

STATE OF CAMBODIA

@Update on human rights concerns

Amnesty International visited Cambodia in late May and early June 1992 to discuss with senior State of Cambodia officials its human rights concerns as laid out in the report *State of Cambodia, Human Rights Developments: 1 October 1991 to 31 January 1992* (April 1992, AI Index ASA 23/02/92). The first Amnesty International visit to Cambodia took place in December 1991, the findings of which are contained in the April report. In June the second delegation was able to meet with officials in the Ministry of National Security; the Ministry of National Defence; the Ministry of Justice, and the offices of the Chief Procurator General and the Supreme Court. However, during the visit Amnesty International was unable to obtain meetings with Prime Minister Hun Sen, the Chairman of the National Assembly Chea Sim or the Minister of the Interior Sar Kheng. The delegation met with His Royal Highness Prince Norodom Sihanouk, President of the Supreme National Council of Cambodia, and with officials of the United Nations Transitional Authority in Cambodia (UNTAC), which is overseeing the administration of the country in the run-up to internationally supervised multi-party elections due to take place in 1993. UNTAC's role was mandated by the Paris Peace Agreement of 23 October 1991 and signed by all four Cambodian factions¹ and 18 other nations.

Amnesty International also met with representatives from FUNCINPEC and the KPNLF, both parties to the Peace Agreement. Although the delegation attempted several times to meet with representatives from the **Partie** of Democratic Kampuchea (PDK or Khmer Rouge), it received no response to its requests. Because Amnesty International could not gain access either to PDK representatives or the zones controlled by the PDK, it was unable to investigate PDK policies and practices with regard to human rights. The concerns discussed below apply only to the State of Cambodia.

This document summarizes Amnesty International's outstanding concerns as outlined in *State of Cambodia, Human Rights Developments: 1 October 1991 to 31 January 1992*, which appear not to have been resolved by the SOC authorities, as well as human rights

¹ The four factions are: The State of Cambodia (SOC), which controls most of the population and territory of Cambodia; the **Partie** of Democratic Kampuchea, or Khmer Rouge, represented by Khieu Samphan; The National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (known by the French acronym for its name, FUNCINPEC), led by Prince Norodom Ranariddh; and the Khmer People's National Liberation Front (KPNLF), led by Son Sann. The latter three factions have engaged in armed opposition to the Government of the State of Cambodia since it was installed following the occupation of the country by Vietnamese forces between 1978 and 1989.

developments since 31 January. It also includes a number of recommendations which, if effectively implemented, Amnesty International believes would contribute to the further protection of human rights in Cambodia.

Amnesty International's continuing concerns in Cambodia include legal and judicial practices which fail to guarantee fair trials for political prisoners; lack of independent and impartial investigation into killings by SOC security forces and into possible extrajudicial executions and attempted extrajudicial executions; the continued detention without charge or trial of political prisoners; conditions of detention that may amount to cruel, inhuman and degrading treatment; and official harassment and intimidation of legally-recognized political party members.

Although thousands of political prisoners were released by the SOC authorities both immediately before and after the October 1991 Peace Agreement, Amnesty International continues to seek clarification about some 221 prisoners whose names do not appear on any of the available official lists, and 14 other political prisoners who are believed to still be detained. Amnesty International also remains concerned about the continued use of dark cells and shackles in prisons administered by the SOC. No independent judiciary exists in Cambodia, with the result that most political prisoners are held indefinitely without charge or trial, or are tried according to procedures falling far short of international fair trial standards. There also appears to be a general climate of intimidation, characterized by short-term arrests, unwarranted interrogation, and threats directed at members of opposition political parties by the SOC security forces.

Legal and Judicial Reform

Amnesty International welcomes the signing on 20 April 1992 of the International Covenant on Civil and Political Rights (ICCPR) by the Supreme National Council (SNC), which includes representatives of the SOC and embodies Cambodian sovereignty during the transition to elections. At a meeting with Amnesty International on 5 June Uk Bun Chheuan, the Minister of Justice, made a commitment to ensure that the penal code, which is currently being drawn up, and all other State of Cambodia laws will conform fully with the provisions of the ICCPR. Amnesty International was also encouraged by the Minister's stated willingness to receive UNTAC's expert assistance in achieving these goals.

During a meeting with Amnesty International on 4 June, Sin Song, Minister of National Security, confirmed the suspension of Article 28 of Decree Law 27, which provided for two or more years of detention without charge or trial of people suspected of activities deemed to have an "adverse impact on political security". The Minister stated, however, that a political crime is considered to be a criminal act under the State of Cambodia's current legal system. In this regard, Amnesty International notes the Minister's confirmation that the

ordinary criminal provisions of Decree-Law 27, which would apparently refer to political detainees and which appear to allow for up to seven months' incommunicado detention without charge or trial, are still in place. Amnesty International is concerned that prolonged incommunicado detention increases the likelihood of ill-treatment during detention and interrogation and can constitute cruel, inhuman or degrading treatment. International standards set out the right of detainees to inform relatives of their detention and to have regular access to legal counsel and family. The UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment states: "communication...with the outside world...shall not be denied for more than a matter of days" (Principle 15). **Amnesty International recommends reform of Decree Law 27 so that even in the most exceptional circumstances, incommunicado detention may not extend beyond 48 hours.**

As a result of information obtained from the Ministry of Justice, the Chief Procurator General and the President of the Supreme Court, Amnesty International also remains concerned that the judiciary continues to lack independence from the SOC Government or from the Cambodian People's Party (CPP), formerly the Revolutionary People's Party of Kampuchea (RPPK). Amnesty International also notes that judges usually have no formal legal training, and that there are very few qualified lawyers practising in Cambodia. In particular judges appear to have no fixed term of office and are dependent on the government's decisions in adjudicating penal cases. With regard to judicial and legal issues, the Ministry of Justice, the office of the Chief Procurator General and the Supreme Court appear to be subject to decisions made by the Ministry of National Security. The Ministry of National Security supervises arrests and detentions, and also oversees pre-trial detention in all cases. It is responsible for the interrogation of prisoners and the initial investigation of their cases. The Ministry of National Security determines how long prisoners are held and at what point there is enough evidence for the investigation dossiers to be sent to the procurator. Although there is a 15 day limit from the time a prisoner is arrested to the submission of the dossier, in practice dossiers are rarely submitted according to that deadline. The SOC police, under the control of the Ministry of National Security, appear neither to be required to account for their actions nor to implement decisions or instructions from the judiciary or procuratorial authorities.

Amnesty International urges that immediate steps be taken to create an independent judiciary in Cambodia. These steps should ensure the quickest and greatest possible adherence to the Basic Principles on the Independence of the Judiciary and to the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary. Principle 1 states that "the independence of the judiciary shall be guaranteed by the State". According to Principle 2, "the judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures or threats or interference from any quarter or for any reason." Principle 3 states that "the judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its

decision is within its competence as defined by law." Principle 10 states that "persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law"; and that "in the selection of judges, there shall be no discrimination against a person on the grounds of...political or other opinion."

Official investigations into human rights violations

Amnesty International is concerned that no genuinely independent judicial authorities exist under the SOC to carry out impartial investigations into human rights violations. On 21 and 22 December 1991 at least eight civilians were killed by SOC security forces who were suppressing anti-corruption demonstrations in Phnom Penh.² The organization believes that some of the killings committed by the security forces may have constituted extrajudicial executions. General Sin Song, the Minister of National Security, informed Amnesty International that he had completed an investigation into the police role in the events which established that only three people had died during the demonstrations. General Sin Song also asserted that police personnel, who are under the jurisdiction of the Ministry of National Security, did not open fire on the demonstrators. When asked about the role of SOC military forces during the demonstrations, the Minister stated that this was outside the scope of the Ministry of National Security investigation and that the Ministry of Defence had conducted their own investigation. However, when Amnesty International met with the Ministry of Defence, they indicated that they had not conducted an investigation into the killings by SOC troops.

Amnesty International has not yet been able to obtain a copy of the findings of the Ministry of National Security's investigation. The organization remains concerned that the investigation which was conducted may not have been impartial and independent and did not cover all aspects of the events. **Amnesty International urges the SOC authorities to initiate a new investigation according to the UN Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials, to make public the findings, and to bring to justice any members of the security forces found responsible for unlawful killings.**

Amnesty International is also concerned about the possible use of excessive force and possible extrajudicial executions by SOC security forces during a demonstration by people protesting their eviction from a plot of land on the outskirts of Phnom Penh on 21 February. The military police claimed that the land belonged to Phnom Penh University. According to press reports, military police were attempting to dismantle homes of some 360 families who

² For a complete discussion of these events, please refer to *State of Cambodia, Human Rights Developments: 1 October 1991 to 31 January 1992* (ASA 23/02/92), pp. 34-51.

had built houses in a field near Pochentong airport, when some of the occupants, reportedly armed with knives and throwing eggs, began attacking police, who then opened fire. A 55-year-old female street vendor was reportedly killed when a stray bullet hit her in the eye and five other people were injured. To Amnesty International's knowledge, no independent and impartial investigation has been conducted into the incident by the SOC Government. There were further reports of demonstrations of villagers protesting the SOC Government's confiscation of land which they were using in Kandal Province, near Phnom Penh, in the first four months of 1992. According to press reports, on 16 April the UNTAC Human Rights Component attempted to investigate an incident in which SOC police allegedly opened fire on a group of villagers who had staged a demonstration in connection with a land dispute, killing one and seriously injuring another. UNTAC investigators were turned away at gunpoint by local police, but later the SOC Government fully cooperated with UNTAC in investigating the incident and resolving the dispute. As a result of the investigation, victims were granted compensation and the villagers were given plots of land by the authorities.

Amnesty International also remains concerned about the apparent lack of independent investigations into the death of Tea Bun Long, an SOC official who had allegedly spoken out against government corruption, and the attempted assassination of Ung Phan, a dissident and former prisoner of conscience.³ Tea Bun Long was abducted from his home in Phnom Penh on 22 January and his body was later found in Takaev Province, with his hands bound behind his back and a bullet hole in his head. Ung Phan was shot several times in the neck and back by gunmen travelling in two jeeps on 28 January while he was driving in the countryside outside Phnom Penh. He survived the assassination attempt.

Responsibility for investigating the attack on Ung Phan and the killing of Tea Bun Long was reportedly assumed by Chea Sim, Chairman of the National Assembly and the CPP. However, to Amnesty International's knowledge, no findings of any investigations have been announced. The organization is not in a position to draw final conclusions about the various allegations about who may have been responsible for these incidents. However, Amnesty International is concerned that, although other possibilities cannot be ruled out, the available circumstantial evidence suggests that elements associated with the SOC political security apparatus may have been involved, particularly in the attempted assassination of Ung Phan.

A further case of possible extrajudicial execution which remains unclarified is the death on 19 March of Yang Horn, a close associate of Ung Phan and also a former prisoner of conscience. Yang Horn was arrested in May 1990 along with Ung Phan and five others for forming the Liberal Social Democracy Party (LSDP), and was reportedly released in January 1991. At this time, the Revolutionary People's Party of Kampuchea (RPPK) was the only

³ See *State of Cambodia, Human Rights Developments: 1 October 1991 to 31 January 1992*, pp 10-12.

legally recognized political party in the State of Cambodia. Ung Phan and his associates, including Yang Horn, reorganized the LSDP in January 1992, in spite of warnings that most of them had received from SOC security officials not to become involved in politics after their release from prison.

On the evening of 15 March, Yang Horn had reportedly excused himself from the table at a restaurant where he was dining with Ung Phan and other friends in Phnom Penh. He never returned to the restaurant. He was evidently taken to hospital after being found unconscious in the street, and later died as a result of head injuries. Some reports claim that his injury was consistent with those from a collision with a motorcycle, and others claim that the wounds indicated that he had been attacked by unknown assailants. **Although the Ministry of National Security announced on 23 March that according to their investigation of the incident, Yang Horn was hit accidentally by a passing motorcycle, Amnesty International remains concerned that a truly independent investigation has not yet been conducted and urges the SOC authorities to initiate one as soon as possible.**

Detentions of political prisoners

Amnesty International welcomes the release of thousands of political prisoners by the SOC as a result of the Peace Agreement, but remains concerned about the continued detention of 14 political prisoners and seeks further information about the status of some 221 other prisoners. Amnesty International is also concerned about an apparent pattern of short-term arrests and detentions of members of legally-recognized political parties, which contributes to a climate of political intimidation in the State of Cambodia.

General Sin Song, the Minister of National Security, in a meeting with Amnesty International on 4 June, said that there were then no longer any political prisoners held by the State of Cambodia. Amnesty International welcomes the reported releases of Khmer People's National Liberation Front (KPNLF) activists Sok Seuan Sarun and Soen Sieng, who it considered were possible prisoners of conscience. However, Amnesty International continues to seek clarification about the status of some 235 political prisoners still believed to be held by the State of Cambodia, many of them without charge or trial.

Kang Tong Heang and Kuch Siek, both arrested on 19 October 1991 for alleged involvement in a plot to assassinate Prime Minister Hun Sen, remain in detention without charge or trial at T-3 prison in Phnom Penh. **Amnesty International urges the SOC authorities either to promptly charge Kang Tong Heang and Kuch Siek with recognizably criminal offences and bring them to trial before a court that meets international standards for fair trial or to release them.**

Nine other political prisoners, allegedly members of the Partie of Democratic Kampuchea (PDK, or Khmer Rouge), were arrested between 13 November and 6 December 1991 for attempting to organize a PDK-sponsored march to welcome the return to Cambodia of Prince Norodom Sihanouk on 14 November. They are: Ut Mean, 31; Koy Sok, 19; Yaem Sophal, 48; Pov Pheuan, 28; Sin Von, 31; Nheum Et, 28; Un Chheum, 31; Yaem Yan, 31; and Sou Mean, 31. All are believed to be held without charge or trial. In early December 1991, SOC police officers in Kandal Province arrested two men from the province's Kah Thom district and a woman from Phnom Penh for political campaigning on behalf of FUNCINPEC. When Amnesty International made inquiries with Kandal provincial authorities in December, officials declined to reveal the detainees' names but confirmed that they were then being held without charge or trial. The present situation is unclear, but if they are still being held, **Amnesty International urges that the nine alleged PDK activists and the three FUNCINPEC activists should either be promptly charged with recognizably criminal offences or released.**

Amnesty International is also concerned about two groups of political prisoners about whom it is seeking further information from the SOC Government. One group of 37 prisoners were reportedly still held in T3 Prison in early October 1991, yet their names do not appear on any of the lists the authorities gave Amnesty International. Their names are listed in Appendix I. A second group of prisoners comprises cases which Amnesty International had taken up before its first visit to Cambodia in December 1991. A list of their names is found in Appendix II: none of them has appeared on the official lists. **Amnesty International requests the SOC Government to clarify the status of these reported political prisoners as a matter of urgency.**

Amnesty International also remains concerned about continuing reports of the arrest and short-term detention of members and supporters of legally-recognized opposition political parties. Although the SOC authorities generally cooperate with UNTAC police once they intervene, the SOC continues to arbitrarily arrest opposition party supporters. In May SOC security forces arrested four people who worked for FUNCINPEC in Battambang town, interrogated them about their work with FUNCINPEC and then released them after intervention by UNTAC. Members of the KPNLF have also reportedly been subjected to short-term arrests and interrogation.

Cruel, Inhuman or Degrading Treatment of Prisoners

General Sin Song, Minister of National Security, informed the Amnesty International delegation which visited Cambodia in June 1992 that he had issued written instructions to all prison officials to stop using shackles on prisoners, a practice which had been routine in Cambodian prisons. However, since then, there have been reports of prisoners being held continually both in dark cells and in shackles in prisons under the Ministry of National Security's administration, practices which are contrary to international human rights standards

and which may constitute cruel, inhuman or degrading treatment. During Amnesty International's meeting with the Ministry of Defence, officials stated that the continued practice of holding prisoners in dark cells and the use of shackles in prisons controlled by that ministry was necessary to punish and restrain prisoners. **Amnesty International urges the SOC authorities to make clear that shackles and dark cells will not longer be used in any of the detention facilities administered by the SOC, and that official steps will be taken to ensure compliance with this requirement.**

Amnesty International is encouraged by the establishment on 13 July of a prison commission by the Ministry of National Security whose mandate is the investigation of prison conditions, such as the quality of health, food and sanitation. The prison commission is also directed to review the evidence in the dossiers of all untried prisoners to determine whether they should be tried or released. Amnesty International welcomes these developments, and urges the SOC authorities to allow the commission free access to all prisons in Cambodia, including those controlled by the military.

Threats, Harassment, and Intimidation of government critics

Amnesty International is concerned by reports of widespread intimidation by State of Cambodia security officials of members of legally-recognized opposition political parties, including death threats, unwarranted interrogation, and surveillance. Such acts of intimidation may constitute real restrictions on freedom of expression and association. The KPNLF, also known as the Buddhist Liberal Democratic Party, held a congress of its party members on 21 - 22 May at the Olympic Stadium in Phnom Penh, which was attended by between 2,000 and 5,000 people. The SOC authorities reportedly instructed all civil servants not to attend the congress and threatened students with expulsion if they attended. Although UNTAC civil police provided security for the event, the SOC police force was present and SOC officials were seen photographing participants as they entered the stadium. Evidently a complaint was then registered with UNTAC and, as a result, the SOC police left the stadium. After the congress the KPNLF held a meeting on human rights violations where arrests of party supporters, including Buddhist monks, were discussed. KPNLF spokesmen also stated that their supporters were forced to sign "confession" forms and petitions, and were threatened by SOC security officials. Although Amnesty International is unable to confirm these allegations, it remains concerned at persistent reports of intimidation and arrests.

Amnesty International is also concerned about recent reports of intimidation of members of the Cambodian Human Rights Association, known by its French acronym of ADHOC. At a 16 July human rights training meeting organized by ADHOC members in Phnom Penh, participants reportedly expressed fears for their safety. Some of the leaders of ADHOC are former prisoners of conscience; they were arrested in May 1990 with Ung Phan for attempting to form an opposition political party and released in October 1991.

When they were released, most of them were reportedly warned by SOC security officials not to resume their political activities. In at least some cases, warnings were said to have been accompanied by death threats.⁴ The Minister of National Security assured Amnesty International that all releases of political prisoners were unconditional; however, the organization remains concerned at reports that former political prisoners have been threatened and intimidated by SOC security forces. Amnesty International is specifically concerned at reports that former political prisoners are routinely followed by members of the SOC security forces and that some of them continue to receive death threats. **In this regard, Amnesty International urges the SOC authorities to ensure that all Cambodians can exercise their legal rights to freedom of expression and assembly. Amnesty International recommends that the SOC authorities work closely with UNTAC officials, who are drawing up detailed Codes of Conduct which will provide guidelines for all security forces to act in accordance with international standards for law enforcement.**

⁴ For a full discussion of their releases, see *State of Cambodia, Human Rights Developments: 1 October 1991 to 31 January 1992*, pp. 10-12.

Appendix I

List of political prisoners reportedly detained in T3 Central Prison, Phnom Penh, as of October 1991, and who do not appear on any official lists:

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

Appendix II

List of political prisoners reportedly detained at T3 Central Prison, Phnom Penh; T5 Prison, Kampong Cham Province; and TK1 Provincial Prison, Batdambang, who do not appear on any official lists: See following pages