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## Introduction

The Royal Government of Cambodia came to power in September 1993, with the promulgation of the new constitution of the Kingdom of Cambodia. This event marked the end of the mandate of the United Nations Transitional Authority in Cambodia (UNTAC), which had organised democratic elections in the country in May 1993. The new government is a coalition of three political parties: the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (known by its French acronym FUNCINPEC), which won the largest number of seats in the election; the Cambodian People's Party (CPP), former communists who had been in power since 1979; and the Buddhist Liberal Democratic Party (BLDP), a smaller party which had been in alliance with FUNCINPEC during the years of civil war. Following the May elections, a Provisional Government of National Unity was formed to draw up a new constitution for Cambodia. This document re-established the monarchy in the country, and set out the framework for the system of government.<sup>1</sup> Since the new government came to power, Amnesty International has visited Cambodia twice, in May and November 1994.

Amnesty International is a worldwide movement which is independent of any government, ideology, political grouping or religious creed. Amnesty International's work is based on the principles set forth in the United Nations Universal Declaration of Human Rights. The organization seeks the release of prisoners of conscience, that is people detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religion, who have not used or advocated violence. Amnesty International works for fair and prompt trials for all political prisoners, and on behalf of such people detained without charge or trial. It opposes the death penalty, torture and other forms of cruel, inhuman or degrading treatment or punishment of all prisoners. Amnesty International also campaigns against "disappearances" and extrajudicial executions. It opposes human rights abuses committed by non-governmental entities (NGEs), where such groups exercise control over civilian populations. Amnesty International takes no position on the political orientation of any government or opposition group, and is solely concerned with the promotion and protection of human rights.

In November 1994, following four weeks of research in the country, Amnesty International met with members of the Cambodian Government to discuss human rights concerns in the country, as detailed in the following pages. The responses of government ministers to issues raised by Amnesty International are included in this document. Amnesty International notes with regret that government ministers from the FUNCINPEC party were unavailable to meet with the organization's representatives during their visit to the country. Recommendations which Amnesty International believes would, if implemented, improve the human rights situation in the country, can be found at the end of the document.

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<sup>1</sup> See Amnesty International *Kingdom of Cambodia: Human rights and the new constitution* (ASA 23/01/94, January 1994).  
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## Political Background

In October 1991, the four factions which had been waging civil war in Cambodia met in Paris and signed the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, commonly known as the Paris Peace Agreements.<sup>2</sup> The Paris Peace Agreements were designed to bring an end to the war which had been fought in Cambodia following the overthrow of the Government of Democratic Kampuchea (Khmer Rouge) after the Vietnamese army invaded Cambodia in December 1978. War and foreign occupation continued in Cambodia until September 1989, when the Vietnamese army withdrew from the country. Civil war between the rival Cambodian factions, with the armed forces of the PDK, FUNCINPEC and the KPNLF fighting against the SOC, continued until the Peace Agreements were signed.

Under the terms of the Paris Peace Agreements, the United Nations (UN) was given temporary authority to take over the administrative functions of government in the country, supervise the relocation of each faction's armed forces to designated cantonment areas, and the subsequent demobilization of 70 percent of these armed forces, and to organise democratic elections in the country. Sovereignty during the period of the UNTAC mandate was embodied in the Supreme National Council (SNC), with the then Prince Norodom Sihanouk as Chairman. The SNC acceded to most of the major international human rights instruments in 1992, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Accession to international human rights treaties and the presence of UNTAC human rights monitors in the country did not prevent the occurrence of widespread human rights violations in the run-up to the elections and afterwards.<sup>3</sup> Ceasefire violations were frequent, and the PDK refused to cooperate in the cantonment process and threatened to disrupt the elections, in which they did not field any candidates. The elections took place in May 1993, and resulted in a narrow victory for FUNCINPEC, led by Prince Norodom Ranariddh, son of the then Prince Norodom Sihanouk. The coalition government was formed, and took over full control of the country with the departure of UNTAC personnel in September 1993. After the elections civil war resumed with the forces of the PDK fighting against the new Cambodian army, the Royal Cambodian Armed Forces (RCAF). Attempts in the first half of 1994 to negotiate peace brokered by the King ended in failure.

## Political Developments

Progress in drafting and approving new legislation has been slow, and proceedings in the National Assembly were held up for months over the case of two elected CPP members demanding the right to take their seats. The two, Prince Norodom Chakropong and General Sin Song had led an abortive

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<sup>2</sup> These factions were the State of Cambodia Government (SOC) run by the CPP; the Partie of Democratic Kampuchea (PDK), usually known as the Khmer Rouge; FUNCINPEC; and the Khmer People's National Liberation Front (KPNLF). Eighteen countries were also signatories to the Agreements, namely: Australia, Brunei, Canada, China, France, India, Indonesia, Japan, Laos, Malaysia, New Zealand, the Philippines, Russia, Singapore, Thailand, Viet Nam, the United Kingdom and the United States of America.

<sup>3</sup> See Amnesty International reports: *Cambodia: Human Rights Developments 1 October 1991 to 31 January 1992* (ASA 23/12/92); *State of Cambodia: Update on human rights concerns* (ASA 23/04/92); *Cambodia: Human rights concerns July to December 1992* (ASA 23/01/93); and *Cambodia: Arbitrary killings of ethnic Vietnamese* (ASA 23/05/93).

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secessionist movement in the immediate aftermath of the elections, and fled to Viet Nam when it failed. They returned and tried to take their seats in the National Assembly, but FUNCINPEC members raised objections. Finally they were allowed to take their seats, but in July they were accused of being the organisers of an apparent coup attempt in the capital Phnom Penh. Prince Chakropong was able to leave the country following the intervention of his father the King, and Sin Song was placed under house arrest. He later escaped but was arrested in Thailand and charged with illegal immigration. He had been sentenced to 20 years' imprisonment *in absentia*: the Thai Government did not acquiesce to the Cambodian Government's request to send him back. Nine Thai nationals were also detained in the aftermath of the attempted coup. Amnesty International issued an appeal on their behalf in October 1994, as their detention was illegal under Cambodian and international law. They were tried shortly afterwards, given suspended sentences and allowed to return to Thailand.<sup>4</sup>

In the aftermath of the apparent coup attempt, the Cambodian Government has become less tolerant of any criticism of its policies in the media and by human rights groups. Progress in the field of human rights slowed, and in some areas there was a notable reversion to former practices. In the months since July 1994, journalists, editors and human rights workers have increasingly operated in a climate of unease, victims of veiled or open threats from people in authority. Two journalists were murdered in the last four months of 1994, and others have been threatened.

## Legal and institutional developments

The Paris Peace Agreements required that "an independent judiciary will be established, empowered to enforce the rights provided under the constitution". Chapter Nine of the new constitution complies with this requirement, stating that "the judiciary shall be an independent power". However, as Amnesty International pointed out in January 1994, the judicial system in Cambodia is ill-equipped to assert its newly bestowed independence.<sup>5</sup> State institutions were destroyed during the Khmer Rouge era, while the judicial system inherited by the new government is based on the Vietnamese court system, and is closely linked to the CPP years of rule. Cambodia faces huge problems as it attempts to teach its judges and court officials that they have a duty to act independently of the wishes of government, when for years their function was to reflect the policies and political priorities of the state. While training is being provided with aid from donor countries, the UN and non-governmental organizations, it will take many years for Cambodia's judicial structures to shake off the legacy of the past.

Several laws passed since the new government took office raise serious human rights concerns. The Immigration Law which fails to meet international human rights standards is analyzed below (see page 27), as is the draft Press Law (see page 41). Other laws of concern to Amnesty International are the Law on Outlawing the "Democratic Kampuchea" group and the Law on the Supreme Council of Magistracy. After the failure of the round table peace talks convened by King Norodom Sihanouk in Pyongyang, North Korea in May 1994 the government ordered the PDK to close its office in Phnom Penh. A law which outlaws the "Democratic Kampuchea" group was passed in the National Assembly on 7 July 1994, and outlaws members of the PDK and its army the National Army of Democratic Kampuchea (NADK). The law allowed for a six month amnesty period which expired in January 1995, during which time members of the PDK and NADK could defect without fear of prosecution. (Leaders of the PDK are

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<sup>4</sup> See *Kingdom of Cambodia: Illegal detention of nine Thai nationals* (ASA 23/14/94).

<sup>5</sup> See *Kingdom of Cambodia: Human rights and the new constitution* (ASA 23/01/94).  
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excluded from this amnesty). Amnesty International wrote to the government stating its concerns that the original draft of the law was loosely worded and ill-defined, and could be used against any government critic or opponent. Amendments were made which improved the law, although the organization remains concerned about its application following the end of the official amnesty period.

The Law on the Organization and Functioning of the Supreme Council of Magistracy is required by Article 115 of the constitution. This Council is responsible among other things for ensuring the independence of the judiciary. While Amnesty International welcomes a law allowing for the establishment of the Supreme Council of Magistracy in Cambodia, it is concerned that the Minister of Justice sits on the Council, and that the separation of the judiciary from the executive branch of government is thus undermined. Amnesty International drew the attention of Second Prime Minister Hun Sen to this issue in November 1994. However, the law was later approved by the National Assembly, and is now part of Cambodia's legal framework.

A very positive legal development took place in May 1994, when the Cambodian Court of Appeals was established. This had been recommended by the United Nations Special Representative of the Secretary-General for Human Rights in Cambodia, and his recommendation was acted upon by the government. While it has yet to deal with the large number of cases pending, and is still not a fully functioning Appeals Court, the establishment of this new section of the judiciary is a step forward for Cambodia's judicial system which Amnesty International welcomes.

Another positive development was the establishment of the Commission on Human Rights and Reception of Complaints of the National Assembly. Its members receive and investigate complaints from the public about human rights violations. Although the Commission is bound by resource constraints which limit its activities, it is an important step forward for human rights in Cambodia. Amnesty International met members of the Commission during its visit to Cambodia in November 1994.

## Impunity for perpetrators of human rights violations

***"In the countryside, anyone who has a gun, you can't argue with them ... It doesn't matter how bad it gets or which side does it, just keep it in your head, as you can't say anything."***<sup>6</sup>

The issue of impunity for the military and security forces is a major human rights concern in Cambodia today. People with guns and uniforms are able to behave in a manner which terrorises the civilian population, who have no way of gaining redress. Armed police and soldiers commit human rights violations against civilian populations and prisoners of war, and are not brought to justice for their actions. Building a human rights culture in a country which has been shattered by civil war and social upheaval requires as a starting point justice and equality before the law for all people, including members of the security forces. In the course of its investigations in Cambodia, Amnesty International found evidence of security forces personnel committing human rights violations with impunity. In many cases it seems that the government has neither the ability nor the political will to bring these people to justice. In other cases, official investigations into human rights violations by the military appeared to be designed to refute the findings of human rights investigators, rather than to search for the truth. The cases detailed below are examples of Cambodian security forces personnel violating human rights with impunity.

### Human rights violations in Battambang province

Amnesty International has evidence of grave human rights violations committed by military personnel in Battambang province in the northwest of Cambodia. One unit of the Royal Cambodian Armed Forces (RCAF) has been engaged in abductions, illegal detention, extortion and extrajudicial executions of civilians in the province.

In 1993, United Nations Transitional Authority in Cambodia (UNTAC) human rights monitors in Battambang investigated the activities of a secret military intelligence unit of the 5th Military Region operating in Battambang province. The unit known as T-6 was established by the Vietnamese Army in 1979 to engage in surveillance and interrogation activities, in the context of the war with the forces fighting against the Vietnamese and their Cambodian allies. Following the withdrawal of the Vietnamese army in 1989 the unit continued to operate as a part of the Cambodian People's Armed Forces (CPAF), but was apparently renamed S-91. More recently it has operated under the name B-2, but there has been clear continuity of personnel. The S-91 unit was the Special Investigation Bureau of the 5th Military Region, and had several sub-divisions, based in different parts of the province. Its headquarters was the house of one of its top officers, in Battambang town.

Since the signing of the Paris Peace Agreements in 1991, agents of this unit seemed to have switched their operations from military intelligence to criminal activities for personal gain. UNTAC investigators found evidence linking officers of S-91 to a series of murders in Battambang from July 1992 to August 1993. Subsequent investigations by the Cambodian Field Office of the United Nations Centre for Human Rights, and by Amnesty International, have linked the members of the S-91 military intelligence unit to at least 35 extrajudicial executions between August and November 1993 and with the illegal detention of at least 19 people since November 1992. One of the victims of S-91, a man who was abducted by S-91 personnel in November 1993 and who only escaped from detention due to serious injuries caused when S-91 soldiers forced him to clear landmines, talked to Amnesty International about the activities of the unit.

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<sup>6</sup> Testimony of an internally displaced person, Siem Reap Province, November 1994.  
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His story is representative of the stories of dozens of others, most of whom were extrajudicially executed by S-91 personnel.

### Abduction

The unit's operations followed a clearly identifiable pattern. The majority of victims were visiting traders and businessmen abducted from the market in Battambang by S-91 personnel. Others appear to have been arrested because they were suspected by S-91 officers of conducting political activities on behalf of the PDK, or because they otherwise attracted the attention of S-91 personnel. One such victim was Yam Mouern, a 29-year-old builder's labourer who was abducted from the market one morning in November 1993, after a shopkeeper to whom he owed 400 Thai Baht (about US\$16), called for S-91 personnel to arrest him.

"We [Yam Mouern and his companion Nou Phol] said to the shop-owner to wait until my brother-in-law Neang Cheng comes, and he will bring the money. But before Neang Cheng arrived, Nou Phol and I got arrested by three men who arrived at the shop on one motorbike...They put handcuffs on us and I tried to take them off. I said "I'm not a thief, I'm not Khmer Rouge, take them off...why don't you just let me get the money?" But they took one cuff off and attached it to Nou Phol, so we were handcuffed together."

According to Yam Mouern's testimony, the three men had no uniforms, they did not say they were police or military personnel, but they had a gun.

"I was told to come outside and they handcuffed me there and told me to look down. They threatened to hit me with the gun, so I didn't look too much at their faces."

### Illegal detention

When Yam Mouern's brother-in-law Neang Cheng arrived at the shop, to keep a prearranged rendezvous with Yam Mouern, he too was arrested by these three S-91 men, who also confiscated his motorbike. The three abducted men were taken to a house in Battambang town, owned by one of the officers of the unit. UNTAC human rights investigators had identified this house as an illegal detention facility in 1992, and the S-91 unit temporarily suspended its use as such for several months. However, by mid-1993, it was clear to UNTAC investigators that S-91 personnel had resumed their use of the building as an illegal detention centre. At this house victims were interrogated by the S-91 officer who owned the house. Yam Mouern described what happened to him, Nou Phol and Neang Cheng there:

"We were all locked up for at least one and a half hours. Then four men came in and asked if we had any money...They took [our] money, then they made us strip down to our underpants."

All three men were interrogated individually, and asked about six carloads of Khmer Rouge soldiers, which S-91 officers alleged had been brought into Battambang by the three detainees. None of them knew why they were being asked about the Khmer Rouge and denied any involvement with the Khmer Rouge. The interrogating officer told them they "were stubborn" and locked them up again.

"After about one hour they brought some electrical wire into the room and made us kneel down with our hands behind our backs, and they tied our hands with the electrical wire. After half an hour we were dragged outside like that and photographed. We were all still in our underpants."

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### Extrajudicial executions

S-91 victims were transferred from this house by boat to a remote place known by the name of the Buddhist temple at the site, Wat Cheu Kmau. Amnesty International knows of more than one case where relatives of detainees were asked for a ransom by a member of the S-91 unit. Yam Mouern, Neang Cheng and Nou Phol, along with six others - three Buddhist monks, a Buddhist nun, a young woman and a boy - were taken by S-91 soldiers in a boat to Wat Cheu Kmau. The six were left there, while Yam Mouern and his companions were taken to a soldiers' base about a mile from Wat Cheu Kmau. He was beaten by one of the soldiers and was convinced he was going to be killed. One soldier asked him why he had been brought there, as this was the place where people came to be executed. Yam Mouern knew that he owed 400 Thai Baht, and said so, but the soldier replied that the reason he was caught was because he had brought Khmer Rouge soldiers into Battambang.

"He showed me a document saying I had done this. It was handwritten on a piece of exercise book paper, and not signed, and it accused me of doing these things."

Yam Mouern was questioned by the soldiers for the first two days he was at the base. He was also threatened by one of them.

"He said 'do you want to live or die?' and I said 'I want to live'. He said to me, 'if you want to live, you will die,' and put the barrel of a gun up against my head. He said, 'in the morning we'll take you and feed you to the fish'."

According to the evidence gathered by the United Nations Centre for Human Rights and Amnesty International, people who were taken to Wat Cheu Kmau were usually killed within a day of arrival. Soldiers from the S-91 unit routinely took victims in a boat, blindfolded and with their arms tied behind their backs at the elbows, to a place downstream from Wat Cheu Kmau. They were shot in the head at point blank range, and their bodies were thrown into the river. Investigations by the United Nations Centre for Human Rights have revealed that some soldiers from the unit mutilated corpses, removing the livers of victims and eating them, and placing the gall-bladders in jars of alcohol, which was then drunk. Yam Mouern told Amnesty International that his captors forced him to drink some rice alcohol, from a plastic container, although he did not want it.

"Then they said, 'so do you drink?' and I said that I didn't really drink, but they said 'you must have a drink' ...They brought out a bottle and I saw three gall-bladders in the bottom of the bottle...we each had a plastic cup of this stuff."

Yam Mouern, Nou Phol and Neang Cheng were held captive at the base, guarded by 15 soldiers. They were made to work in the garden, and after three days were forced to guard five more people who had been abducted and brought to the base. The soldiers gave Yam Mouern a gun and told him to guard the new people.

"Villagers nearby told me 'you are so lucky, you came now and have the chance to see your parents again. If you came before you would have been killed like the others.' The soldiers used to take people out in small boats and kill them, two at a time."

Forced conscription and rape

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In March 1994, after four months of captivity, Yam Mouern was forced to become a soldier at the base, along with Neang Cheng and Nou Phol. The men had no choice but to obey the orders, as they feared for their lives. Their tasks included guard duty, clearing land and digging trenches. In May, Yam Mouern and Neang Cheng were assigned mine-laying duty, which involved laying mines around the base in the evening and lifting them again the following morning. Yam Mouern told Amnesty International that he was given no training in mine clearance.

"I said that I didn't know how to clear mines, but a soldier said 'what do you want to be a soldier for if you can't clear mines?' I tried to run and he hit me, so I went to clear the mines, and [one] blew up."

On 14 June 1994, a landmine Yam Mouern was trying to defuse exploded, and he lost both arms and the sight of one eye. The explosion took place at 7am but he did not reach hospital until 4pm. Initially treated at the provincial hospital in Battambang, Yam Mouern had to be transferred to the military hospital after men apparently acting on orders from S-91 attempted on five occasions to gain access to his room and kill him. At the military hospital, guards on the gate turned away people searching for him.

Like Yam Mouern, Neang Cheng was forced to become a soldier. He was given permission by the soldiers near Wat Cheu Kmau to visit his family for one week at the end of June 1994. He did not return, but instead sought protection through the Governor's office in Battambang, the Commander of the 5th Military Region, and the provincial Police Commissioner. Amnesty International interviewed his wife in November 1994. She said that he had gone to join the police in another province, because he was now too afraid to stay in Battambang. Nou Phol was moved from the base near Wat Cheu Kmau to Rohal, a base further downstream. Amnesty International has learned that by November 1994 he had managed to join his family in the south of the country. The organization does not know if he was released, or if he managed to escape.

Of the five people Yam Mouern was forced to guard, two were released after relatives in Battambang paid a ransom. One ran away, and one was extrajudicially executed by the S-91 soldiers, in full view of the other prisoners. Both Yam Mouern and Neang Cheng witnessed the killing. According to Yam Mouern's testimony, the prisoner had been swimming in the river, when he was pulled out by the soldiers, into a boat. He was rolling around in the boat, and the soldiers said he was crazy and shot him dead. The man had previously complained to Neang Cheng that he had been tortured with electric shocks when he was detained at the S-91 house in Battambang. He appeared to be mentally disturbed as a result of torture. The whereabouts of the fifth prisoner are not known. The six prisoners who were transported to Cheu Kmau at the same time as Yam Mouern have been released and have returned to their home province. Amnesty International knows of one 17-year-old girl who was abducted with this group, but detained separately from them. She was apparently repeatedly raped by soldiers, and when she was released and allowed to return to her home village, she was pregnant.

### Impunity for S-91 personnel

Amnesty International knows of at least 19 people who were held captive in the environs of Wat Cheu Kmau between November 1993 and July 1994. The organization believes that S-91 was responsible for the extrajudicial execution of at least 35 people from August 1993 to November 1993. Further, Amnesty International believes that this same military unit carried out a series of killings in Battambang between

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July 1992 and August 1993.

According to an UNTAC human rights investigator's report from August 1993, despite having clear evidence of the activities of the S-91 unit, local police took no action to halt these activities and bring those responsible to justice. Those linked to the unit have connections which reach high into the ranks of the provincial military apparatus and the CPP political structure, and many local policemen appeared to be as frightened of the group as the rest of the population.

In May 1994, following an exhaustive investigation into the activities of S-91, and fearing for the lives of the 19 people believed to be held at or near Wat Cheu Kmau at that time, the Office of the UN Centre for Human Rights in Cambodia submitted a confidential report on the case to the Cambodian Government and the military prosecutor. A subsequent investigation by the military prosecutor's office in June confirmed most of the findings of the United Nations report. Amnesty International wrote to the First and Second Prime Ministers of Cambodia about the case, calling for a full, independent inquiry, and for those responsible to be brought to justice.

### Special Investigation Commission

In July 1994, following widespread publicity about the events at Cheu Kmau, the two Prime Ministers ordered that a Special Investigation Commission be established to investigate the allegations of human rights violations in Battambang province. The Commission, composed of nine people all of whom are CPP members, two of them drawn from the provincial authorities, has made three visits to Battambang in the course of its investigations, and has submitted reports to the two Prime Ministers.

Amnesty International is gravely concerned that the composition of the Special Investigation Commission and its working methods cast serious doubts on its impartiality and independence. Some members of the Commission have a clear conflict of interest in uncovering the activities of S-91, because of their involvement in or close relations with the military and political hierarchy of Battambang province. When the Commission was appointed, there was no attempt to create a balanced body, comprised of members of all the political parties in the government, with representatives from human rights groups and the Human Rights Commission of the National Assembly. It seems that the aim of the Commission has been to discredit the findings of the United Nations investigation, rather than to seek the truth about what has taken place in Battambang.

The main focus of inquiry of the Special Investigation Commission has been to disprove the fact that illegal detention facilities - which the Commission has called "secret prisons", a misleading term - existed in Battambang or in the environs of Wat Cheu Kmau. The basis for this conclusion is that no outward signs of a prison, such as bars over windows, or cells, were found. However, by its very nature an illegal detention facility will not resemble an official prison: the attention paid to the issue of whether a particular house was also a "secret prison" should not have been the main focus of the Special Investigation Commission. S-91 personnel appear to have been aware well in advance of the Commission's visits and had ample time to remove any incriminating evidence. Reaching the conclusion that no one was detained at a house or in a temple during the visit of the Special Investigation Commission does not serve to prove that no one was ever detained there in the recent past, or that the grave human rights violations outlined above did not take place.

During a visit to Battambang in September 1994, which included a visit to Wat Cheu Kmau itself, the

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Special Investigation Commission was accompanied by Cambodian television, radio and photo journalists, who were able and encouraged to film and photograph witnesses and victims during interviews. In addition, a heavy military escort accompanied the Special Investigation Commission on its visits. Such conditions fall far short of minimum standards required for confidentiality and protection of sources. The very presence on the Commission of men who cannot be regarded as neutral was grossly insensitive to the victims and witnesses. Amnesty International believes that the Commission's working methods may have further contributed to the climate of fear which hitherto had ensured impunity for S-91 personnel.

### The Government's response

Amnesty International raised the case of the human rights violations committed by S-91 personnel in meetings with Second Prime Minister Hun Sen, and the CPP Minister of Interior and National Security, Sar Kheng, in November 1994. The organization expressed its concern about the composition of the Special Investigation Commission, and its working methods. It is particularly worrying that in spite of the attention paid to the case, no one has been arrested in connection with the events surrounding the activities of S-91, although the identities of all the main officers are well-known, and there is an overwhelming quantity of evidence against them. The report of the military prosecutor, which confirmed much of the information gathered by the United Nations Centre for Human Rights, contained sufficient evidence to warrant arresting those implicated in the case and bringing them to trial, and yet this report has been contradicted by the Special Investigation Commission. CPP Minister of Interior and National Security Sar Kheng told Amnesty International:

"On Cheu Kmau, in terms of the examination of this case, I understand there was always independence and frankness towards the truth...Now Cheu Kmau does not exist, it is only an island with a Wat and some soldiers encamped there. That it is a secret prison now, no. We don't say it wasn't before, before there were military elements who abused their position, but we have instructed the government to act on those persons. I understand that this research and examination is just. Because there is no secret prison now. As for before, then those responsible will be dealt with by the law."<sup>7</sup>

While welcoming the assurance from the Cambodian Government to prosecute military personnel who have abused their positions, Amnesty International remains extremely concerned that no arrests have been made. The Special Investigation Commission visited Battambang for the third time in December 1994, with no visible results so far. Amnesty International fears that elements within the military and political hierarchy of the CPP and its former army the CPAF have been able to prevent any action being taken against the perpetrators of these crimes. The Cambodian Government is suing two French newspapers for defamation, because they published articles which made reference to the killings and mutilation of corpses at Cheu Kmau. Publication of the facts is not defamation. Attempting to cover up human rights violations because it is politically expedient to do so is a crime.

### United Nations personnel attacked

Amnesty International is also concerned about an attack on the family of a staff member at the Office of the UN Centre for Human Rights in Cambodia. In the late evening of 8 September 1994 in Phnom Penh, Monica Oliveiros, the five-year-old daughter of Field Office worker Luis Oliveiros, was shot in the thigh

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<sup>7</sup> Meeting with Minister of Interior Sar Kheng, Council of Ministers, Phnom Penh, 28 November 1994.  
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and left by the side of the road, after armed men in uniform stole her father's car at gunpoint, while she was asleep in the back. Available evidence suggests that the attack was in retaliation against the UN investigations into the violations by the military in Battambang province. Amnesty International had received reliable reports that two men believed to have been the perpetrators of the attack are now serving with the RCAF, in the 5th Military Region, Battambang province. No one has been brought to justice for the attack, and Luis Oliveiros and his family have left Cambodia.

Amnesty International renews its call to the Cambodia Government to arrest those people linked to the S-91 unit of the 5th Military Region in Battambang, and to bring them to justice for gross violations of human rights since 1991.

## Deliberate and arbitrary killings and extrajudicial executions

Amnesty International has evidence of deliberate killings and possible extrajudicial executions carried out by members of the armed forces in Cambodia. Many of the thousands of uniformed men carrying guns in Cambodia are poorly trained and have little understanding of human rights. The government has a duty to ensure that people in positions of power - men with guns - do not abuse this power, and those who do must be brought to justice. The cases detailed below are examples of apparent extrajudicial executions carried out by police and RCAF personnel in Cambodia, where no action has been taken to bring those responsible to justice.

In May 1994, Amnesty International called on the two sides fighting the civil war in Cambodia (the RCAF and the National Army of Democratic Kampuchea - NADK or Khmer Rouge) to respect minimum international standards for the treatment of prisoners, following the decapitation of an NADK soldier by RCAF troops. The incident took place in Battambang province on 4 May 1994, when RCAF forces who were interrogating the captured NADK soldier chopped his head off with an axe. The head was then displayed on a wall outside the Joint Military Regional headquarters of the RCAF, within Battambang city limits, where it was seen and photographed by a foreign journalist. In spite of the evidence relating to the case, senior military officials denied that the killing had occurred and no one was brought to justice. There were reports of at least three other such killings during May 1994, but these could not be confirmed by Amnesty International.

During a land dispute near Phnom Penh in February 1994, which was broken up in violent confrontation by the security forces, a local villager was the victim of a deliberate and arbitrary killing by the military police. Hun Sokea, a 26-year-old man, was walking to his house near the disputed area. Military police ordered him to stop, but he failed to obey the order, perhaps because he feared being arrested as many other by-standers had been. Eye-witnesses reported that four or five military policemen then fired shots above Hun Sokea's head, and surrounded him. They beat him with rifle butts, and when he fell to the ground he was shot in the face and killed. In spite of the eye-witness reports, the military police claimed that Hun Sokea was killed because he was a rebel who had tried to "seize their guns". No one was brought to justice for the killing and there has been no further investigation of this case by the Cambodian authorities.

In the course of a violent confrontation with squatters occupying the disputed land, a seven-year-old boy, Tourt Maradi, was hit in the head by a stray bullet, apparently fired by a group of soldiers who were chasing the fleeing squatters. Tourt Maradi died in hospital some hours later. An eight-year-old girl

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called Sou Chan Cola was also injured in the shoulder by a stray bullet during the shooting. Witnesses stated that a number of the soldiers and officers involved in the operation appeared to be drunk at the time. Amnesty International believes that the use of firearms by soldiers in the vicinity of the village did not comply with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and that the casualties could have been avoided if these rules had been adhered to. Amnesty International also draws the attention of the Cambodian authorities to General Provision Number Nine of these Basic Principles, which states that:

"Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law."

### Politically motivated killings

Amnesty International has evidence of several recent cases where killings appear to have been carried out by members of the police for political reasons.

On 19 April 1994, Ang Kouy, a 51-year-old high-ranking FUNCINPEC provincial official was shot dead by armed men, believed to be members of the police and commune militia, outside his home in Kampot province. Ang Kouy, who lived in Borivas village, Samrong Leu commune in Banteay Meas district, had received threats to his life from the local CPP district officials during the UNTAC period. A teacher of literature at the local high school since 1979, Ang Kouy had joined FUNCINPEC in March 1992, and became the third-ranking party official in Kampot province, in charge of the FUNCINPEC electoral campaign in 1993. He was suspended from his post as teacher in September 1992 because of his political affiliation, and formally dismissed in January 1993. Ang Kouy filed a complaint about his dismissal with UNTAC, which resulted in his obtaining some compensation. UNTAC recorded that Ang Kouy had received threats from the Banteay Meas district authorities and district police after he joined FUNCINPEC.

Even after the elections, Ang Kouy feared for his life and he spent most of his time in Phnom Penh, where he felt safer. Amnesty International knows that he alerted senior FUNCINPEC members in Phnom Penh to his position, and that at least one senior member of the party took Ang Kouy's worries about CPP threats seriously. The district authorities in Banteay Meas knew that Ang Kouy was visiting the district on 19 April, because he had called in at the district office to collect some money which was still owed to him for his teaching work. At 8.15pm that evening, a group of armed men arrived in Ang Kouy's village. Apparently concerned for his safety, Ang Kouy left his house but was stopped by the group of men about 30 metres away from his home. Witnesses stated that they heard the men say they were looking for bandits. One of them said to Ang Kouy, "we know you, you can go back home." Ang Kouy turned around and walked about 10 metres towards his house, when one of the men opened fire with an AK-47 rifle. A bullet hit Ang Kouy on the right side of the head, and exited at the left side, killing him.

After Ang Kouy was shot, his nephew Yin Nhath shot at the assailants, and in the ensuing battle was himself killed. Yin Nhath had in his possession an AK-47 rifle, and two hand grenades, reportedly given to him by a relative in government, following a recent robbery at his house.

The bodies of Ang Kouy and his nephew were found two metres apart in a pond about 20 metres from Any Kouy's house. During the seven days between Ang Kouy's murder and his funeral, the district police

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reportedly visited Borivas village, and asked local families if they had ever received anything from FUNCINPEC during the election campaign. No one was brought to justice for the killing of Ang Kouy, in spite of the amount of evidence available on the case, and his widow and family did not receive any compensation for the killing.

Local police in Kompong Speu province were implicated in killings which appeared to be politically motivated. In April 1994, four FUNCINPEC policemen<sup>8</sup> were disembowelled and killed in Kompong Speu province. The four victims, Mom Ban Chuoy, Sam Sophon, Sam Sophat and Khem Sovann Chak had been expecting to become policemen in the province. Available evidence suggests that provincial police officials linked to the CPP ordered the killings, but no one has been brought to justice.

### Arrest and killing of suspected Khmer Rouge

On 5 February 1995 Neth Thong, a farmer and member of FUNCINPEC and Mov Ving, a 28-year-old FUNCINPEC militiaman were playing volleyball at O'Krobou village, Mong commune, Mong Russei district in Battambang province. A group of about 30 soldiers, militia and police in uniform surrounded the two men and pointed their guns at them. They were arrested and taken into custody in the village of Kach Char, some two kilometres away, although no warrant for their arrest was produced, and no reasons were given. Witnesses recognised commune and district police and militia officials in the group carrying out the arrest.

Relatives of the men came to Kach Char village and asked that Neth Thong and Mov Ving be released. The district military chief told the relatives that they had received orders to arrest the men and send them to the district office for questioning. When the men's relatives asked again for their release, armed men threatened them, saying "if you ask for their release, I will kill you also." The relatives were then pushed away. The head of the commune told the relatives that he would handle the case, and a district police captain said the matter would be resolved when the men were brought to the district office.

At about 4pm on 5 February, villagers heard the sound of many shots being fired. The next morning they went with Neth Thong's and Mov Ving's relatives to the place where the shots had been heard, and found the bodies of the two men lying near each other. Both victims had been handcuffed, and it appeared that they had been severely beaten before they were shot. A wooden stick about 80 centimetres long was left on top of the bodies. Neth Thong's body had five bullet wounds believed to have come from an AK-47 rifle: two in the head, two in the chest and one in the abdomen. Mov Ving had four bullet wounds apparently from an M-16, two in the chest and two in the head. During the funeral held for the two men local authority officials questioned the families asking, "why are you having a funeral for Khmer Rouge?" The family members fear for their own safety and have been sleeping in a local Buddhist temple.

Amnesty International is concerned that no investigations have been carried out into the arrest and killing of Neth Thong and Mov Ving, although eyewitness reports identified officials from the local military, police and militia at the scene of the arrests. A police report on the killings stated that the victims were Khmer Rouge. It appears that the local authorities are excusing the killings because of the accusation that the men had links with the PDK. Alleged membership of an outlawed group does not justify the arrest, detention and killing of these men. Amnesty International calls upon the Cambodian authorities to hold

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<sup>8</sup> In Cambodia, as a result of the years of civil war, and the subsequent attempts to integrate the military and law enforcement structures of the government parties, military and police personnel tend to be linked to a political party.

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an immediate, impartial investigation into the case and to bring those responsible to justice.

### Inadequate action

In cases where action has been taken against military personnel responsible for deliberate and arbitrary killings, it has been wholly inadequate. On 18 October 1993, a RCAF soldier in charge of a gun emplacement near Kampong Chhnang town, in Kampong Chhnang province, shot at passing boats. One boat owned by an ethnic Vietnamese family was sunk, and one of their children, a seven-year-old boy called Yoeng Yang Thao was killed in the attack. The soldier who fired the gun was expelled from the RCAF, but no other action was taken against him.

As long as soldiers and policemen are able to injure and kill with impunity, violations of the basic human rights of the Cambodian people will continue. Amnesty International welcomes the training programs for military and police personnel carried out by the Office of the UN Centre for Human Rights in Cambodia, and by several Cambodian NGOs, and believes that such programs are an important step in the fight against impunity. However, the organization believes that it is the responsibility of the Cambodian Government to ensure that members of the Cambodian police and military forces who are responsible for killings are brought to justice.

### Intimidation of the Courts

Amnesty International has evidence of police and military officers intimidating the judiciary, in order to prevent due process of law being followed.

In May 1994, four armed policemen entered the court at Sihanoukville, with the intention of meeting the Chief of the Court and the Prosecutor. These people were busy in the courtroom at the time, and were unable to come and meet the men. They claimed to be angry about a conviction made by the court against the mother of one of the men in January 1994. When the Chief of the Court became available to meet the men, he stipulated that they must lay down their weapons before any meeting could commence. They refused to do so and left. At 2pm the same day, the four men entered the house of the Prosecutor, pointed guns at him and threatened to kill him. The four called by radio for reinforcements and a truck load of armed men arrived and surrounded the Prosecutor's house, aiming their guns at the house.

The armed police also disrupted proceedings at the court during the afternoon, when eight of them arrived at the court in a truck, armed with rocket launchers, machine guns and AK-47 guns, calling loudly for the Chief of the Court to come out, and threatening to destroy the building. Ongoing court business was suspended as people fled from the armed men. The men surrounded the court building for two hours, and only agreed to withdraw after the intervention of their commander. In the course of the evening the same men surrounded the house of the Prosecutor for the second time, and later drove past the court house again and frightened away the guards there. With assurances from the Provincial Governor, the court officials returned to work the next day but the activities of the group of police men went unpunished.

Amnesty International knows of other cases where the work of investigative judges in the provinces has been disrupted by powerful people within the security forces. In his report to the United Nations General Assembly in November 1994, the United Nations Special Representative of the Secretary-General for Human Rights in Cambodia, Justice Michael Kirby noted several cases where security forces personnel

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had interfered in the workings of the judicial system. These included: an attack on Battambang prison by armed military elements on 29 March 1994, securing the release of a prisoner convicted of smuggling; the disruption of a scheduled trial in Kandal provincial court by armed military personnel on 15 July 1994; and the disruption of a scheduled trial at Phnom Penh Municipal court by armed military personnel on 7 July 1994.<sup>9</sup>

Cambodia's judicial structures are weak, and there is no history of judicial independence in the country. Intimidation, harassment and threats against the judiciary by security forces personnel make it even more difficult for it to function without prejudice and with confidence. Amnesty International calls on the Cambodian Government to ensure that international standards such as the Basic Principles on the Independence of the Judiciary are effectively implemented, and that members of the judiciary are protected against all forms of intimidation and targeted violence.

### Forced Conscription

Amnesty International has evidence that forced conscription continues to take place in Cambodia, although it is illegal. Amnesty International does not dispute the right of a government to raise troops, but any conscription should be carried out according to law<sup>10</sup>. Conscripts have the right to know for how long they must serve in the army, and where they will be based. Amnesty International knows of cases where men have been rounded up in villages and taken away, with no indication given of where they are to be taken, or for how long they will have to serve. Such practices amount to arbitrary detention, which Amnesty International opposes.

Cambodians in Battambang province and Siem Reap province told the organization about forced conscription in their villages. Their names cannot be published for their own security.

"Every year there is forced conscription. In the village where I work, 10 people were forcibly conscripted. Soldiers usually return with malaria and the government does not take care of them."<sup>11</sup>

Another person told Amnesty International;

"Forced conscription continued this year as normal. Responsibility for it comes back to a senior military figure who I cannot name, everyone knows it comes back to this man when many people are conscripted in an area. There are no rules or regulation about how they do it, or the age of people they take."<sup>12</sup>

Forced conscription instils serious disruption and fear in people's lives. The only way for people to avoid forced conscription is to pay soldiers substantial bribes which the majority of people cannot afford. Amnesty International knows of several villages where men sleep in their rice fields for months at a time, because they are too frightened to sleep at home for fear of being forcibly conscripted.

<sup>9</sup> See *Situation of human rights in Cambodia, Report of the Secretary-General, Recommendations of the Special Representative for human rights in Cambodia and the role of the United Nations Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights, Report of the Secretary General (A/49/635 3 November 1994 pp25-27)*.

<sup>10</sup> Amnesty International also believes that people who have conscientious objections to military service should not be forced to join armed forces in any country.

<sup>11</sup> Testimony of female Cambodian worker in Battambang province, November 1994.

<sup>12</sup> Testimony of male Cambodian worker, Battambang province, November 1994.

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During the UNTAC period, soldiers' salaries were paid by the United Nations. The Cambodian Government has requested assistance from western countries with training and reform of its army, and scrutiny of lists of army members reveal that many are "ghost soldiers", falsely claimed by unit commanders in order to gain their salaries. Amnesty International has received reports that forced conscription occurred in villages in order to make up a number of soldiers matching those claimed by unit commanders.

"People they forcibly conscript already have 'made names' when they are taken into the army to fill up 'ghost places'."<sup>13</sup>

One woman said to Amnesty International:

"I had a cousin, he was forcibly conscripted into the RCAF in August 1993, and got killed in September. There are no rules and regulations about conscription, it is indiscriminate."<sup>14</sup>

Many of those forcibly conscripted receive no wages and are not provided with adequate food. This leads to further illegal exactions by the military, when soldiers walk into villages and demand food and money from local villagers, threatening them with their guns - soldiers always remain unpunished for such acts. People are too frightened to reject their demands, and then too frightened to seek redress through the judicial process. One man told Amnesty International:

"I can't tell other people, but I can tell you...for people who live in the countryside, it is miserable. If they find out we have said anything they will come over and shoot us."<sup>15</sup>

On 23 November 1994, the Council of Ministers agreed on a draft law which stipulates that male Cambodian citizens aged 18 to 35 have a duty to "serve the motherland" in person for 18 months, except in the case of genuine physical handicap.<sup>16</sup> Amnesty International welcomes the fact that the government appears to be trying to establish a sound legal base for conscription. The organization recommends the government and the military authorities ensure that transparent procedures for the raising of troops, which are well-publicised and understood by the population, are put in place as quickly as possible. Military personnel who fail to abide by the conscription regulations should be brought to justice.

### Prosecution of military personnel

For too many Cambodians, the idea of the rule of law, applied equally to all people is no more than an abstract concept. The grim predicament of their daily lives is that people with guns have power, and people without guns are powerless. Until steps are taken to end the ability of the military and security personnel to act with impunity, this situation will continue. Amnesty International knows of one case, detailed below, where soldiers who shot and killed villagers were brought to justice. It illustrates that it is possible to have accountability in Cambodia, when the will is there to prosecute offenders.

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<sup>13</sup>Ibid.

<sup>14</sup> Testimony of a Cambodian woman, Siem Reap province, November 1994.

<sup>15</sup> Testimony of a male rice farmer, Siem Reap province, November 1994.

<sup>16</sup> "Second prime minister chairs 23rd November cabinet meeting" *National Voice of Cambodia*, Phnom Penh, 25 November 1994. As reported in *BBC Summary of World Broadcasts*, FE/2164 B/4, 28 November 1994.

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On 11 April 1994, four RCAF soldiers from the 22nd Battalion walked into Ban Teay village, Ko Lo-ap Commune, Kratie province, and demanded chickens from the villagers. When no chickens were provided, the soldiers accused the villagers of being "Pol Pot", that is, supporters of the Khmer Rouge, and fired at the villagers with their AK-47 rifles. Three villagers were killed, including a seven-year-old boy, and three others were injured.<sup>17</sup>

Three of the four soldiers involved in the attack were arrested and charged with the killings. The fourth soldier escaped arrest but was also charged. The three arrested were handed over to the civilian authorities, and tried at Kratie Provincial Court on 23 May. They were found guilty of manslaughter and sentenced to between 10 and 13 years' imprisonment. Families of those killed and wounded were reportedly provided with compensation in the form of money and food from the Commander of the 22nd Battalion, and with financial compensation from the provincial governor. Amnesty International welcomes the use of the judicial system to resolve this case, and believes that the case illustrates how the Cambodian authorities need to proceed in order to end impunity for the military and security forces in the country.

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<sup>17</sup> See Amnesty International Urgent Action 160/94 *Cambodia: Extrajudicial executions/Fear for Safety*, (ASA 23/04/94, 21 April 1994) and updates ASA 23/06/94 and ASA 23/07/94.  
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## The ethnic Vietnamese minority in Cambodia

*"Without the presence of international human rights organizations, there would not be even the shadow of a Vietnamese left in Cambodia."<sup>18</sup>*

### Background

The ethnic Vietnamese minority are the single most vulnerable group in Cambodia today. They have long been the subject of discrimination and persecution in Cambodia under successive governments. A substantial Vietnamese community was established in Cambodia during the 19th century, in the fertile agricultural areas by river banks and on the Tonle Sap lake. An urban Vietnamese population was brought to Cambodia in the early part of the 20th century by the French to assist in the administration of the Cambodian protectorate. During the period of the Lon Nol government (1970-1975) there were state-sanctioned massacres of ethnic Vietnamese Cambodians, and under the government of Democratic Kampuchea (1975-1978), the ethnic Vietnamese were forcibly exiled to neighbouring Viet Nam. Many died and were killed in the months before they were exiled, and during the journey to Viet Nam. Lack of official statistics make it difficult to know the exact numbers of ethnic Vietnamese living in Cambodia under successive government, but from an estimated 300,000 in 1970, the population had declined to 56,000 in 1984. Numbers have since risen, and current estimates vary at between 100,000 and 300,000.

During the period of the People's Republic of Kampuchea, from 1979 (later the State of Cambodia), many ethnic Vietnamese Cambodians returned from forced exile in Viet Nam to their home villages in Cambodia. They were followed by new migrants from Viet Nam who found it easy to travel and work in the country. When the Vietnamese army withdrew from Cambodia in 1989, large numbers of Vietnamese remained, some of whom were ethnic Vietnamese Cambodians with a long history of residence, while others were Vietnamese nationals. Thus the origins of the ethnic Vietnamese community in Cambodia are varied, and while some have arrived since 1979, many others are people whose parents and grandparents were born in Cambodia and whose families have been in Cambodia for generations or have returned recently, following the forced expulsions in 1975.

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<sup>18</sup> Interview with ethnic Vietnamese Cambodian, Phnom Penh, November 1994.  
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### Attacks on ethnic Vietnamese

Traditional antipathy towards Viet Nam, combined with the effects of the Vietnamese occupation of Cambodia has left the ethnic Vietnamese population vulnerable to attack. During the UNTAC period (1991 to 1993) more than 100 ethnic Vietnamese Cambodians were killed and more than 80 were injured in a number of violent attacks. UNTAC investigations concluded that NADK forces were responsible for the majority of these attacks. Attacks on ethnic Vietnamese Cambodians have continued after UNTAC's mandate ended. Amnesty International is concerned that no one has been brought to justice for attacking ethnic Vietnamese civilians during the UNTAC period or since. The organization also notes that ethnic Vietnamese victims have received little or no help from the authorities in the aftermath of violent attacks. This contrasts sharply with a case in October 1994, when NADK soldiers in Battambang killed more than 40 ethnic Khmers: then, because the attackers were known to be NADK, engaged in violent opposition to the Phnom Penh government and the victims were ethnic Khmers, the provincial and national authorities promptly arranged for aid to be provided to their families. Attacks on ethnic Vietnamese by armed opposition groups and more recently by government forces, are a frequent occurrence in Cambodia. Those detailed below are some of the most serious, but do not constitute a comprehensive list.

#### Attacks in Kandal province

On 9 April 1994, a group of five armed men entered the village of Piem So, Tror Sla commune, Sa Ang district, Kandal province. Carrying hand grenades and AK-47 rifles they advanced towards a group of children playing on the road, and threw grenades at them. The attackers then opened fire with their rifles. The chief of the village Sari Try came out to try to stop the attack, and was gunned down. In all, 13 people were killed, nine of them children, and 25 others injured. The Cambodian authorities arrested seven people in connection with the attack, but later released them citing lack of evidence against them. Amnesty International is gravely concerned at the release of these suspects, and at the fact that no further investigations have been made into the Piem So massacre. Available evidence suggests that there was a case to be made against at least two of these individuals. Reports that some of the seven had connections with the NADK could not be confirmed. Amnesty International has urged the Cambodian authorities to take action over this case.<sup>19</sup> The organization believes that the Cambodian authorities have a duty to protect all of the people of Cambodia, including members of ethnic minority groups.

On 5 September 1994, six villagers in Prek Dam commune, Ponhea Lu district, Kandal province were killed in an attack by armed, uniformed men. Four of the dead were ethnic Vietnamese. At around midnight, several men wearing uniforms arrived at the village in boats, entered a house and demanded gold. When they were told that there was no gold, they started shooting. Witnesses at the scene stated that the shooting was first directed at the houseboats where the ethnic Vietnamese were staying. According to one woman, the attackers stated that they were looking for ethnic Vietnamese. The attackers left the village after half an hour, and the police did not arrive until the following morning. Witnesses stated that the attackers were dressed in RCAF and NADK uniforms. A member of the RCAF who witnessed the attack said he believed the attackers were NADK soldiers. However, villagers said that members of the RCAF had visited the village the day before and demanded money from the village chief. In spite of the considerable evidence available, no one has been brought to justice for this attack.<sup>20</sup>

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<sup>19</sup> See Amnesty International Urgent Action 143/94 *Cambodia: Arbitrary killings/Fear for safety*, (ASA 23/03/94, 12 April 1994) and update ASA 23/09/94, 8 June 1994.

<sup>20</sup> See Amnesty International Urgent 340/94 Action *Cambodia: Arbitrary killings/Fear for safety*, (ASA 23/13/94, 15 September 1994) AI Index: ASA 23/02/95 Amnesty International 14 March 1995

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### NADK attacks in Kampong Chhnang province

On 27 August 1994, three fishermen from B'kiep village, Boribo district, Kampong Chhnang province were captured near Chhnok Tru, tied up and killed by an NADK unit believed to have been responsible for some of the killings in the area during the UNTAC period. The three men, Nguyen Yang Song (63), Nguyen Yang Nhang (44) and Nguyen Yang Linh (36) were out fishing when they were caught. A member of the ethnic Vietnamese community told Amnesty International:

"Their children witnessed it [the attack] and came and told, but no one dared go and pick up the corpses. The children said the people who caught them were Khmer Rouge, they had met them before when they were out fishing...I have been [to the authorities] many times to ask for assistance [for the families] but they just say 'later, later'."<sup>21</sup>

In another attack in October 1994, seven ethnic Vietnamese, including three children, were killed. At 12.30am on 20 October, more than 10 armed men entered the fishing village of Peam Charalai, Kampong Chhnang province. They asked the villagers whether they were *yuon* (a derogatory word for Vietnamese), and if they answered with a Vietnamese accent they were shot. Three of the dead came from one family. Three others were injured and the remaining villagers fled from the area. Although the attackers were wearing RCAF uniforms and civilian clothes, villagers recognised them as members of the NADK to whom they had previously paid protection money. During the UNTAC period, there were many NADK attacks on ethnic Vietnamese in Kampong Chhnang province. One man told Amnesty International:

"The families were promised some kind of assistance from the provincial authorities but they got nothing. As of now, even though I have been to ask, there has not been any news about it...The surviving relatives of the victims of massacres are in terrible hardship, they don't have a way of making a living or even feeding themselves."<sup>22</sup>

Amnesty International notes with concern the contrast between the situation in Kampong Chhnang, where victims families are given no help by the authorities, and the prompt action of the authorities in Bavel district, Battambang province, who immediately provided the relatives of ethnic Khmers with relief supplies, following the NADK massacre on 22 October 1994.

### The government's response

When Amnesty International raised the issue of attacks against ethnic Vietnamese with the Cambodian Government, ministers denied that RCAF forces had been responsible for any attacks. Amnesty International believes that as a full, impartial investigation has not been carried out into the Prek Dam killings, the Cambodian Government's claim that the RCAF has had no involvement in killings of ethnic Vietnamese can be regarded only as an assertion, not a statement of fact. In addition, as detailed above on page 18, there is at least one case where a RCAF soldier shot and killed an ethnic Vietnamese child, for which he has not been brought to justice. Amnesty International believes that until ethnic Vietnamese Cambodians effectively enjoy the rights and freedoms guaranteed under the constitution, harassment and

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1994).

<sup>21</sup> Interview with member of the ethnic Vietnamese community, Kampong Chhnang province, 14 November 1994.

<sup>22</sup> Ibid.

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attacks are likely to continue. In January 1994, the organization called upon the Cambodian authorities to amend the new constitution in order to ensure that all people enjoyed equal protection of the laws.<sup>23</sup> The constitution affords human rights guarantees to "Khmer people" rather than to "all people" and could be interpreted as excluding members of ethnic minorities. Amnesty International renews its call to the authorities to amend the constitution, in the wake of the dozens of deaths in ethnically motivated attacks during 1994.

### The Immigration Law

In August 1994, the Cambodian National Assembly approved an Immigration Law introduced by the government. The law, which falls short of international human rights standards, allows for the possibility of detention and expulsion of non-nationals who may have a legitimate claim to residency within Cambodia. The absence of any legal definition of what constitutes "Cambodian nationality" could allow for arbitrary application of the legislation, and allow for potential discrimination against groups of people who are long-term residents in Cambodia, but whose ethnic origin is not Khmer. A draft of the law which was made public was criticised by human rights groups, the United Nations High Commission for Refugees (UNHCR), and the UN Centre for Human Rights for falling short of international standards to which Cambodia is a state party, and because without accompanying legislation relating to Cambodian nationality, the law could not be properly implemented. Despite the many criticisms of the draft legislation, it was passed and is now part of Cambodian law.

Amnesty International wrote to the Cambodian Government in August 1994, expressing concern about the law, and advising it be withdrawn and redrafted to comply with international standards. No reply was received. The organization also raised the issue of the Immigration Law in talks with the Cambodian Government in November 1994. Amnesty International pointed out that an ethnic minority population whose country of origin is Cambodia should not be affected by this legislation, because such a population should be classed as resident not immigrant. The organization also reminded the Cambodian authorities that under international standards legislation cannot be applied retroactively, and that any attempt to do so would be a violation of international law. The government has given public assurances that there will be no mass deportations of any groups from Cambodia as a result of the new legislation. However, Amnesty International believes that reform of the Immigration Law is vital, if all people are to be afforded their basic human rights under international law. The organization remains concerned that members of the police and the armed forces in Cambodia do not understand the new legislation relating to immigration, and that they are discriminating against ethnic minorities on the grounds that the new law renders these people "illegal immigrants".

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<sup>23</sup> See Amnesty International *Kingdom of Cambodia: Human rights and the new constitution* (ASA 23/01/94, January 1994).  
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## Identity documents

Amnesty International is concerned that frequent changes made by the Cambodian authorities to the identity documents issued to the ethnic Vietnamese minority may serve to disguise their history of residence in the country. Proof of residence is likely to be one of the conditions required in order for people not of Khmer ethnic origin to acquire Cambodian citizenship, under the new Nationality Act being drafted by the Ministry of Interior, and not yet available to Amnesty International. Interviews with ethnic Vietnamese in Cambodia during November and December 1994 reinforced Amnesty International's fears that since the new Immigration Law was passed in August, ethnic Vietnamese have been subject to increasing harassment and extortion from police and military forces in Cambodia.

### The "Family Card" system

During the period 1979 to 1991, many ethnic Vietnamese Cambodians exiled during the Democratic Kampuchea era returned to their homes. Some of them retained Cambodian identity documents dating back to the time of the French Protectorate in the country, but many others had lost their documents during the years of war and forced exile. The People's Republic of Kampuchea (PRK, later the State of Cambodia), established a system known as the K3 program, which applied to all ethnic groups living in the country. Its workings in Phnom Penh began in 1980, when ethnic Vietnamese families were instructed to request a "temporary residency" certificate, from the police in their area. This certificate recorded their family details, background, place of work, place of residence, and period of residence. In 1984, police investigated resident Vietnamese families, in order to establish how long they had lived in Phnom Penh, and whether they had moved house, maintained employment, and been law-abiding residents. In 1989, the district level People's Committees, on the basis of the information gathered in the previous years, began issuing "Family Cards" (also known as family books), to people who had remained over the entire 10 year period, and who had proved themselves to have been stable, law-abiding residents.

Amnesty International interviewed ethnic Vietnamese residents from five provinces in November 1994, and established that comparable systems for registering ethnic minority residents had operated throughout the country. Ethnic Vietnamese from Kampong Chhnang province explained the information recorded on the family cards during the PRK administration: "The old family books showed place of birth, citizenship, ethnicity, dates of residence, including place of residence and occupation."<sup>24</sup>

The K3 program established a system whereby members of the ethnic Vietnamese minority in Cambodia were able to gain recognition of their status as Cambodians. The family cards listed ethnicity and citizenship, recognising the fact that the holders were Cambodians of ethnic Vietnamese origin. However, in 1991 the K3 program was suspended, and ethnic Vietnamese were issued with purple-coloured papers, stating "Certificate of Recognition for Overseas Vietnamese Person" on the front. This happened throughout the country. One man told Amnesty International:

"In 1991, we were told that Overseas Vietnamese had no right to carry a Khmer identity card, and we had to carry the Overseas Vietnamese Card. The old blue cards all looked the same. We were told it was easier for the police to do their work when the Vietnamese had different cards from the Khmers, but I don't know what this meant."<sup>25</sup>

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24 Interview with ethnic Vietnamese man, Kampong Chhnang town, Kampong Chhnang province, 14 November 1994.

25 Interview with ethnic Vietnamese fisherman, Chhnok Tru commune, Kampong Chhnang province, 25 November 1994.  
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In Siem Reap province, new cards were also issued. One man showed his card, which states; "This card has been issued in place of an identity card which has been provisionally collected."<sup>26</sup> A man in Kampong Chhnang said;

"The family books have been replaced by the new provisional family cards. [The old cards] were a recognition of Cambodian identity. The new cards just say "Overseas Vietnamese Person" on the front. I think the old ones are better. The new ones are just to know numbers, [the authorities] are not interested in our history."<sup>27</sup>

The people Amnesty International spoke to were very worried by the fact that the new "Overseas Vietnamese Person" cards made no mention of their history of residence in Cambodia, and gave no recognition of their right to Cambodian citizenship or even permanent residency. They expressed concern that migrant labourers arriving from Viet Nam could be issued with exactly the same cards, although they had no history of residence in the country. Almost all of the ethnic Vietnamese who spoke to Amnesty International complained of the large bribes they were forced to pay at military and police checkpoints, because they had "Overseas Vietnamese Cards" rather than Khmer identity cards.

### Restrictions on freedom of movement

Since the new cards were issued in 1991, and more recently in 1993, when new white "Overseas Vietnamese Cards" were issued in some provinces to replace the purple documents, the cardholders have found it increasingly difficult to carry out their daily business. In one village in Siem Reap, the fishermen have stopped taking their fish to market in the provincial town, because they cannot afford the bribes demanded by the military police in order to reach town. "I give my fish to Khmers to sell, as they don't tax Khmers, only Vietnamese. So the Khmers take our produce to markets."<sup>28</sup> Another man from the same village said that since the military police were established in the province four to six months earlier, the villagers have been unable to move around. He told the organization:

"Everyone who lives in this village was born in Cambodia, some in Pursat province, some in Kampong Chhnang, Battambang, and Kampong Thom and some in Siem Reap. In 1975 we were all exiled to Viet Nam, not a single person was left here. But we started coming back after 1979. Four generations of my family have lived here. In the Sihanouk era [1953-1970] we were called ethnic Vietnamese Cambodians, and I don't know how or why we are now called Overseas Vietnamese... it is even more obvious that the military police are saying that seeing these ethnic Vietnamese don't have full rights, we'll provisionally make money from them, as they are vulnerable."<sup>29</sup>

In Phnom Penh and the surrounding area the situation is similar. Ethnic Vietnamese Cambodians told Amnesty International that they are forced to stop at military and police checkpoints in and around the city, and any identity documents and valuable items they are carrying are confiscated, because their holders "are Vietnamese not Khmer". They stated that the establishment of the military police had meant an extra set of checkpoints at which they were illegally and arbitrarily taxed. Many of them are unable to

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26 Interview with ethnic Vietnamese fisherman, Siem Reap province, 19 November 1994.

27 Interview with ethnic Vietnamese man, Kampong Chhnang town, Kampong Chhnang province, 14 November 1994.

28 Interview with ethnic Vietnamese fisherman, Siem Reap province, 19 November 1994.

29 Interview with second fisherman, Siem Reap province, 19 November 1994.

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move across the city, because they cannot afford to pay the bribes demanded and as a consequence are unable to make a living. The ethnic Vietnamese mentioned that the level of harassment escalated following the passing of the Immigration Law in August 1994. They suggested that some military and police personnel may have come to the incorrect conclusion that the law renders all ethnic Vietnamese in Cambodia illegal immigrants.

### Discrimination by provincial authorities

Amnesty International is concerned that no distinction has been made between long-term residents from the ethnic Vietnamese minority and migrant workers coming to Cambodia to seek short-term employment. The first group have a right to the full benefits of citizenship, as they are first and foremost Cambodians, and have no other nationality. Amnesty International does not dispute the right of governments to control immigration, but is concerned that immigration controls are not applied to residents of a country on the basis of their ethnic origin. In 1993 ethnic Vietnamese Cambodians in some provinces, notably Kampong Chhnang, Pursat and Phnom Penh were issued with new white cards, stating their identity as Overseas Vietnamese persons, on the grounds that under the new government the purple cards could no longer be considered valid.

In some provinces, the authorities have taken extreme discriminatory measures against their ethnic Vietnamese minority populations. In Kampong Chhnang province, ethnic Vietnamese had to apply for the new white cards in September 1993, but these cards are not an automatic replacement for the purple cards. Ethnic Vietnamese residents in Chhnok Tru, Kampong Chhnang province had to find two Khmer guarantors in the locality who would vouch for the fact that their parents and grandparents were resident in Cambodia, before the cards could be issued.

"Khmer guarantors had to enter their own names, identity card numbers and signatures against the names of all ethnic Vietnamese they stood as guarantors for...Anyone who still carries the purple card won't show it, as they are useless and it will be taken from them if they show it. We keep them if we can for the record, in case there is a problem in the future, we have got evidence to show we were here."<sup>30</sup>

In Pursat province, the "Pursat Immigration Authority" (Amnesty International was unable to obtain information about the legal status of this body) has been issuing an "Immigration Certificate for Recognition of Expatriates", since April 1994, which states "this recognition certificate is for expatriates to use provisionally". Every three months, holders of this certificate have to take it to the Pursat authorities to have it extended, at a cost of 10,000 riels (about US\$4). Amnesty International is concerned that the ethnic Vietnamese Cambodians in Pursat province are regarded as "Expatriates" by the authorities there, and believes that this classification is a violation of the International Covenant on Civil and Political Rights (ICCPR), to which Cambodia is a state party. Article 26 of the ICCPR states:

"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or status."

Amnesty International believes that by denying ethnic Vietnamese Cambodians the right to standard

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<sup>30</sup> Interview with ethnic Vietnamese man, Chhnok Tru, Kampong Chhnang province, 25 November 1994.  
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identity documents, and in particular, by classifying them as "Overseas Vietnamese", "Immigrants" or "Expatriates" the Cambodian authorities are discriminating against a sector of society solely on the grounds of their ethnic origin. The organization is calling on the Cambodian Government to recognise the rights of all Cambodians, including those from ethnic minorities, to equal protection of the laws.

### Internally Displaced ethnic Vietnamese

In March and April of 1993, following a massacre of 33 ethnic Vietnamese in the "floating village" (grouped houseboats) of Chong Khneas in Siem Reap province, by NADK soldiers, large groups of ethnic Vietnamese fled south in their boats, towards Viet Nam.<sup>31</sup> Armed UNTAC units monitored the exodus from patrol boats and by air. Some 37,000 people left their home villages, some of whom crossed the border into Viet Nam. However, the Vietnamese authorities refused to accept a group of more than 4,000 ethnic Vietnamese on the grounds that they were Cambodians, and Cambodia should take responsibility for them. The Cambodian border police, acting on instructions from the authorities in Phnom Penh refused to allow them to leave the border area, and they remained stranded there, at the Chrey Thom border crossing point. The Cambodian authorities claimed that these people were Vietnamese citizens, who did not have a history of residence in Cambodia, and had no right to return to the country. The UNHCR classified these people as internally displaced persons, i.e. Cambodians uprooted from their homes following violent attacks by the NADK. The UN Special Representative of the Secretary-General for Human Rights in Cambodia, Justice Michael Kirby, during a visit to Chrey Thom in July 1994 also declared these people to be internally displaced persons, who should be allowed to return to their country of origin, which is Cambodia.

In November 1994, Amnesty International visited the ethnic Vietnamese at Chrey Thom, and interviewed people at random, in an attempt to establish their backgrounds, and the validity of their claim to Cambodian origin. Without exception, the people interviewed by Amnesty International could prove a long history of residence in Cambodia. They all spoke the Khmer language, and many of them produced identity documents from earlier times, including some dating as far back as the period of the French Protectorate. One man said:

"I was born in Pursat province in 1930...I know of three generations of my family who lived in Kampong Chhnang. I remember my mother telling me about my grandfather who died there...Since I came here I have asked many times to return...we want to return to the lake [the Tonle Sap]. We want to ask you to get them to allow us to return, we are just too miserable here."<sup>32</sup>

Another said:

"I am 66-years-old. I come from Battambang, I was born there. I came here in March 1993, when I heard about the killing in Siem Reap. Before that, I was fishing and making a living by the lake. I still have identity papers."<sup>33</sup>

Amnesty International was very concerned that the police at Chrey Thom had issued white cards to the

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<sup>31</sup> For details of this and other attacks on ethnic Vietnamese during the UNTAC period see *Cambodia: Arbitrary killings of ethnic Vietnamese* (ASA 23/05/93, September 1993).

<sup>32</sup> Interview with ethnic Vietnamese man, Chrey Thom border crossing, 24 November 1994.

<sup>33</sup> Interview with ethnic Vietnamese man, Chrey Thom border crossing, 24 November 1994.

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ethnic Vietnamese, stating that they are "Vietnamese citizens". One woman said "They told us that if we lose the piece of paper from the police, we can't return. But we can't return anyway. But we still can't lose the piece of paper."<sup>34</sup> All of the people who spoke to Amnesty International said that no one from the Cambodian authorities had asked them to provide evidence to support their claim of Cambodian origin, and no one had given them the opportunity to present their cases. One man said:

"I think everyone here has long-term ties with Cambodia, but I couldn't guarantee what the authorities would think. If they don't believe that we are originally from Cambodia, then all they need to do is take down our names and places of residence and compare them with the original statistics that still exist in Kampong Chhnang and other places. Given the opportunity we could prove it, but we can't when we are stuck here."<sup>35</sup>

Amnesty International visited a commune in Kampong Chhnang province, and was shown family books belonging to ethnic Vietnamese stranded at Chrey Thom. No one from the Cambodian authorities had asked to see these documents, even though they provide proof of long-term residence in Cambodia. Representatives of the ethnic Vietnamese in Kampong Chhnang told Amnesty International that there were Khmers in the area who would be able to vouch for the fact that the families they knew at Chrey Thom had lived in Cambodia for generations, but they had not been asked to do so. The UNHCR and the United Nations Centre for Human Rights in Cambodia took up these cases, and Justice Michael Kirby visited Chrey Thom for the second time in January 1995. His visit drew attention to the plight of these people who have been arbitrarily deprived by the Cambodian Government of the right to enter their own country, in direct contravention of Article 12 of the ICCPR.

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<sup>34</sup> Interview with ethnic Vietnamese woman, Chrey Thom border crossing, 24 November 1994.

<sup>35</sup> Interview with representative of the internally displaced ethnic Vietnamese, Chrey Thom border crossing, 24 November 1994. Amnesty International 14 March 1995AI Index: ASA 23/02/95

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### Action by the Cambodian authorities

Progress has been made on the position of the ethnic Vietnamese at Chrey Thom, which Amnesty International hopes will result in them being able to exercise their right to return to their country. Cambodian First Prime Minister Prince Norodom Ranariddh visited Viet Nam from 15 to 17 January 1995. At the end of his visit, the two governments issued a press communique, which stated;

"The two sides agreed to resolve as soon as possible the issue of Vietnamese nationals in Chrey Thom and to find a prompt solution to the issue of Cambodian refugees in Viet Nam."<sup>36</sup>

Shortly after this communique was issued, the two Ministers of Interior made their first visit to Chrey Thom and the cases of the ethnic Vietnamese at Chrey Thom have now been taken up by the Director of the Aliens Department.

### Screening process

Amnesty International was very pleased to learn that a screening process is to be established, in order to give the families at Chrey Thom the opportunity to prove their histories of residence, and return to their home provinces in Cambodia. The organization has learned that initially, families with documents dating from the period before 1970 will automatically be given the right to return home. After that, those with documents from the period 1970 to 1979 will be screened. Finally, the cases of people with post-1979 documents or with no documents at all will be dealt with. Amnesty International was also pleased to learn that those people who have no documents will be allowed to ask guarantors from their home villages to vouch for them, and that this will be accepted as sufficient proof of history of residence.

The UNHCR and the United Nations Centre for Human Rights have offered assistance to the Cambodian authorities in this screening procedure, and Amnesty International understands that this offer has been accepted. The organization hopes that the Cambodian authorities will implement the screening process promptly and fairly, with proper provision for an appeals process. Amnesty International believes that transparency and fairness in the screening process can best be obtained by seeking the advice and assistance of the UNHCR, and welcomes the authorities apparent willingness to work with international agencies towards the resolution of the plight of the people at Chrey Thom. The organization was concerned by reports received from sources in Cambodia in February 1995 that the screening and returns process may be delayed; it hopes that these internally displaced persons, arbitrarily deprived of the basic human right to enter their own country for almost two years, will soon be able to go home.

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<sup>36</sup> "Communique issued on Ranariddh's visit to Viet Nam" (*Voice of Viet Nam*, Hanoi 17 January 1995), as reported in *BBC Summary of World Broadcasts* FE/2205 B/2 19 January 1995.  
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## Freedom of Expression

***"The authorities cannot simply confiscate our material without reference to any official order issued according to the law."<sup>37</sup>***

One of the positive legacies of the UNTAC period in Cambodia was the establishment of a free press. Prior to the signing of the Paris Peace Agreements, there was no history of freedom of expression in Cambodia, and successive governments had maintained tight control over the press, broadcast media and publishing industry. During the UNTAC period, large numbers of newspapers were established. An ongoing UNESCO-sponsored training program developing the concept of professional ethics, and the formation of a Khmer Journalists Association, are helping to promote higher standards.

The Cambodian Government has become increasingly intolerant of media criticism of its policies, notably since the apparent coup attempt in July 1994. The current Press Law was passed in 1992 by the State of Cambodia government, and affords draconian powers to the state to shut down newspapers which publish articles critical of the government, and to imprison journalists and editors. A draft Press Law approved by the Council of Ministers in December 1994 extends these powers, and falls far short of minimum international standards for freedom of expression. At least two journalists were killed in possible extrajudicial executions in the last four months of 1994, others have received threats against them.

### Arrest and detention

In July 1994, Nguon Non, a newspaper publisher and editor, became the first prisoner of conscience adopted by Amnesty International in Cambodia since the new government came to power. Nguon Non's Khmer-language newspaper *Damnoeng Pil Proek* ("Morning News") is published twice weekly. On 8 July, Nguon Non was arrested in connection with articles published in his newspaper that day, relating to the coup attempt of 2 July. Amnesty International called on the Cambodian Government to release Nguon Non immediately and unconditionally, because his arrest and detention was in direct contravention of Article 19 of the ICCPR.<sup>38</sup> After appeals to the authorities from the UN High Commissioner for Human Rights José Ayala Lasso, and the UN Special Representative of the Secretary-General for Human Rights in Cambodia, Justice Michael Kirby, Nguon Non was released on unconditional bail. He has resumed publication of the Morning News but the charges against him still stand, although no date has been set for his trial.

### Threats and killings

Two journalists were killed in what appeared to be politically motivated attacks in 1994. A third journalist died in suspicious circumstances, and others were threatened.

### The case of Nuon Chan

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<sup>37</sup> Statement released by *Samleng Yuvachen Khmer* newspaper, Phnom Penh, 16 February 1995, following the confiscation of their printing material by Ministry of Interior officials on 15 February 1995.

<sup>38</sup> For further details see *Cambodia: Arrest of newspaper editor Nguon Non* (ASA 23/12/94, 18 July 1994). Amnesty International 14 March 1995AI Index: ASA 23/02/95

Nuon Chan was the editor of the newspaper *Samleng Yuvachen Khmer* ("Voice of Khmer Youth"). Between April (when the paper began publishing) and September 1994 its staff were warned three times by the government about articles critical of the conduct of government officials. The editor of the newspaper resigned on 22 July having received threats to his life. Under his successor Nuon Chan's editorship, the newspaper continued to publish articles critical of government officials allegedly involved in corruption scandals. It also published articles about the July attempted coup.

On 7 September, Nuon Chan was riding his motorcycle in central Phnom Penh, by Wat Phnom. Eyewitnesses report that a group of men approached him on motorcycles and shot him twice in the back. The men drove away on their motorcycles, surrounded by apparent accomplices in cars. No attempt was made to rob Nuon Chan, and the men who killed him drove off immediately after the shooting. The police arrived, and after half an hour, they sent Nuon Chan in a cyclo (a three-wheeled pedal taxi) to the nearby Calmette Hospital, where he was pronounced dead on arrival. Prior to the shooting, Nuon Chan had been summoned to the office of the first Prime Minister, Prince Norodom Ranariddh and to the Interior Ministry, to receive official warnings about the content of the articles criticising the government. Fearing for his safety, he had made contact with local human rights organizations to let them know about the pressure he was under from the government. In a statement released after the killing Amnesty International said:

"The unexplained violent death of this man, and other acts of intimidation, add to the pressures on journalists to exercise self-censorship. The right to freedom of expression is at stake in Cambodia, as journalists have increasingly come under pressure in recent months not to criticise the government."<sup>39</sup>

The organization called on the Cambodian Government to launch an immediate, impartial investigation into the killing of Nuon Chan, to make the results of such an investigation public, and to bring those responsible to justice. On 18 and 19 September, two men were arrested on charges of the murder of Nuon Chan. According to a newspaper report, the suspects were not brought to Court until the middle of November, some two months after their arrest.<sup>40</sup> This contravenes Cambodian law which stipulates that all suspects must appear before a court within 48 hours of arrest. The judge at the court in Phnom Penh refused to hear evidence against the men, including confessions apparently made during the two months of incommunicado detention. The men told the court that they had been forced to fingerprint confessions presented to them by the police. The two men were then remanded in custody while investigations continued. No progress had been made with the case by February 1995, five months after they were arrested.

Amnesty International is gravely concerned about the transparency and thoroughness of the investigation into the murder of Nuon Chan. Eye-witness reports which apparently identified those responsible appear to have been ignored, and yet no firm connection has been established between the killing on 7 September and the two men arrested and charged with responsibility. The organization renews its call to the Cambodian authorities to launch an impartial inquiry into the killing of Nuon Chan, taking into account all the evidence available. It also believes that the two men currently in detention in connection with the killing should be promptly charged with a recognisably criminal offence and given a fair trial, or released.

<sup>39</sup> Amnesty International News Service 208/94 *Amnesty International queries shooting death of Cambodian newspaper editor* (ASA 23/WU 4/94, 9 September 1994).

<sup>40</sup> See "Judge rejects confessions of 2 editor murder suspects", *Phnom Penh Post* November 18 - December 1 1994. AI Index: ASA 23/02/95 Amnesty International 14 March 1995

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### The case of Chan Dara

Chan Dara was a 29-year-old journalist, working for the newspaper *Koh Santepheap*, reporting from Kampong Cham province. On 8 December 1994, Chan Dara was riding his motorcycle away from a restaurant in Kampong Cham when he was shot twice in the back and killed. Only two days before his death, Chan Dara had informed the office of *Koh Santepheap* in Phnom Penh that he had received warnings from the military police in Kampong Cham to stop his investigations into military involvement in the timber trade in the province. It is known that Chan Dara had contacts with journalists on another newspaper, *Preap Norm Sar*, which since it began publishing in November 1994 had printed a series of articles on the illegal involvement of provincial military officials in the timber and rubber industries. Chan Dara's newspaper, widely regarded as pro-CPP, had published only one article on the subject. Chan Dara's wife, who ran a newspaper stand in Kampong Cham also received threats from military personnel shortly before her husband was killed.

The editor and journalists at *Preap Norm Sar* newspaper also received threats at the time that Chan Dara was killed. They appealed to the police in Phnom Penh on 11 December to provide them with protection, but the request was refused. On 13 December, staff were alarmed by an unidentified man apparently watching their offices. Amnesty International issued an immediate appeal on behalf of the editor and staff of the newspaper calling on the Cambodian authorities to ensure that necessary protection was provided.<sup>41</sup> The appeal was given widespread publicity, and the organization was pleased to hear that the threats against *Preap Norm Sar* staff have stopped.

On 11 December, an army colonel was arrested in the Kampong Cham province and taken to Phnom Penh, where he is being held in T3 prison. He has been charged with the murder of Chan Dara. The court in Kampong Cham is continuing with the investigation into the murder and collating the case against the suspect. Amnesty International was concerned to hear reports from sources in Cambodia in February 1995 that the court's progress in the investigation has been very difficult, apparently because of the suspect's many connections with the authorities in the province.

### The case of Tou Chhom Mongkol

Editor-in-chief of *Antarakhum* newspaper Tou Chhom Mongkol died on 11 June 1994, from head injuries he received the day before. According to his colleagues at the newspaper he left the office at about 5pm on 10 June to meet two of his editors. At about 9pm he left the meeting to travel home by motorcycle to a southern part of the city. Three policemen later found him on a main road, unconscious. His motorcycle was lying beside his body, and no valuables appeared to have been stolen. Tou Chhom Mongkol was taken to hospital but died later from the effects of a single blow to the back of the head.

The death of Tou Chhom Mongkol came less than three months after two unidentified men threw a grenade into the *Antarakhum* offices, on 24 March 1994. The explosion wounded five people, including two newspaper staff. Although the police investigated the attack, no arrests were made and no report into the case was ever made public. *Antarakhum* is a bi-weekly paper established in July 1993, which resumed publication in February 1994 after a break of some months. Some of the articles printed have

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<sup>41</sup> Amnesty International Urgent Action 441/94 *Cambodia: Possible extrajudicial execution/Fear for safety* (ASA 23/17/94, 14 December 1994).

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been critical of the conduct of government officials.

Amnesty International was concerned that the circumstances of the death of Tou Chhom Mongkol indicated that he may have been extrajudicially executed; it called on the authorities to launch an immediate, impartial investigation and to make its results of public. It also called on the authorities to ensure that journalists working in the country are not subjected to threats, harassment and intimidation by government security forces.<sup>42</sup> Responses received from the Ministry of Information and the Ministry of the Interior stated that Tou Chhom Mongkol died as the result of a traffic accident, a collision with a cyclo which caused him to fall off his motorcycle. The two ministries cited witness reports of the case as evidence. Independent examination of X-ray photographs taken of Tou Chhom Mongkol's skull indicated that it is more likely that his injury was caused by a fall than from a blow to the head, although in the absence of an autopsy report from a qualified forensic pathologist, the latter situation could not be ruled out. Amnesty International was pleased to note that its members who wrote to the Cambodian Government about this case received replies to their letters. The organization regrets that the Cambodian authorities have been unable to identify those responsible for the grenade attack on the *Antarakhum* offices in March.

### The Draft Press Law

The Press Law currently in force in Cambodia dates from 1992. It was drafted and approved by the then State of Cambodia Government. Although it allows for draconian sanctions against editors and journalists, including imprisonment and the closure of newspapers, UNTAC did not attempt to halt the passing of this legislation. Nguon Non was arrested and detained under this legislation. Since its inception in September 1993, the new government has been drawing up legislation to replace existing laws and to create a legal framework where previously there was none. A priority for the government was a new press law. Human rights groups, journalists and UN representatives were dismayed when a draft of the new press law was made public early in 1994. The draft invoked widespread criticism and was withdrawn pending consultation and redrafting. However, the draft law which was finally made public in November 1994 was even harsher than the original, and the criminal penalties it allowed more stringent than those of the 1992 State of Cambodia Law. Of particular concern to Amnesty International were Articles 10, 12 and 14.

Article 10 of the November 1994 draft press law affords criminal penalties for "defamation and humiliation" of individuals. Such penalties are an infringement of international human rights standards and should be replaced by civil sanctions, such as fines. At no point is "humiliation" defined in the draft law, and it should be removed. Indeed, as a general point the draft as a whole is vaguely worded, allowing for ambiguity in interpretation - for example, there is no definition of what constitutes a "newspaper".

Article 12 of the draft imposes criminal penalties for anything "which causes or may cause turmoil to public security or affects the secrecy of the military so that it causes turmoil to public security or impacts the territorial integrity, national unity, independence, sovereignty, stability of governing the state, peace and good relations with other countries." Article 14 states: "the press shall not publish anything which humiliates or degrades national organs or public authorities of the Kingdom of Cambodia."

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<sup>42</sup> Amnesty International Urgent Action 231/94 *Cambodia: Possible extrajudicial execution/Fear for safety* (ASA 23/11/94, 15 June 1994).

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Amnesty International strongly opposes these Articles. Laws preventing and punishing criminal acts and laws which protect interests under civil law are sufficient to protect the legitimate interests of the state. No government should pass laws in the name of "national security" which criminalize the right to freedom of expression, and lead if enforced to the incarceration of prisoners of conscience. Article 19 of the ICCPR states that "everyone shall have the right to freedom of expression." It also recognises that this right carries with it "special duties and responsibilities" but this recognition does not give governments the right to impose criminal penalties on the press and broadcast media for exercising rights safeguarded under international standards.

In talks with the Second Prime Minister and the Minister of Information, Amnesty International raised the issue of the draft press law and the broader issues of freedom of expression. Second Prime Minister Hun Sen told the organization:

"No Cambodian newspaper has freedom with responsibility. There may well be more deaths which will result in putting the government in a very difficult position. Newspapers don't take responsibility and censor themselves, and the people they offend can continue to hire people to kill them. The government investigations are very difficult...Anarchy of the written word goes hand in hand with anarchy of the gun. So to all organizations that respect freedom, don't forget to speak of obligation when speaking of freedom."<sup>43</sup>

Amnesty International accepts that special duties and responsibilities may accompany the exercise of the right to freedom of expression, but reiterates its belief that the criminal penalties provided in Cambodia's draft press law may lead to violations of basic human rights.

In January 1995, King Norodom Sihanouk expressed the wish that criminal penalties in the draft press law should be removed. His wishes were supported in a statement from Chea Sim, President of the National Assembly. The draft law was due to go before the National Assembly in February 1995 but did not appear on the agenda, and reports received by Amnesty International suggest that a new draft law with civil rather than criminal penalties is now due to go to the National Assembly in April. At the time of writing, Amnesty International had not obtained a copy of the new draft, but the organization hopes that any new draft complies with international human rights standards on freedom of expression as laid down in the ICCPR.

### Closure of newspapers and legal action

During the last year, the Cambodian Government has on several occasions ordered the suspension of publication of newspapers, or has confiscated copies of newspapers. This is a clear violation of international law.

On 16 May 1994, the newspaper *Sokal* was closed by order of the Ministry of Interior and 10,000 copies of an issue of the paper were confiscated because they allegedly criticised senior military figures.<sup>44</sup> On 9 November 1994 the newspaper *Oddomkete Khmer* was issued with a suspension order over a letter it printed criticising the two Prime Ministers. The newspaper was closed on 11 November. The newspaper

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43 Meeting with Second Prime Minister Hun Sen, Council of Ministers, Phnom Penh, 28 November 1994.

44 See United Nations report to the General Assembly (A/49/635, 3 November 1994, pp31-32).

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*Samrek Reas Khmer* was also shut down at the same time for allegedly using derogatory language, and not being officially registered.<sup>45</sup> On 23 December 1994 the newspaper *Monak Seka Khmer* was issued with a two-week suspension order by the Ministry of Information, beginning on 26 December, because the paper had allegedly published "a derogatory article that blasphemed the Royal Government, the National Assembly and the Judiciary". The paper resumed publication on 9 January 1995. *Oddomkete Khmer* was able to resume publication on 17 January 1995 but the Cambodian Government issued a new suspension order on the newspaper a month later.

*Samleng Yuvachen Khmer* and *Sereipheap Thmei* were issued with suspension orders in the middle of January 1995, because of articles they had published which the government claimed insulted the two Prime Ministers. The suspension order was revoked several days later when the government announced that it would sue the newspapers in the courts under the 1992 State of Cambodia Press Law. Charges were to be brought under Article 32 of the law, which provides for criminal penalties of up to six months imprisonment. However, Amnesty International learned in February 1995 that Chan Rotana, editor of *Samleng Yuvachen Khmer* has been summoned to appear in the Phnom Penh criminal court on 27 February 1995, charged under Article 62 of the UNTAC provisional code (which remains valid until superseded by new legislation), with the publication of "inaccurate news". If found guilty Chan Rotana could face a fine of up to 10 million riel, or up to three years in prison. Amnesty International recalls that the Cambodian authorities stated in January they would press only for civil damages in these defamation cases.

Amnesty International welcomes the fact that the suspension order on these newspapers was revoked. However, the organization noted with regret reports on 15 February that the government had again suspended publication of *Oddomkete Khmer*, "until we have a press law". It is also a matter of concern that the government reportedly stated its intention to apply any new press law retroactively to the newspaper, in clear violation of international law.

On the same day as the suspension of *Oddomkete Khmer*, 10,000 unbound copies of a pamphlet entitled "Only the King can Save Cambodia: Cambodian People Want Peace," to be published by *Samleng Yuvachen Khmer* were confiscated by Ministry of Interior officials. In a statement released on 16 February 1995, the newspaper announced that all the material in the pamphlet had already been published before elsewhere or in the newspaper itself. The statement also claimed that the officials from the Ministry of Interior who confiscated the printing material did not present any warrant or court order or written government decision explaining their confiscation of the newspaper's property.

Following the murder of *Samleng Yuvachen Khmer* editor Nuon Chan in September 1994, Amnesty International reiterated its concern that journalists must have the right to practice their profession without threats and intimidation from government officials. The organization calls on the Cambodia Government fully to investigate the killings of journalists and to bring those responsible to justice; to ensure that any legislation on the press is consistent with international human rights standards; and explicitly to prohibit the use by government authorities against newspapers of such arbitrary measures as suspension orders or confiscation of property.

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<sup>45</sup> See "Cyclo driver's letter leads to ban on paper", *Phnom Penh Post* November 18 - December 1 1994.  
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## Human rights organizations and the government

*"Coupled with the need to rebuild state institutions is the need to rebuild or build the basic institutions and structures of civil society. The strengthening of civil society is the most essential guarantee against the recurrence of the state repression of the past."*<sup>46</sup>

The establishment and growth of local human rights non-governmental organizations (NGOs) during the UNTAC period has continued since the end of the UNTAC mandate. One of the most positive contributions of UNTAC was that it allowed the basic structures of civil society to take root in Cambodia, where they had previously been stifled by repressive state control. While visiting Cambodia in November and December 1994, Amnesty International met representatives from more than 10 local NGOs, some of which have offices in the provinces as well as in Phnom Penh. These groups are vital for the promotion and protection of human rights in Cambodia. The range of their activities is wide, and includes monitoring, education and training, prison visits, development work and providing defenders for people brought to court.

Workers in this human rights movement have shown great courage in the past year, as they have exposed ill-treatment of prisoners, investigated and publicised cases where military and police personnel have committed human rights violations, and upheld the right of those taken to court to be represented by a defender. However, Amnesty International is concerned that in recent months these people have come under increasing pressure and surveillance by the Cambodian authorities, because they have dared to speak out on issues and are sometimes critical of the government.

Of particular concern to Amnesty International are the apparent attempts by the Cambodian Government, notably since the July attempted coup, to silence the local NGOs, and to regulate their activities. The organization believes that some of the actions of the government have violated the rights to freedom of association and expression of the targeted individuals.

### Ministry of Interior directives

In June 1994, a directive from the Ministry of Interior to the Governors of all provinces, stating that some associations had been "perform[ing] their activities contrary to their own structure, such as: doing commercial activities secretly; doing political activities; using tricks to dupe the interest of the poor peasant."<sup>47</sup> A second directive that month instructed that "if any association(s) have already established offices in the provinces and cities or intend to conduct professional training, conferences or seminars, or conduct various meetings, these associations must inform the base state-power five days beforehand."<sup>48</sup>

### Effect on provincial workers

As a result of these directives, the Battambang provincial governor's office issued its own directive on 7 July 1994, requesting district and municipal governors in the province to direct leaders of clubs and associations to send written requests for permission to conduct their activities, and enclose with these

<sup>46</sup> *Human Rights Component* Final Report UNTAC Phnom Penh, September 1993, p70.

<sup>47</sup> Decision of Ministry of Interior No 486 SS.MP, Phnom Penh, 11 June 1994.

<sup>48</sup> Decision of Ministry of Interior No. 474 SCN MP, Phnom Penh, June 1994.

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requests: "a list of members and statutes, with biographies of the associations' leaders and with a photograph attached, and all other relevant requests." Officials were told that they should also "direct various associations and clubs to report on their activities to the province on a monthly basis."<sup>49</sup>

Human rights workers who talked to Amnesty International in Battambang said that "the governor's office has suggested that senior members of the organization provide the authorities with personal biographies."<sup>50</sup> A human rights worker in another province told the organization:

"We submit a report of our activities to the governor's office. Before we do a class or any other activity we have to request permission from the governor's office or the police commissariat. So if we want to do something in a district, we have to [send a] request to both the governor's office and the police office."<sup>51</sup>

Amnesty International was concerned to learn that the military police in one province required human rights workers to call them by radio each time they investigated a case linked to the police. Such pressures place the human rights workers in a very difficult position. In order to be allowed to operate, they have to comply with the instructions of local officials and police, even though some of their work may involve investigations into misconduct by those in authority. In another province, NGO workers have been prevented from carrying out their legitimate activities by provincial authorities, who have justified their actions by quoting the Ministry of Interior directives.<sup>52</sup>

### The government's response

In a meeting with CPP Minister of Interior Sar Kheng, Amnesty International raised the issue of Ministry of Interior directives and their effect on human rights NGOs. The Minister said:

"From the past I must explain that the Interior Ministry had a role in administering them [NGOs]...I say that the Interior Ministry hasn't got a role, but it can assist. We ministries need to know of the number of associations; the number of members and especially the statutes have to be provided to the ministry, which we examine to make sure it is alright and then we make certain that the organization works according to its statutes...I never directed to send biographies to the Interior Ministry. If these NGO leaders wanted to send them then they did."<sup>53</sup>

Amnesty International believes that it is important for the Ministry of Interior to clarify the regulations governing the establishment and operation of NGOs in the provinces, in order to prevent further interference by provincial and district authorities in the day to day work of human rights workers.

### Intimidation of human rights leaders

In the months since the July coup attempt, several human rights leaders in Phnom Penh have come under pressure to stop their criticisms of the government. Notable incidents occurred after the killing of newspaper editor and journalist Nuon Chan on 7 September 1994. The Action Committee, a group of

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49 Battambang Provincial Governor inform No. 1155 KBB, 7 July 1994.

50 Interview with two human rights workers, Battambang province, 10 November 1994.

51 Interview with provincial human rights worker, 22 November 1994.

52 Interviews at provincial human rights workers meeting, Phnom Penh, 2 December 1994.

53 Interview with Minister of Interior Sar Kheng, Council of Ministers, Phnom Penh, 28 November 1994.

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local human rights NGOs issued a press release about this killing, as did the group Khmer Institute for Democracy. The Action Committee statement said:

"The Cambodian Human Rights Action Committee... wishes to condemn the recent alleged extrajudicial execution of Nuon Chan, editor in chief of the twice-weekly newspaper *Samleng Yuvachen Khmer*... we urge the Cambodia government to conduct a thorough and public investigation into Nuon Chan's assassination and prosecute those persons according to the law."<sup>54</sup>

Following the release of this statement, the leader of one of the groups in the Action Committee received a letter from the government authorities, threatening legal action against the group, although the statement came from the Action Committee as a whole, and not from this one group. The Khmer Institute for Democracy (KID) which also issued a press statement following the killing of Nuon Chan was the subject of a press release from the Ministry of Foreign Affairs. Part of this statement read:

"It is reminded that KID's status and mandate of operation in Cambodia have not been officially recognized and authorized by the local government according to the existing rule of Cambodia. Therefore KID has been operating here on illegal ground."<sup>55</sup>

It seems that the statement was issued by the Ministry of Foreign Affairs because the executive director of KID at that time was an Australian citizen. KID was given accreditation as a local NGO by the then Prince (later King) Norodom Sihanouk on 16 January 1992, in his position as Cambodian Head of State and President of the Supreme National Council. KID was never invited by the new government to register a second time, and had not received any copy of legislation requiring such registration from the Cambodian Government.

Amnesty International notes that in his report to the 50th session of the UN Commission on Human Rights, UN Special Representative Justice Michael Kirby noted:

"The Constitution has also guaranteed freedom of association in its article 42, although it restricts that freedom to Khmer citizens...rules for registration of associations must be drafted as soon as possible to regularize the legal status and functioning of associations. The Constitution must guarantee freedom of association to non-citizens also, in conformity with international human rights standards."<sup>56</sup>

In his report to the 49th session of the UN General Assembly in November 1994, Justice Kirby noted that his recommendation for legislation on Associations had yet to be enacted.<sup>57</sup>

Amnesty International strongly urges the Cambodian Government to draft legislation with the assistance of experts in international human rights law, to govern the registration of NGOs in Cambodia. Such legislation should provide human rights groups and their workers with secure legal status, and the freedom to carry out their legitimate work without fear of closure or censure from the authorities.

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<sup>54</sup> Statement from the Cambodian Human Rights Action Committee, Phnom Penh, 8 September 1994.

<sup>55</sup> Ministry of Foreign Affairs and International Cooperation Press Release, Phnom Penh, 14 September 1994.

<sup>56</sup> *A continued United Nations human rights presence in Cambodia*, Report of the Special Representative of the Secretary-General, Mr Michael Kirby (E/CN.4/1994/73, 24 February 1994 pp 42-43).

<sup>57</sup> *Situation of human rights in Cambodia: Recommendations of the Special Representative for human rights in Cambodia* (A/49/635, 3 November 1994, page 24).

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## Abuses by the Partie of Democratic Kampuchea

*"The Khmer Rouge caught us...When they tied us up they made us walk into the forest, then sat us down and shot us. I just jumped up and started running for my life, and pulled at the strings tying me."*<sup>58</sup>

Amnesty International has evidence of grave human rights abuses committed by PDK forces against the civilian population of Cambodia. The Partie of Democratic Kampuchea (PDK or Khmer Rouge) ruled Cambodia between 1975 and the end of 1978. During that period, they were responsible for grave human rights violations. Their government fell after the Vietnamese army invaded Cambodia on 25 December 1978. They were forced to the Thai border, where they established camps, from which they coordinated their war against the Vietnamese army, and then against the CPAF, after the Vietnamese withdrawal in 1989. Although they were signatories to the 1991 Paris Peace Agreements, and had two representatives on the Supreme National Council, the PDK refused to comply with the provisions of the Agreements, withdrew from the elections, and launched a series of military attacks, notably against ethnic Vietnamese Cambodians. Since the elections, the forces of the PDK have been fighting a civil war against the RCAF. In July 1994, the National Assembly passed legislation which outlaws the PDK. An amnesty period for PDK members expired in January 1995.

### Massacre in Bavel

In October 1994, soldiers from the NADK captured more than 70 civilians from Bavel district, Battambang province, and killed more than 40 of them, in a deliberate, cold-blooded massacre. Amnesty International interviewed survivors of the attack, as they recovered from gunshot wounds in a village in Bavel district. The villagers in this area often go into the forest, in territory controlled by the PDK, in order to cut bamboo. These villagers live a subsistence existence, and many of them are unable to cultivate their rice fields, because of the danger posed by landmines in the area. As a consequence, they have to go into the forest, in order to make enough money to survive. All of the villagers who talked to Amnesty International said they frequently met NADK soldiers in the course of their work in the forest, and that until October 1994, they had not had any problems with them. The soldiers had never before attempted to capture them or harm them. One survivor said:

"I go to the place to cut bamboo three or four times a year every year, for between 15 and 20 days. I've met the Khmer Rouge before, but they never did anything. I didn't recognise any of these Khmer Rouge soldiers. These were people I'd never met, the previous times I'd met the same people."<sup>59</sup>

Around the 18 to 19 October, several groups of bamboo cutters working in the forest were rounded up by NADK soldiers.

"I was in the forest with around 14 others, at two places. About 12 soldiers came, and said we had to go and work for them for one night. That is all they said, 'we are going to take you for one night!'"<sup>60</sup>

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58 Testimony of a survivor from the October 1994 massacre of civilians from Bavel district, Battambang province by the NADK.

59 Testimony of a 35-year-old survivor of the Bavel massacre, Suon Sla village, 8 November 1994.

60 Testimony of a 44-year-old survivor of the Bavel massacre, Suon Sla village, 8 November 1994.

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Another survivor said:

"We were called to a meeting with the [Khmer Rouge] bosses who said `do you know that the enemy has hit us?' We said that we didn't know anything."<sup>61</sup>

NADK soldiers captured 73 civilians on or around 18 October, in several groups, and told them that they all had to go to a meeting. The prisoners were held for two days and nights; by day they were made to walk towards the Thai border.

"We were walking, but not tied up. No threats were made against me. I thought that if they weren't doing anything to me I should go along. We slept at one village one night, and left in the morning, and slept at another village the next night. They gave us rice."<sup>62</sup>

On the morning of the third day, the soldiers asked to tie up the civilians, because they said they were coming near a village, and "did not want any trouble." The prisoners said that they really did not need to be tied up, and that they would not make trouble, but the soldiers tied them up anyway.

"They tied us up with nylon cord, with our forearms around our back. We were tied in small groups of three, four or five people, in lines. They took us 300 metres from where we were tied up, into the forest, and we went about half a kilometre into the forest."<sup>63</sup>

The survivors said that at this point there were about 20 soldiers with them who told them all to sit down in lines in a clearing in the forest.

"They asked us, `who sent you here?' then lifted their guns and started shooting. I was at the back and when I saw the people at the front falling down, I wriggled out of my ropes and started running...They shot me through the back of the leg, above the knee and the bullet came out in the front."<sup>64</sup>

"I was tied up with my nephew, and they shot my nephew in the leg. I bent down to help him and I got shot in the arm, then in the leg too. I had to break free of my nephew. My nephew was only wounded in the leg...but the Khmer Rouge were following the blood trail and they found him and shot him. I saw it, I was hiding in the bushes."<sup>65</sup>

According to the figures collated by the Cambodian Red Cross, 47 people are known to have been killed in the massacre, including six women, 20 people survived, and three were unaccounted for on 1 November 1994. The survivors interviewed by Amnesty International all made their way back on foot through the forest to Bavel district town, where they were treated for gunshot wounds. None of them knew why the attack had taken place, particularly as they had worked in the area for many years, and never had problems.

The district authorities in Bavel provided relief payments of 20,000 riels, and a 1kg bag of rice to each

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61 Testimony of a 30-year-old survivor of the Bavel massacre, Suon Sla village, 8 November 1994.

62 Ibid.

63 Testimony of 36-year-old survivor.

64 Testimony of 30-year-old survivor.

65 Testimony of 44-year-old survivor.

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family who lost a relative and to those wounded in the massacre. One woman whose husband was killed said:

"I have seven children and I am expecting my eighth. I am worried about being hungry."<sup>66</sup>

Amnesty International reminds the PDK that international humanitarian law applies equally to opposition groups and to governments, and that it has a responsibility to ensure that international humanitarian standards are respected at all times. In particular, the organization urges the PDK to instruct all troops under its command not to arbitrarily kill civilians under any circumstances.

Amnesty International unreservedly condemns the massacre of as many as 50 civilians from Bavel district by the forces of the PDK in October 1994. The organization also notes that 22 Thai nationals working on a logging concession in Preah Vihear were killed in November. Some sources suggest that PDK forces were responsible for the killings. Amnesty International has not been able to obtain independent confirmation of this.

### Forced evictions

As part of its campaign to terrorise the rural population, and create disruption in the countryside, the PDK has forced the population of whole villages in the north and northwest of the country to leave their homes. They have also taken people prisoner, particularly village officials and civil servants, and taken villagers to provide forced labour. Amnesty International interviewed dozens of displaced people in November 1994, who had been forced from their homes by the PDK. One rice farmer said:

"In the morning, the Khmer Rouge came to the village and left leaflets saying everyone has to leave the village, if we don't leave we will be killed. The leaflet said that if anyone has family members who are soldiers, civil servants or militia, then they must stop doing these jobs or they will be killed. In the afternoon more than 40 soldiers entered the village and started shooting and burning the houses."<sup>67</sup>

One woman said:

"The Khmer Rouge left leaflets in the village, saying everyone had to leave or go upland...I saw the Khmer Rouge entering the village, and they shot, they shot a B40 rocket launcher at me, and it landed in the paddy fields, then they shot another, but I managed to get away."<sup>68</sup>

### Arbitrary killings and hostage-taking

The internally displaced people who talked to Amnesty International all mentioned that the PDK had taken people away from their villages, either as labourers, or for re-education. One woman said:

"I talked to my cousin from Svay Leu who was taken in to the forest [by the NADK], and wasn't fed well, and was forced to make punji stakes.<sup>69</sup> She didn't say how many people had been held with her, but she

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66 Testimony of a widow, Kandal village, Bavel district, 8 November 1994.

67 Interview with 35-year-old rice farmer, from Po Pel commune, Siem Reap province, 21 November 1994.

68 Interview with 32-year-old woman, from Po Pel commune, Siem Reap province, 21 November 1994.

69 These are sharpened bamboo stakes, used by the PDK in their war against the RCAF.

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was captured by 40 soldiers...she said it was horrible, they told them that if they tried to run away they would be shot dead."<sup>70</sup>

One Cambodian worker told Amnesty International about the situation of his family:

"My brother and sister are in Angkor Chum district. The Khmer Rouge have told them they must make 100 punji stakes a day, and they must put them around the fields. They are not allowed to harvest the rice...Two ice-cream sellers were detained in my relatives' village, but the villagers came out and managed to negotiate their release. They [the PDK] haven't got many troops but a small number of men can control a large number of people."<sup>71</sup>

Family members of individuals captured and taken away by the PDK described what happened to their relatives:

"My brother-in-law was captured by the Khmer Rouge 16 days ago. His name is Sen Chhoeurn, and he is 58 years old. At 8pm he was sitting in his house, listening to the radio when five or six Khmer Rouge soldiers came to the house and said, 'we are going to take your kids to be soldiers'. He said he didn't have any children, and they said he would have to go...My sister went to try to get him released, but she couldn't find him."<sup>72</sup>

Another woman told how her cousin was taken at the same time:

"My cousin Lim Mon who is 48 was the village chief, but he gave it up two years back. He lived next door to Sen Chhoeurn and the Khmer Rouge told him that he had to go, as he had been a chief...The only way to get relatives released is to take children to serve in their place. Before, the Khmer Rouge only came to rob people. This is the first time they have taken people away...The men of the village don't sleep there now, they go and sleep in the Wat [temple]."<sup>73</sup>

A man whose 51 year old brother-in-law, Rim Laen, who had also been a village chief and was captured, described how a local monk had gone to try to secure the release of the three men:

"Yesterday, a monk went and talked to the Khmer Rouge. They wouldn't let the monk talk to my brother-in-law...the monk saw him sitting there looking miserable ...The monk said that he asked the Khmer Rouge to release the prisoners, but the Khmer Rouge said no, they had to stay and study some more first."<sup>74</sup>

Villagers in Battambang province also told similar stories:

"Last month four people were taken by the Khmer Rouge. The family came running to the village to say. We haven't heard anything since then. One man escaped and came back with the news...he didn't know

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70 Interview with 27-year-old Cambodian woman, from Po Pel commune, Siem Reap province, 21 November 1994.

71 Interview with Cambodian worker, Siem Reap town, 22 November 1994.

72 Interview with a female villager from Po Pel commune, 21 November 1994.

73 Interview with second female villager from Po Pel commune, 21 November 1994.

74 Interview with 31-year-old male farmer, from Po Pel commune, Siem Reap province, 21 November 1994.

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why he had been taken."<sup>75</sup>

A PDK unit was also responsible for hostage-taking in Kampot province in the south of the country. During an attack on a train on 26 July 1994, in which 13 civilians were killed, more than 100 civilians were captured, including three ethnic Vietnamese and three foreign tourists. Most of the hostages were released soon afterwards, but the forces of the PDK held up to 16 people in illegal detention for three months after the attack. In November, the bodies of the three Western hostages were discovered. The three ethnic Vietnamese civilians are also believed to have been killed. A PDK radio broadcast stated that "the three foreigners in Kampot province were all spies conducting intelligence activities to fuel the communist Vietnamese war to kill the Cambodian nation and people."<sup>76</sup> NADK Colonel Rin, the second in command of the Khmer Rouge unit which carried out the attack on the train subsequently defected to the government side with most of his troops in October. He publicly acknowledged responsibility for the hostage-taking in media interviews during November and December. Colonel Rin and his troops were given an amnesty by the government, and accepted into the RCAF. Amnesty International believes that amnesties offered by governments to NGE personnel should not serve to prevent persons responsible for committing human rights violations from being brought to justice. Amnesty International raised its concerns about the amnesty clause in the law to outlaw the "Democratic Kampuchea" group in talks with the government in November 1994.

This was not the first time that Westerners were the target of suspected PDK attacks. In April 1994, Dominic Chappell, a British national, and his Australian girlfriend Kellie Wilkinson were travelling with a British friend Tina Dominy from Phnom Penh to Sihanoukville, where they ran a restaurant, when their taxi was ambushed. The driver was able to get away, but the three Westerners were taken hostage. Their remains were found in Kampot province several months later. Forensic reports suggested that they had been killed soon after being captured.

In January 1995, an American tourist was killed and her husband seriously injured when their car was ambushed on the road to Banteay Srei temple in Siem Reap province. Their Cambodian guide also died in the attack. An announcement on PDK radio accused the couple of being United States military personnel, and claimed that NADK troops were responsible for the attack. The provincial authorities in Siem Reap arrested 10 people in connection with the killing; the government claimed that the attack was the work of bandits rather than the PDK.

Amnesty International condemns the PDK for the series of forced evictions, attacks on civilians, arbitrary killings and hostage taking carried out in several provinces of Cambodia throughout 1994. The organization reiterates its call on the PDK to abide by humanitarian law, in particular the Geneva Conventions of 1949, amended in 1977, which state that parties to an armed conflict must ensure that people who take no active part in hostilities be protected from abuses including arbitrary killings, torture and hostage-taking.

### Attacks on ethnic Vietnamese

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<sup>75</sup> Interview with five villagers in Rattanak Mondul district, Battambang province, 9 November 1994.

<sup>76</sup> "Khmer Rouge radio calls murdered hostages 'spies'; warns away foreigners" *Radio of the Provisional Government of National Union and National Salvation of Cambodia*, 14 November 1994, as reported in the *BBC Summary of World Broadcasts*, FE/2154 B/4 16 November 1994.

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Forces of the PDK have carried out a number of attacks on ethnic Vietnamese civilians since the new government was formed. Ethnic Vietnamese have been targeted by the PDK solely because of their ethnic origin. These attacks are detailed in this report on pages 25 to 26. Amnesty International is gravely concerned at the attacks on ethnic Vietnamese civilians, and condemns those responsible. The organization calls upon the PDK to cease such attacks immediately. It believes that those responsible should be brought to justice.

## The work of the UN for human rights in Cambodia

***"In many cases the lack of funds to finance human rights activities has meant that the contribution and involvement of the Centre in fields crucial to the development of a national framework respectful of human rights, such as legal and judicial reform and education, as well as training and public information activities, have been necessarily limited in their scope and impact, despite considerable achievements by the Centre while operating with limited resources."*<sup>77</sup>**

Signatories to the Paris Peace Agreements undertook to "promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia as embodied in the relevant international instruments in order, in particular, to prevent the recurrence of human rights abuses". To that end, the UN Commission on Human Rights adopted resolution 1993/6 in February 1993 which allowed for the establishment of an Office of the UN Centre for Human Rights in Cambodia. Among other responsibilities, the resolution called for the Centre to:

- "Assist the Government of Cambodia...at its request, in meeting its obligations under the human rights instruments recently acceded to, including the preparation of reports to the relevant monitoring committees;
- "Contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights;
- "Continue to assist with the drafting and implementation of legislation to promote and protect human rights;
- "Continue to assist with the training of persons responsible for the administration of justice."

The Office of the UN Centre for Human Rights in Cambodia which opened following the end of the mandate of the UNTAC human rights component has been extremely active in promoting and protecting human rights in Cambodia. Working in conditions which have sometimes been difficult, a small team of dedicated local and overseas staff are involved in many areas of human rights work including human rights education and training, assisting the government in the drafting of legislation, organising the visits of the Special Representative, supporting the local human rights NGOs, training government officials in meeting treaty reporting and international obligations, and the distribution of information. Their achievements are particularly noteworthy, because for many months after the office opened, the Centre was underfunded, to the extent that they had to close for several days in April 1994, due to lack of available funds.

Detailed comments on government draft legislation have been prepared and submitted by the staff at the UN Centre for Human Rights. As a signatory to international human rights standards including the ICCPR, the Convention against Torture and other Forms of Cruel, Inhuman and Degrading Treatment or Punishment and the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the

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<sup>77</sup> *Situation of human rights in Cambodia - Report of the Secretary-General: Addendum, Role of the United Nations Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights*  
A/49/635/Add.1, 3 November 1994, p3.

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government of Cambodia is obliged to ensure that its domestic legislation complies with these international standards. Many of the recommendations the UN Centre has made about legislation have not been taken up by the government; this is a matter of concern to Amnesty International. The organization has recommended to the government on several occasions in the last year that it seek the help of international legal experts in the redrafting of legislation. The Cambodian Government has a duty to ensure that new legislation conforms to international standards, and advisers are available in Phnom Penh to help the government meet this obligation.

Cambodia is also required to prepare and submit reports to UN treaty bodies. The government established an Inter-Ministerial Committee in March 1994 to work on meeting these obligations. The Minister of Justice requested the assistance of the UN Centre for Human Rights in the work of the Committee, and a staff member has been helping the Committee, and its subcommittees to establish procedures and prepare reports. Amnesty International welcomes the fact that the Cambodian Government recognises the importance of its reporting obligations and commends the assistance provided to them by the UN Centre for Human Rights.<sup>78</sup>

The UN Centre for Human Rights has also been involved in a program designed to improve conditions in Cambodia's prisons. It published a comprehensive report on the issue in January 1995, in association with Physicians for Human Rights. Amnesty International welcomes the improvements in prison conditions the authorities have achieved in certain areas of Cambodia, but notes that in some provinces, conditions amounting to cruel, inhuman or degrading treatment persist. Second Prime Minister Hun Sen told Amnesty International in November 1994 that lack of money has prevented the Cambodian authorities from being able to implement further improvements in prison conditions.

In November 1993, Justice Michael Kirby of Australia was appointed Special Representative of the Secretary-General for human rights in Cambodia. Amnesty International welcomed this appointment<sup>79</sup> and notes that Justice Kirby has already visited Cambodia five times in his role as Special Representative. The organization also welcomes the active stance Justice Kirby has taken on the situation of the ethnic Vietnamese minority in Cambodia, and in particular the displaced population at Chrey Thom border crossing. Amnesty International also notes the work of the UNHCR in Cambodia in support of the ethnic Vietnamese stranded at Chrey Thom. Amnesty International was pleased by the visit to Cambodia in July 1994 of the UN High Commissioner for Human Rights, José Ayala Lasso, and his interest in the case of prisoner of conscience Nguon Non.

## Financial problems for the Centre

During a visit to Cambodia in May 1994, Amnesty International noted with concern the financial difficulties faced by the Cambodia Office of the UN Centre for Human Rights. While the organization welcomes the more sound financial position of the Centre, it believes that the timely provision of funds for the UN human rights work in Cambodia is a vital part of the responsibility of the signatories of the 1991 Paris Peace Agreements. In January 1994, Amnesty International called upon all potential donors, and in particular the signatories to the Paris Peace Agreements to contribute to the Trust Fund for Human Rights Education Programme in Cambodia, from which the activities of the Cambodia Office would be

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<sup>78</sup> Amnesty International also notes that the United Nations Children's Fund in Cambodia has been providing assistance with reference to Cambodia's reporting obligations under the Convention on the Rights of the Child.

<sup>79</sup> See *Kingdom of Cambodia: Human rights and the new Constitution* (ASA 23/01/94).

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financed. Operational delays for the administering of the Trust Fund meant that it was not available to the staff in Cambodia to fund projects until August 1994. The result of this delay has been a curtailment of vital projects including human rights education projects, training programs, and support for local NGOs.

Amnesty International believes that the UN Centre for Human Rights in Cambodia has an important role to play in the promotion and protection of human rights in the country. The organization welcomes the Centre's achievements to date, and recommends that sufficient funding be made available to the Centre to allow its staff to properly implement their mandate.

## Recommendations

In the previous six chapters Amnesty International describes in detail how the human rights situation in Cambodia has deteriorated in the past 18 months. Failure to act now to stop violations and to change laws and practices which allow them to occur, will lead to more violence and may further compromise the fragile restoration of normality in Cambodia. The recommendations below are directed to the Royal Government of Cambodia, the *Partie of Democratic Kampuchea* and the United Nations.

### Recommendations to the Royal Cambodian Government

#### An end to impunity for human rights violators

Amnesty International believes that the phenomenon of impunity for human rights violators is one of the main contributing factors to the continuing pattern of human rights violations across the world. Impunity, that is being exempt from punishment, has serious implications for the proper administration of justice. By bringing criminal charges against perpetrators of human rights violations, the Cambodian Government can send a clear message that violations will not be ignored, and those responsible will be held accountable. Without such accountability, human rights violations in Cambodia will continue, as those with power are able to exercise their will with impunity, negating the values of truth and justice and leading to the occurrence of further violations.

With a view to ending impunity in Cambodia, Amnesty International recommends that the government:

- ◆instigate thorough, impartial and independent investigations conducted according to international standards into all allegations of human rights violations, in order to determine responsibility. The results of such investigations should be made public;
- ◆those found responsible for human rights violations should be brought to justice. In particular, Amnesty International recommends that the government bring to justice those responsible for the grave human rights violations committed in Battambang by members of the S-91 unit of the RCAF;
- ◆provide victims of human rights violations with fair and adequate redress from the state, including financial compensation.

Amnesty laws which have the effect of preventing prosecutions, or preventing the emergence of truth and subsequent accountability before the law should not be acceptable. In particular Amnesty International believes that former members of the PDK known to be responsible for grave human rights abuses including deliberate and arbitrary killings should be held accountable for their actions in the courts.

#### Upholding human rights during armed conflict

The protection of human rights faces its greatest challenge in the face of political violence. Amnesty International condemns the killing or torture of prisoners by anyone, including armed opposition groups such as the PDK. However, the Cambodian Government has adopted and is bound by international human rights standards, and has a responsibility to ensure that these are respected at all times. Violence by the PDK can never justify the abandonment of these fundamental principles. Abuses committed by

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this group - which Amnesty International condemns - should never be used as a means to divert attention from, and still less to justify human rights violations committed by the government side. Amnesty International recommends that the Cambodian Government:

- ◆instruct its security forces that basic human rights must be protected under all circumstances, including armed conflict;
- ◆observe and uphold the minimum standards laid down to protect the individual under international humanitarian law, the law that regulates armed conflict;
- ◆investigate promptly, independently and impartially any reported violations committed during armed conflict, and make the results of such investigations public;
- ◆bring to justice those implicated in any such inquiry;
- ◆in particular, investigate and bring to justice those responsible for the beheading of a PDK prisoner of war in Battambang province during hostilities in May 1994.

## Conduct of military and law-enforcement personnel

Governments have a duty to ensure that their military and police forces uphold basic human rights at all times. Of particular importance in this field is the need to maintain strict chain-of-command control to ensure that officers do not commit violations, including extrajudicial executions, illegal detention and forced conscription. Officials with chain-of-command responsibility who order or tolerate violations by those under their command should be held criminally responsible for these acts. This is particularly relevant in the Cambodian context, where those in positions of authority in the provinces and districts often operate with a high degree of independence from the central authorities.

Amnesty International recommends that all military and police personnel receive training in order to instill a sense of responsibility and accountability throughout the services. In particular the organization recommends that all police personnel should be made aware of and enforce the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Training should also be given to all military and law-enforcement personnel on the principle of the independence of the judiciary. Any members of the military and security forces found to be attempting to interfere in court proceedings should be brought to justice.

## Protection for ethnic minorities

Governments should ensure that justice and human rights guarantees are equally available to all of those living within their national borders, irrespective of their ethnic origin. Amnesty International recalls its recommendations of January 1994,<sup>80</sup> calling on the Cambodian Government to amend the constitution to ensure that its ethnic minority populations enjoy full human rights guarantees, in compliance with the ICCPR. The organization notes that no such amendments have been made: it also notes that ethnic Vietnamese Cambodians, who do not enjoy full rights and freedoms under the constitution have again

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<sup>80</sup> See *Kingdom of Cambodia: Human Rights and the new constitution* (ASA 23/01/94).  
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been the victims of human rights violations throughout 1994, and dozens have been killed.

In the light of these violations, Amnesty International renews its recommendation to the government and the National Assembly to amend the constitution to comply with the ICCPR and give equal protection of the laws to all people within Cambodia's borders.

### Free exercise of the rights to freedom of expression, opinion and association

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

- ◆ensures that all harassment, threats and intimidation of journalists, editors and human rights workers cease;
- ◆launch independent, impartial investigations into the killings of and threats against journalists and editors in Cambodia, and bring those responsible to justice;
- ◆revise the draft press law passed by the Council of Ministers in 1994 to ensure it conforms to minimum international standards;
- ◆create the necessary legislation to allow human rights and other NGOs to operate freely and legally within the country.
- ◆ensure that politicians, political party activists and security personnel linked to political parties are not harassed, threatened or killed for exercising their rights to freedom of expression, opinion and association. In particular, Amnesty International calls upon the Cambodian Government to hold an independent, impartial inquiry into the killing of FUNCINPEC activist Ang Kouy and bring those responsible to justice.

### Recommendations to the Partie of Democratic Kampuchea

Amnesty International condemns human rights abuses committed by non-governmental entities, and seeks opportunities to bring pressure to bear on the groups which commit them. In the case of the PDK, the organization can only do this through its appeals and by publicising the abuses the group commits.

Amnesty International's appeals carry no connotation of recognition and are purely humanitarian in nature. With opposition groups as with governments, what Amnesty International opposes is the abuses committed, and not the entity which commits them. The organization's opposition to abuses by armed opposition groups stems from the same respect for human life, security and liberty which compels its work to oppose human rights violations by governments. Its work to hold opposition groups to minimum humane standards is intended to complement, not detract from its primary focus on human rights violations committed by governments, and it is pursued with the same objectivity and independence with which the organization acts in its work with governments.

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Amnesty International condemns the grave human rights violations committed by the PDK and its armed forces since the new government took power in Cambodia. It recommends that the PDK:

- ◆observe and uphold the minimum standards laid down to protect the individual under international humanitarian law, the law that regulates armed conflict;
- ◆instruct all troops under its command not to arbitrarily kill, detain or ill-treat civilians under any circumstances;
- ◆immediately cease its practices of hostage-taking and forced evictions.

## Recommendations to the United Nations

Amnesty International recognises the important work which the Office of the UN Centre for Human Rights in Cambodia has carried out since the end of the UNTAC mandate. However the organization reiterates its concern stated in January 1994 that the demands upon this Office are too great for its limited resources. The organization recommends that adequate and timely provision of financial and human resources be made available to the Office in Phnom Penh, to enable it to continue with its essential work. Amnesty International also recommends that the mandate of the Centre be extended for a further year to allow it to continue with its vital human rights work in Cambodia. This is particularly important given the delays in providing funding, which necessarily limited the work of the staff in its first year of operation.