. It is also reported that Tea Bun Long had criticized Chea Sim. One mourner alleged that persons in a position of authority had decided to kill a relatively low-ranking figure like Tea Bun Long because his death would not provoke too much of an outcry, but would at the same time send a message to more important figures not to become too bold in their criticisms of the SoC.

Amnesty International has learned that among the matters about which Tea Bun Long talked was the purported plot to assassinate Hun Sen and Hor Nam Hong. He was reportedly a friend of Kang Tong Heang, whose arrest in connection with the purported plot is described above.<sup>61</sup> According to information obtained by Amnesty International, he had expressed his interest in helping to clear the names of the defendants in the assassination case by arranging to have Cambodian witnesses resident on the Thai border come to vouch for their innocence.

Amnesty International has also received reports that Tea Bun Long was involved in discussions about the possibility of forming a new political party to oppose the CPP.

At the time of his death, Tea Bun Long was nevertheless reportedly about to be appointed the head of a new Ministry of Religious Affairs that was to be created by the SoC. The victim was a former municipal official of the pre-communist administration of Cambodia who fled the country after the communist forces seized power in 1975 and sought asylum in Viet Nam. After his arrival, he was reportedly imprisoned by Vietnamese authorities who are believed not to have released him until after the overthrow of the Democratic Kampuchea regime in 1979. He is said then to have made his way to the Thai-Cambodian border, where he took up residence in a Buddhist pagoda. He is also said to have worked with the KPNLF opposition to the SoC before returning to Phnom Penh in 1988. He was appointed to membership in the KNUFCD National Council in January 1989. In an interview with a foreign journalist three months later, he praised the recent reforms in the SoC which he said had allowed a revival of Buddhism in the country. In this connection, he spoke favourably of the Buddhist activities of leading SoC officials, including Hun Sen and Chea Sim.

On the morning of 26 January, after Tea Bun Long's death had been reported by foreign news media, the official SoC radio announced that he had been killed and declared:

"Such a murder has never before occurred in the past 13 years.<sup>62</sup> This is the first time since the signing of the Paris accord allowing different parties to be present in Phnom Penh that such a murder has been perpetrated against an official of the State of Cambodia."

The radio added that "this murder case is being investigated by the competent authorities."

Shortly after this broadcast, Prince Sihanouk convened an emergency meeting of the SNC to discuss Tea Bun Long's death. The Prince condemned the murder, which he declared "was believed by some observers to have been motivated by political considerations". Noting

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<sup>61</sup>See pp. 30-31.

<sup>62</sup>That is, since the overthrow of the Democratic Kampuchea regime.  
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allegations that it might have been carried out by personnel of the SoC Ministry of Interior, he called on the SoC Government to launch a thorough investigation to find those responsible. The Prince declared, "I demand that the spectre of insecurity and terrorism be banished from Cambodia."

Fears of an emergence of such politically-motivated "terrorism" are taken seriously by a range of activists within Cambodia. Immediately after Tea Bun Long's death became known, one political activist not associated with the KPNLF or other groups previously in armed conflict with the SoC reportedly declared, "This is the beginning of political killings. This was a warning shot to tell others not to go too far." He and others expressed fears of what they alleged was a special unit of secret police answerable directly to senior officials of the Ministry of Interior were responsible for the killing.

On the morning of 28 January, Hun Sen reportedly told Prince Sihanouk that allegations of SoC involvement in the death of Tea Bun Long were "slander". In an interview with foreign journalists the same morning, Chea Sim also denied any SoC involvement in Tea Bun Long's death. He declared:

"We can only say that it is an irreparable loss for us and we felt very sad. This is the loss of a good leader... The government trusted him very much. He was a very good man."

The day before, SoC Foreign Minister Hor Nam Hong had declared that the SoC had no reason to welcome the death of Tea Bun Long and suggested that he may have been killed by KPNLF elements. The foreign minister said that after having come to Phnom Penh, Tea Bun Long had helped the SoC "a lot in dealing with religious ceremonies". Hor Nam Hong added that the victim had enjoyed very good relations with Chea Sim, who during this period had presided over many such ceremonies. He said that Tea Bun Long was not the only SoC official to have been killed since PDK, KPNLF and FUNCINPEC representatives had been allowed to come to Phnom Penh, but that there had also been "killings in Kampung Cham and Batdambang of our police forces."<sup>63</sup> He declared that the SoC was worried about political assassinations and other "incidents of terrorism which in the future might increase."

Several leading SoC officials have reportedly suggested more specifically that Tea Bun Long was killed by KPNLF elements who believed he should be considered a traitor because he had worked all along for the SoC, even when he was associated with the KPNLF. The SoC officials say that Tea Bun Long made contact with the authorities in 1985 about returning to Phnom Penh, and he agreed that he would try and convince other people in the KPNLF ranks to join him in "rallying" to the government. According to their allegations, the KPNLF elements who killed Tea Bun Long were people he had betrayed and who acted to take vengeance after the SoC released them from prison.

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<sup>63</sup>According to a report in the official SoC news media, the victims included two policemen and their wives who were decapitated by what the report termed "bandits". At the same time, unofficial sources have alleged that there were several other murders in Batdambang in December 1991 and January 1992, and that at least some of the victims were critics of the SoC who had begun speaking out against corruption after the peace agreement.



## Attempted assassination of Ung Phan

On the morning of 28 January, ADHOC leader Thun Saray told journalists that because of Tea Bun Long's death, "Everyone is afraid; everyone is intimidated." He said he was under constant surveillance by plainclothes security personnel and had been repeatedly visited by officers who demanded information about his activities. He said that since he had heard the news of Tea Bun Long's death, "I have not left my house" and felt he could "not go to meet anyone else in the association" because he was "afraid someone will kill me, too." The same day another political activist told a journalist, "We are terrified. Nobody can do anything now. This was a signal to everyone not to go too far."

Meanwhile, KPNLF Secretary General and SNC member Ieng Mouly claimed KPNLF supporters were receiving intimidating visits late at night by SoC police. He alleged, "there have been some threats of arrest if they continue their activity". He said KPNLF figures had been specifically warned to stop distributing the KPNLF bulletin, which had reportedly gained a wide readership, particularly among students, because of its strident allegations of SoC corruption.<sup>64</sup>

Late on the afternoon of 28 January, an attempt was made to assassinate Ung Phan while he was driving along the main road linking Phnom Penh to the nearby town of Ta Khmav, capital of Kandal province. Six or seven gunmen in two jeeps reportedly fired several shots aimed at the LSDP leader. Ung Phan was said to have been hit by three bullets, two of which grazed his back and the third of which lodged in his neck. He reportedly managed to drive back into Phnom Penh, where he sought assistance from United Nations troops, but was told they had no mandate to offer him protection and directed him instead to Calamette Hospital, where he underwent surgery.

Five hours after the shooting, the official SoC radio broadcast a communique from a spokesperson of the Ministry of Interior describing the incident and declaring:

"The Interior Ministry firmly condemns this cheap and savage crime. While the SoC Government fully respects human rights and democracy - the release of political and war prisoners, the recognition of many parties, the freedom to establish private newspapers and so on - this brutal and savage act is clearly aimed at slandering the SoC and creating insecurity and social instability to prevent the implementation of the Paris agreement. The Interior Ministry will conduct an investigation to find the criminals who committed this savage act."

Meanwhile, the Ministry's Deputy Chef de Cabinet, Major Sar Moline, reiterated the promise that it would "make an investigation to find out whether it was an element of the government or not" that had attempted to kill Ung Phan.

After his surgery at Calamette Hospital was completed, Ung Phan reportedly asked to see Hun Sen. The latter is said to have come to the hospital and asked him whether he would like to move into Hun Sen's home. Appearing before the journalists, the Chairman of the SoC Council

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<sup>64</sup> On 1 February 1992, the SoC Ministry of Interior issued a communique in which it denied that A3 police officers answering to the Ministry were involved in such incidents. The communique reiterated the SoC's insistence that all A3 police units had been dissolved before the peace agreement.

of Ministers reportedly wept as he said the shooting was an attempt to destroy his government by gunmen who were not from the CPP or SoC.

On the morning of 29 January, before being moved from the hospital to Hun Sen's home, Ung Phan reportedly told medical staff that he did not hold the SoC government responsible for the attempt on his life. Although he is quoted as having said, "it is a political affair; they wanted to shoot me," he also said, "It wasn't the government." The same day, Prince Sihanouk declared that "there was no proof that the regime is responsible for the attempt to assassinate Ung Phan." He promised, "we are going to have an investigation," while commenting that, "we are still a jungle...and [Cambodians] are not accustomed to the new way of life." Also on 29 January, Hun Sen declared that the attempt to kill Ung Phan was "a serious political crime, and if we cannot maintain order, then the peace process cannot go on." In an interview with a foreign journalist published later, Hun Sen further declared that the attack on Ung Phan and the assassination of Tea Bun Long were the work of "people outside our party and government."

On 30 January, a Ministry of Foreign Affairs spokesman declared that it was "wonderful that Ung Phan did not die," and added, "one reason he stays with Hun Sen is that I hear he is able to identify his attackers." Also on 30 January, a Ministry of Foreign Affairs official reportedly blamed both the killing of Tea Bun Long and the attack on Ung Phan on political prisoners released during the month. "One big problem is caused when we release political prisoners. Many are terrorists and murders," he is quoted as saying.

### Results of the investigations into the death of Tea Bun Long and the attempted assassination of Ung Phan

After the attempt on the life of Ung Phan, responsibility for investigating this death and the killing of Tea Bun Long was reportedly assumed by Chea Sim. On 1 February 1992, Prince Sihanouk told foreign journalists that the investigations had failed to yield any results and that no suspects had been identified. He said, however, that Chea Sim would still "fulfil the task of continuing the investigation".

However, to Amnesty International's knowledge, no findings of any investigations have been announced.

### New legislation relevant to human rights

The day before the attempted assassination of Ung Phan, the SoC National Assembly had convened in ordinary session. The day after the shooting, the legislature issued a communique condemning "terrorist activities" it said had taken place "over the past few days", during which "a number of police cadre, civilian cadre and people in Batdambang province, Phnom Penh and several other provinces have been kidnapped or killed". It said such "acts seriously threaten social order [and] public security and also threaten public stability and the implementation of the [peace] agreement." The National Assembly warned that "those persons committing any kind of terrorist activities will be most harshly punished." On 30 January, the Assembly passed two new laws, one on punishments for terrorist acts and the other on punishments for the illegal use of arms and uniforms. The new legislation reportedly provides sentences of life imprisonment for

"anyone who conspires to kill in order to create terrorism" or who in the course of a kidnapping or the "use of illegal force against people causes injury or death".

In a speech on 31 January closing the National Assembly session, Chea Sim declared in his capacity as the legislature's chairman that through the passage of these laws it had "asked the government to take legal steps to combat those who intend to stir up confusion in society through revenge, terrorist acts, disturbances and divisive manoeuvres undermining social stability". He said it was also to deal with such persons that the assembly had "approved laws condemning terrorism and punishing those who carry guns and wear military uniforms without authorization".

## Conclusions: Amnesty International's Concerns and Recommendations

Deaths during the unrest of 21-22 December 1991, the murder of Tea Bun Long and the attempted assassination of Ung Phan

Upon a review of all the evidence, including the letter addressed to Amnesty International by Minister of Interior Sin Song on 11 January 1992, the organization remains concerned that some people may have died as the result of the disproportionate use of lethal force by the security forces on 21-22 December. It is concerned that the official death toll and the official version of how at least some of those whose deaths are admitted were killed do not fully take into account information provided to the government by Amnesty International. In particular, the organization is concerned at the apparent failure of the authorities to admit or adequately explain the death of the young person who allegedly died as a result of security force beatings at the Traffic Police Station on the morning of 21 December, the reported shooting death of Mock Paeng at the Defence Police headquarters that evening, and the reported death of the man who was shot twice and then beaten with rifle butts in front of the Monorom Hotel that night. The organization is also concerned that the official version of how Yin Thon died near the Sukhalay Hotel may be inaccurate. It also believes that further clarification is needed if official accounts of the death of Mak Keum Thi and Tang Lon are to be fully accepted. It believes further clarification is needed with regard to other reported or possible deaths, including that of the man with the fatal head wound reportedly brought to the Military Hospital, that of the man seen lying dead near the Pailin Hotel, those of the two people admitted to the 7 January Hospital, and that of the man seen shot on the morning of 22 December on the road to Pochentong airport.

In raising concern about these deaths, Amnesty International draws attention to the international standards contained in the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

According to Article 3 of the Code of Conduct for Law Enforcement Officials, "law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty." According to an authoritative commentary attached to the Code, "the use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms...In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures

are not sufficient to restrain or apprehend the suspected offender."

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that, even when involved in "the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary" (Principle 14). Moreover, in such circumstances, Principle 10 states that "law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident."

Amnesty International believes that the SoC authorities have not yet adequately investigated all possibly unlawful killings that may have taken place during the demonstrations and unrest of 21-22 December. The organization urges them to do so, and to bring to justice any members of the SoC security forces who may be responsible. Amnesty International believes that some of the killings committed by security forces may constitute extrajudicial executions, and should therefore be investigated as such, in accordance with the procedures set forward in the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions<sup>65</sup>. The applicable procedures are outlined below in connection with Amnesty International's recommendations regarding the independent and impartial investigations it believes should also take place into the murder of Tea Bun Long and attempted assassination of Ung Phan.

However, before outlining these general procedures, the organization would like to draw attention to specific provisions of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials, which are particularly germane to investigating deaths on 21-22 December, and which may point to problems that have prevented the investigations that have so far taken place from being effective.

According to Basic Principle 6, law enforcement officials must report promptly to their superiors whenever an injury or death is caused by the use of force and firearms. According to Article 8 of the Code, they must make a report to their superiors whenever they "have reason to believe that a violation" of the standards have taken place. Because the highest SoC authorities seem to be unaware of the complete death toll from security force shootings on 21-22 December and of the circumstances of at least some of the deaths that took place, Amnesty International believes that steps to ensure that reporting of this kind have not been taken or may have been suppressed by intermediate level officials.

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<sup>65</sup>The first of these Principles states that: "Governments shall prohibit by law all extra-legal, arbitrary and summary executions... Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances, including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other persons acting in an official capacity or a person acting at the instigation, or with the consent or acquiescence of such person, and situations in which deaths occur in custody..."

Moreover, the Basic Principles state that in order to establish effective reporting and review procedures for all incidents involving possibly excessive use of force, it is necessary to ensure that "independent administrative or prosecutorial authorities are in a position to exercise jurisdiction", such that when death and serious injury or other grave consequences take place, detailed reports will "be sent promptly to the competent authorities responsible for administrative review and judicial control" (Principle 22). In addition, according to Principle 23, "persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependents accordingly." Amnesty International is concerned that no genuinely independent judicial authorities exist under the SoC to carry out such functions, and that this may be a more fundamental reason why investigations into the fatal incidents of 21-22 December remain incomplete.

With respect to the murder of Tea Bun Long and the attempted assassination of Ung Phan, Amnesty International is not in a position to draw final conclusions about the various allegations about who may have been responsible for these incidents, or about which political group they may have been associated with. However, the organization does believe that the evidence strongly indicates these crimes were politically-motivated. The organization is also concerned that, although other possibilities cannot be ruled out, the available circumstantial evidence suggests that elements associated with the SoC political security apparatus may have been involved, particularly in the case of the attempted assassination of Ung Phan.

In any case, Amnesty International is concerned that the investigations conducted under the auspices of the SoC have apparently failed to identify any specific individuals or groups against whom there is substantial evidence of involvement in the murder of Tea Bun Long and attempted assassination of Ung Phan.

In view of all of the above considerations, the organization therefore urges SoC authorities to ensure that new investigations are conducted into all the deaths on 21-22 December, the murder of Tea Bun Long and attempted assassination of Ung Phan. These new investigations should be conducted by a body that is independent from the SoC and CPP and is also impartial. In making this recommendation Amnesty International draws attention to the relevant standards contained in the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

Principle 10 states that "the investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to witnesses. To this end, they shall be entitled to issue summons to witnesses including the officials allegedly involved and to demand the production of evidence." In Principle 15 it is specified that "those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations." This principle further declares that "complainants, witnesses, those

conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation." At the same time, "families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence."

According to Principle 17, the independent investigating authority should produce:

"a written report...within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it."

Furthermore, the authorities should "ensure that persons identified by the investigation as having participated in extra-legal, arbitrary and summary executions in any territory under their jurisdiction are brought to justice" (Principle 18).

### Releases of political prisoners

For many years, Amnesty International has urged the SoC to release all prisoners of conscience and not to detain political prisoners indefinitely without charge or trial. It has expressed concern that political prisoners have been imprisoned as a result of trials that did not conform to international standards of fair trial. The organization welcomes the SoC's release of prisoners of conscience and other political prisoners who have been held without charge or trial or as a result of unfair trials.

However, the organization is concerned that conditions have been imposed on released prisoners, particularly prisoners of conscience, in an apparent attempt to prevent them from fully exercising their fundamental human rights and basic freedoms, and moreover that these conditions have sometimes been accompanied by death threats and other forms of intimidation. Amnesty International urges the SoC authorities to declare and ensure that former political prisoners are not subjected to conditions of release that restrict the exercise of their fundamental human rights and basic freedoms.

In this regard, Amnesty International believes that measures should be taken to investigate all allegations of threats of physical violence not only against Ung Phan and people associated with the LSDP, but against other former political prisoners, and to bring to justice those who are responsible. In this regard, it draws attention to Principle 4 on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, according to which "effective protection through judicial or other means shall be guaranteed to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats." Amnesty International believes that the most effective means of providing such

protection would be to identify, remove from positions of authority and bring to justice those who are responsible for threatening the lives of released prisoners, and that such an action should be taken in conjunction with investigations into the murder of Tea Bun Long and attempted assassination of Ung Phan.

### Possible prisoners of conscience

Amnesty International considers that at least some of the political prisoners arrested since 1 October 1991 appear to be prisoners of conscience who are detained for the peaceful exercise of the rights to freedom of opinion and expression and of assembly. These include Sok Seuan Sarun, arrested on 12 October for allegedly disseminating KPNLF propaganda among Buddhist groups, and Soen Sieng, reportedly arrested on 21 November while attempting to organize a public welcome for KPNLF President and SNC member Son Sann. They also include the alleged FUNCINPEC activists arrested in Kandal province in early December 1991 for doing propaganda on behalf of SNC President Prince Sihanouk and the FUNCINPEC itself. Amnesty International urges that if these prisoners are still detained for their peaceful political activities, they should be released immediately and unconditionally.

### Political prisoners still held because their cases are said to involve recognizably criminal offences

Amnesty International considers a "political prisoner" to be anyone who is imprisoned or detained where the motivation of the authorities may appear to be political or where the acts or the motivation for the acts of the prisoner or detainee may appear to be political. This includes people who may be guilty of recognizably criminal offences, such as acts of violence. Amnesty International does not oppose the release of such prisoners in the context of general amnesties or similar circumstances, nor does it call for the release of political prisoners who have been duly convicted of recognizably criminal offences after fair trials. With regard to prisoners who are detained for alleged involvement in such offences, however, Amnesty International opposes their detention without charge or trial and insists on their right to a trial conducted according to international standards of fairness. It also insists that, like all other prisoners, they must not be tortured or subjected to cruel, inhuman or degrading treatment or punishment.

Amnesty International is therefore concerned that prisoners who are "political prisoners" in the sense used by the organization are still detained without charge or trial by the SoC or are still held as a result of trials which did not meet international standards of fairness. The organization's concern is compounded by the evidently imprecise and possibly arbitrary criteria used by SoC authorities to differentiate the prisoners they deem to be "purely political" from those they describe as "criminal".

The political prisoners of concern to Amnesty International include people arrested both before and after 23 October 1991. Because Amnesty International believes that trials in the SoC have never fully satisfied international standards of fairness, they also include all prisoners serving sentences after having been convicted of offences having a political element, even if recognizably criminal offences were also at issue. In addition, the organization believes that up until the mid-1980s prisoners arrested on political grounds were often subjected to torture by

police or political security officers in order to extract "confessions" that were used as evidence against them, and fears that this may have continued to happen in some cases after the mid-1980s. In raising this concern, Amnesty International draws attention to Article 12 of the Declaration on the Protection of All Persons From Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, according to which:

"Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings."

With regard to people who are political prisoners in the sense used by Amnesty International and whom the SoC authorities have detained in connection with what they deem criminal offences, Amnesty International makes the following recommendations.

Those currently held without charge or trial should either be promptly charged with a recognizably criminal offence or released. They would include prisoners said by SoC authorities to be members of PDK units of organization and who have been arrested for supposedly criminal activities, such as the alleged PDK military personnel and other people apparently accused of pro-PDK activities arrested in Kampung Speu in November and December 1991: Ut Mean, Koy Sok, Yaem Sophal, Pov Pheuan, Sin Von, Nheum Et, Un Chheun, Yaem Yan, Sou Mean, Pov Pheap, Top Han, Nut Kang, Khoem Huot and Suon Sen. They would also include prisoners accused of involvement in purported assassination plots, such as Kang Tong Heang and Kuch Siek.

If recognizably criminal charges are laid against such prisoners, they should promptly receive fair trials. The SoC should take responsibility for making this possible.<sup>66</sup>

In respect of any political prisoners serving sentences imposed by SoC courts who the SoC authorities have not released, the authorities should make public the detailed reasons why they have not been released. The SoC should make it possible for these prisoners to exercise their right to an independent judicial review of their cases. If there have been miscarriages of justice the prisoners should be released or granted new and fair trials. Such reviews should ascertain whether the evidence against them was sufficient to warrant conviction for a recognizably criminal offence. In any cases where such evidence is lacking, the prisoners should be released. Those against whom the evidence was sufficient to warrant a criminal charge should then promptly receive new and fair trials as soon as possible.

In making these recommendations, Amnesty International draws attention to the international human rights standards contained, *inter alia*, in the International Covenant on Civil and Political Rights.

Article 14 of the Covenant declares that "in the determination of any criminal charge against him... everyone shall be entitled to a fair and public hearing by a competent, independent and

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<sup>66</sup>Some of the steps that could be taken toward this objective are outlined below in a discussion of Amnesty International's recommendations with regard to reform of SoC legal codes and the creation of an independent judiciary in Cambodia. See pp. 69-71.



impartial tribunal" (paragraph 1); and that "everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty" (paragraph 2).

### Conditions of detention

Amnesty International is concerned that alleged SoC practices involving prolonged incommunicado detention of political prisoners in shackles in dark cells would amount to cruel, inhuman and degrading treatment of political prisoners, including prisoners of conscience.

Amnesty International urges that strict limitations should immediately be put on the practice of incommunicado detention. All political prisoners, including those held in connection with recognizably criminal offences, should be allowed contact with the outside world. In particular they should be able to receive visits from family, doctors and legal counsel of their own choice. If they so choose, prisoners should also be able to receive visits from local and international humanitarian and human rights organizations, including the International Committee of the Red Cross.

In calling for strict limitations on the practice of incommunicado detention, Amnesty International would draw attention to international standards which set out the right of detainees to inform relatives of their detention and to have consistent access to legal counsel and family.

Rule 92 of the UN Standard Minimum Rules requires that a detainee be allowed to "inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends." Principle 18(3) of the UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment (the Body of Principles) states that a detainee has the right to consult and communicate with legal counsel "without delay". In the interpretation of this requirement, the UN Basic Principles on the Role of Lawyers provides that detainees "shall have prompt access to a lawyer, and in any case not later than 48 hours from the time of arrest or detention".

Access to lawyers and families may be delayed or suspended only in very limited circumstances. In particular, the Body of Principles provides that access to legal counsel "may not be suspended or restricted save in exceptional circumstances, to be specified by law...when it is considered indispensable by a judicial or other authority in order to maintain security and good order" (Principle 18). It is important to note that whatever exceptional circumstances may justify temporarily limiting access to lawyers or families, "communication...with the outside world...shall not be denied for more than a matter of days" (Body of Principles, Principle 15).

Amnesty International also urges that the routine practice of shackling prisoners during or after interrogation be ended immediately, as should any continuing routine use of prolonged detention in "dark cells" as part of efforts to compel prisoners to "confess". In making these recommendations, Amnesty International draws attention to Principles 6 and 21 of the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment. The commentary attached to Principle 6 says "the term 'cruel, inhuman or degrading treatment or punishment' should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in

conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time." Amnesty International further draws attention to the Standard Minimum Rules for the Treatment of Prisoners. Rule 10 states that "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation". Rule 11 states that "in all places where prisoners are required to live or work,...the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air..."

With regard to Instruments of Restraint, Rule 33 states that: "Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints." It adds that "other instruments of restraint shall not be used" except in specified circumstances, such as "a precaution against escape during a transfer."

### General legal reform

The SoC should adopt legal reforms aimed at ending prolonged incommunicado detention without charge or trial. Amnesty International urgently recommends reform of Decree Law 27 DL and the Criminal Procedure Code, which appear to allow up to seven months of incommunicado detention, so that even in the most exceptional circumstances, incommunicado detention may not extend beyond 48 hours.

These changes in SoC law should be part of a process for the incorporation into SoC law of international human rights standards relevant to conditions of detention. These include those laid down in the Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment and the Standard Minimum Rules for the Treatment of Prisoners. Incorporation would be in line with the Procedure for their effective implementation. While this is being done, the SoC should ensure that the Standard Minimum Rules and the Body of Principles are available to all persons responsible for the arrest, detention, and interrogation of prisoners, and to all persons under detention themselves.

Amnesty International also recommends improvements in the SoC Law on Demonstrations passed after the civil unrest of 21-22 December. The organization is concerned that its provisions may need strengthening to better ensure that disproportionately lethal force is not used against demonstrators in the future. The law should be amended in such a way as to incorporate relevant provisions of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. These amendments would bring the SoC Law on Demonstrations into conformity with international human rights standards. This, too, should be part of a process by which the provisions of these two human rights standards are incorporated in Cambodian national legislation.

### Judicial reform

Amnesty International believes that immediate steps to create an independent judiciary in Cambodia are urgently required. Steps to establish the basis for fulfilling the commitment by all Cambodian parties to the peace agreement that an independent judiciary will be established under the new constitution should be initiated as soon as possible.

These steps should ensure the quickest and greatest possible Cambodian adherence to the Basic Principles on the Independence of the Judiciary and to the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary.

Several of the Basic Principles deserve special attention. Principle 1 states that "the independence of the judiciary shall be guaranteed by the State". According to Principle 2, "the judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures or threats or interference from any quarter or for any reason." Principle 3 states that "the judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law." According to Principle 9, "judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence." Principle 10 states that "persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law"; and that "in the selection of judges, there shall be no discrimination against a person on the grounds of...political or other opinion." These and all other provisions of the Basic Principles should be adopted into Cambodian law, *in toto*, replacing any current provisions which are contrary to them. The Constitution currently in use by the SoC should incorporate the Basic Principles, and they should be reaffirmed in the country's future constitution.

While such steps are being taken to carry out these legal changes, other measures set forth in the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary should be carried out. In particular, SoC authorities should "ensure that the Basic Principles are widely publicized" among judges and law-enforcement officials.

### Reform of the legal profession

Amnesty International has in the past expressed concern that political prisoners in Cambodia have not had access to legal counsel of their own choice, and that state-appointed defenders, instead of acting to defend their clients, appear to serve the political goals of the authorities.<sup>67</sup> To Amnesty International's knowledge, Cambodia continues to suffer from an acute lack of qualified legal practitioners, and as yet no steps have been taken to ensure that they are trained and able to act according to the international standards, including those contained in the Basic

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<sup>67</sup>See Kampuchea: Political Imprisonment and Torture (AI Index ASA 23/05/87), p.62. According to Council of Ministers' Decision No 45 SR, dated 30 November 1982, defenders must be chosen from people who may not have any legal training but are included on lists approved by provincial or municipal branches of the KNUFCD. To be approved, defenders must have what are deemed correct "revolutionary virtues" and be willing to carry out the "political principles" of the CPP. This later requirement is reiterated in Article 18 of the Criminal Procedure Code, which says that defenders must "obey the political principles" of the Party.

Principles on the Role of Lawyers, rather than being subordinated to the political interests of the state. The Basic Principles state that the duties of lawyers towards their clients shall include:

"(a) Advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients;

"(b) Assisting clients in every appropriate way, and taking legal action to protect their interests;

"(c) Assisting clients before courts, tribunals or administrative authorities, where appropriate."

According to the Basic Principles "lawyers shall always loyally respect the interest of their clients" and "shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession."

The Basic Principles also lay down the obligations of state authorities to ensure there is no political interference in lawyers' defence of their clients' interests. They enjoin governments to ensure both that "there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of ...political or other opinion" (Principle 10); and that "efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided to all persons...without distinction of any kind, such as...political or other opinion" (Principle 2). According to Principle 16, Governments are also to "ensure that lawyers...are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference;" and that they "shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."

Amnesty International urges that the SoC authorities immediately pass legislation to incorporate the Basic Principles on the Role of Lawyers into national law. The curriculum of the Administrative and Legal Cadres' School should also be immediately changed to include training according to the Basic Principles, and all people now acting as legal counsels in Cambodia should receive training on the application of the Basic Principles as soon as possible.