

£CAMBODIA

@Arbitrary killings of ethnic Vietnamese

1. Introduction

As the United Nations Transitional Authority in Cambodia (UNTAC) continues its process of withdrawal, scheduled to be completed by mid-November 1993¹, grave human rights abuses are still occurring in a context of widespread violence and a judicial system which is incapable of serious enforcement of any existing legal code. An interim government, called the Provisional National Government of Cambodia (PNGC) was established in June and a draft Constitution was completed by a drafting committee of the newly-elected constituent assembly at the end of August 1993. However, the formation of the permanent government will be deferred until the Assembly has approved the final version. Amnesty International is concerned that any provisions for human rights protection in the new Constitution will stand little chance of proving their effectiveness unless arbitrary use of police powers can be curbed and an independent and well-trained judiciary can be put in place. Such changes cannot be accomplished soon and, without the necessary political will on the part of both the Cambodian parties and the 18 other signatories to the Peace Agreement², it is unlikely that there will be a resolution to the ongoing pattern of human rights violations experienced by the Cambodian people. It is therefore imperative that the international community provide whatever resources are necessary to support processes initiated during the period of UNTAC's mandate, which may lead over time to the creation of effective structures capable of guaranteeing the promotion and protection of human rights for all people living in Cambodia.

This report draws particular attention to the continued arbitrary killings³ of ethnic Vietnamese men, women, and children, principally by the forces of the **Partie** of Democratic

¹ UNTAC was mandated to oversee the implementation of the Paris Peace Agreements in the run-up to multi-party elections held in May 1993. The four Cambodian parties to the Agreements are: The State of Cambodia (SOC), which controls most of the territory and population; the **Partie** of Democratic Kampuchea (PDK), generally referred to as the Khmer Rouge, which controls 10-20% of the territory; The National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (known by its French acronym of FUNCINPEC); and the Khmer People's National Liberation Front (KPNLF). The latter three factions engaged in armed opposition to the Government of the SOC since it was installed following the occupation of the country by Vietnamese forces 1979.

² These are: Australia, Brunei, Canada, China, France, India, Indonesia, Japan, Laos, Malaysia, New Zealand, the Philippines, Russia, Singapore, Thailand, Viet Nam, the United Kingdom, the USA.

³ The term "arbitrary killings" does not include killings which occur as a direct or unintended consequence of armed combat, for example the killings of civilians in cross-fire.

Kampuchea (PDK), generally referred to as the Khmer Rouge. It reflects findings of an Amnesty International visit to Cambodia in July 1993, and details human rights abuses committed by the PDK against ethnic Vietnamese from April 1992 to July 1993. Amnesty International condemns as a matter of principle the killing of prisoners by anyone, including armed opposition groups such as the **Partie** of Democratic Kampuchea. The PDK is a signatory of the Paris Peace Agreements and took part in Cambodia's accession to the International Covenant on Civil and Political Rights (ICCPR) in May 1992. Amnesty International believes that urgent international attention must be focused on these specific human rights abuses by the PDK.

2. Background

2.1 The political situation

The withdrawal of the UN military and civilian peacekeeping operation (numbering some 22,000 people in all), scheduled to be completed by the middle of November 1993, is taking place in a climate of violence and in the face of civil and governmental structures which are inadequate for ensuring law and order in all parts of Cambodia. While the May elections were an undoubted success in terms of voter participation and the fact that the vote took place without major disruption, fighting between the PDK and the provisional government and renewed attacks against ethnic Vietnamese have contributed to continuing political violence.

In spite of the slight plurality of seats won by FUNCINPEC⁴, no single party won an overall majority in the May election. The Cambodian People's Party (CPP), which previous to the elections controlled the country as the Government of the State of Cambodia, retains equal power in the newly-formed Provisional National Government of Cambodia (PNGC). The CPP has retained direct control over the Ministry of National Security, which administers the police forces. During the Government of the State of Cambodia, the activities of this ministry were characterized by active surveillance and intimidation of suspected government critics, arbitrary arrest and detention, as well as instances of torture and extrajudicial execution.⁵ In addition to the direct involvement of security personnel in such activities, the Cambodian authorities have failed to bring to justice those who are suspected of having committed human rights violations. The judiciary also continues to be controlled by the CPP, and there are almost no trained judges or lawyers in the country.

⁴FUNCINPEC won 58 seats in the May election, while the Cambodian People's Party (CPP), won 51 seats, out of a total 120 seats.

⁵ Refer to *State of Cambodia: Human Rights Developments: 1 October 1991 to 31 January 1992* (ASA 23/02/92) and *Cambodia: Human rights concerns July to December 1992* (ASA 23/01/93).

On 10 September 1992 the Supreme National Council (SNC, comprised of all four Cambodian factions and meant to embody Cambodian sovereignty in the run-up to the elections) adopted a basic penal code drafted by UNTAC, known as *Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period*. The code contains important safeguards incorporating the provisions of international human rights standards, including those dealing with the independence of the judiciary, the conduct of law enforcement officials, the use of force and firearms and the treatment of detainees and prisoners. However Amnesty International is concerned that the present state of the Cambodian criminal justice system has prevented the implementation of its key provisions.

The inability of UNTAC to carry out a number of arrests of officials accused of serious human rights violations for whom warrants had been issued,⁶ the unwillingness of the Cambodian authorities to proceed with trials of those detained by UNTAC, and the lack of a functioning judicial system, have all contributed to a sense of impunity on the part of the authorities. The police and other security forces under the control of the Ministry of National Security are free to continue to exercise arbitrary powers. Few cases come to trial, and it is effectively up to the discretion of the police to determine if and when a case will be investigated or prosecuted. The fact that after years of civil war guns and other weapons are commonplace throughout the country simply reinforces the conviction among many in the general public that any recourse to justice is likely to be meaningless and ineffectual.

The PDK presence in a widely-scattered range of territory in Cambodia contributes further to the generalized feeling that lawlessness (whether in the form of military attacks or acts of "banditry") is commonplace. Although the PDK signed the Peace Agreements, they subsequently refused to disarm their troops, violated the ceasefire on a regular basis, and boycotted the May elections, while at the same time mounting attacks on UNTAC personnel. Confusion over the future role of the PDK in the national structures (political, military, or other) has meant that the peace process itself remains in jeopardy and that Cambodia continues to live with the spectre of a return to civil war. There is a fear that renewed acts of military violence may become part of the political manoeuvring during the coming weeks and months. The ethnic Vietnamese living in Cambodia are the most vulnerable and frequent targets of such violence.

2.2 Ethnic Vietnamese in Cambodia

⁶ In early 1993 UNTAC established a Special Prosecutor's Office, which had the power to investigate human rights violations, including issuing arrest warrants.

The presence of ethnic Vietnamese in Cambodia is not a recent phenomenon and has been a frequent source of friction and violence, particularly over the last quarter century. Large numbers of Vietnamese migrated into Cambodia at the end of the 19th century, settling especially in the rich agricultural areas along the banks of the Mekong and Tonle Sap rivers and on the Tonle Sap lake itself. By the time of the Lon Nol coup against Prince Norodom Sihanouk in 1970, it is estimated that there were approximately 300,000 ethnic Vietnamese living in Cambodia.⁷

A deliberate campaign against ethnic Vietnamese in 1970 resulted in the deaths of thousands and the forced repatriation of many more back to Viet Nam. During the regime of Democratic Kampuchea (the name of the government of the PDK when it controlled the country from 1975-78) thousands of ethnic Vietnamese also fled to Viet Nam to escape massive human rights violations committed by the PDK. There followed a large influx of Vietnamese settlers after the overthrow of Democratic Kampuchea and the military occupation of the country by Vietnamese forces in 1979. Vietnamese forces withdrew from Cambodia in September 1989, although many settlers and other ethnic Vietnamese remained.

For several years the PDK has conducted a systematic campaign of racism through their broadcast media and has fuelled long-standing anti-Vietnamese sentiments by allegations that Vietnamese soldiers have remained in Cambodia disguised as "civilians and advisors". The other Cambodian signatories (with the exception of the SOC) of the Paris Peace Agreements have joined in similar anti-Vietnamese rhetoric and have made calls for the expulsion of ethnic Vietnamese from Cambodia. Prince Norodom Ranariddh, now co-president of the transitional government, interviewed in mid-1992⁸, demanded that UNTAC ensure the withdrawal of all foreign forces, "meaning every Vietnamese and not just uniformed Vietnamese". Similar comments have been expressed by the leaders or spokesmen of the Buddhist Liberal Democratic Party (BLDP), which is the political wing of the KPNLF.

3. Attacks on Cambodians of ethnic Vietnamese descent

Since the beginning of the UNTAC operation in early 1992, almost 130 ethnic Vietnamese civilians have been killed and at least 75 have been injured as a result of targeted, politically-motivated attacks. A number of others are missing and are presumed to have

⁷Some estimates go as high as 500,000. Lack of accurate information and the absence of official documentation of nationality and residence have contributed further to the problem of any legal definition of national status for the ethnic Vietnamese in Cambodia.

⁸ See the *Far Eastern Economic Review* (30 July 1992)

been killed. As a result of their investigation of such incidents, UNTAC has placed responsibility for the attacks in nearly all cases with the forces of the PDK. Earlier reports by Amnesty International⁹ have drawn attention to specific incidents in which ethnic Vietnamese have been killed or have gone missing and are presumed dead.

3.1 Killings during 1992

Renewed attacks against ethnic Vietnamese civilians occurred in April and May 1992 and have continued with persistent regularity since that time. On 28 April 1992 at about midnight in Kok Kandal, a predominantly Vietnamese floating village in central Kompong Chhnang province, PDK troops armed with AK-47 automatic rifles and rocket launchers approached in boats, looting houses and reportedly killing seven ethnic Vietnamese men. Villagers who had witnessed the attack and escaped were able to describe what happened, but there are no further details of a second attack in Kompong Chhnang province which reportedly took place on 14 May.

During the remainder of 1992, at least five similar attacks took place. On 21 July between 8.30 and 9.30 pm approximately 30 PDK soldiers attacked the village of Tuk Meas, Banteay Meas district, Kampot province near the Vietnamese border, killing eight ethnic Vietnamese civilians and injuring one three-year old boy. Five of those killed were children. A military unit of the Cambodian People's Armed Forces (CPAF) stationed one kilometre away reportedly heard the shooting, but did not respond or intervene. Although Tuk Meas was a predominately Khmer village, PDK troops singled out the ethnic Vietnamese residents for the attack.

On 3 October another massacre of ethnic Vietnamese by PDK forces occurred near Chamkaleu village, in coastal Koh Kong province. A PDK unit reportedly visited the village every few days, occasionally staying there. On 29 September three PDK officers accompanied by a group of soldiers reportedly entered Chamkaleu and met the next day with villagers, urging them to cooperate with the PDK in fighting the Vietnamese. On 2 October, another local PDK commander left with three soldiers from the unit in a boat, and returned at about 5 pm with two other boats containing 14 fishermen, 12 of whom were ethnic Vietnamese. The fishermen, whose hands were tied behind their backs, were taken ashore by the PDK forces, tied to stakes in the village, and questioned. On 3 October villagers saw them taken into the forest by two of the three PDK soldiers, and shots were then heard. They reportedly returned to the village, boasting that they had killed all 14 fishermen. After the PDK left the next day, the villagers went into the forest where they

⁹ Refer to *Cambodia: Human Rights Concerns: July to December 1992* (ASA 23/01/93), pp. 14-17, *Cambodia: Amnesty International Condemns Massacre of Civilians by Khmer Rouge* (ASA 23/WU 01/93), 16 March 1993, and *Extrajudicial Executions of Ethnic Vietnamese* (Urgent Action, ASA 23/02/93), 12 July 1993.

found 11 bodies. All of them had been shot in the head, apparently at point-blank range. The fate of the other three fishermen is not known. There is also no information about where the fishermen came from, or what their names were. On 18 October General Nuon Bunno, a PDK leader, denied an UNTAC report which found the faction responsible, and claimed that the massacre had taken place "because the *yuon* [a derogatory Cambodian term for Vietnamese] aggressor forces are still carrying on their aggression and occupation of Cambodia, while *yuon* immigrants are continuing to plunder land and farms of the Cambodian people, thus acutely antagonizing the Cambodian people."

Two days later, eight ethnic Vietnamese were abducted by PDK forces as they were travelling in fishing boats up the Tonle Sap Lake from their village of Chhnok Trou, in Kompong Chhnang province. They had left their village to go fishing on 26 September in four boats when they were apparently stopped by armed men at Prek Kloh, about 40 kilometres from their home. Initially the local PDK commander General Men Ran admitted that they had abducted the fishermen and women, claiming that four of them were in fact Vietnamese soldiers and that therefore he had the right to abduct them. He is reported to have assured UNTAC that the eight would be well-treated and that he was awaiting instructions from PDK Headquarters in Pailin. However, later General Men Ran denied that the eight had been abducted, and claimed to know nothing about them. The eight fishermen and women, two of them boys aged 13 and 14, have never been found and are presumed to have been killed by the PDK.

On 17 December the bodies of three ethnic Vietnamese fishermen were discovered bound together with their throats cut floating in the Mekong River near Stung Treng, northeast Cambodia. They had been reported missing a week before. No further details are available, but in light of similar killings Amnesty International believes that their deaths may have been politically motivated.

On 27 December, 24 PDK soldiers arrived in three boats and attacked Phum Taches village on the banks of the Tonle Sap in Kompong Chhnang province, less than 50 kilometres from Phnom Penh. After asking villagers to identify the houses belonging to ethnic Vietnamese, the attackers opened fire with B-40 rocket-propelled grenades and AK-47 rifles. Fifteen people, five of them children, died, including two Cambodians who happened to live in the row of houses. Handwritten leaflets left behind in the village by the PDK accused UNTAC of collaborating with Viet Nam, and threatened to kill anyone cooperating with "the *yuon*". Subsequently, Than Theuan (35), a former CPAF soldier who joined the PDK forces in 1991, turned himself in and admitted his own involvement in the Phum Taches massacre. As of the date of this report, Than Theuan is one of five prisoners being held in the UNTAC detention facility in Phnom Penh.

3.2 Killings during 1993

Attacks on ethnic Vietnamese in 1993 attributed to the PDK forces have increased both in frequency and in the numbers of those killed or wounded. During the whole of 1992, seven incidents came to Amnesty International's attention. Some 50 people were killed and over 70 were injured. In the first seven months of 1993, at least 15 incidents have been reported resulting in over 70 dead and some 60 wounded. An attack in Siem Reap province took place on 23 February in which two ethnic Vietnamese died and on 5 March in Kbal Taol floating village on the Tonle Sap, in which two more ethnic Vietnamese were killed and another injured by unidentified persons.

A heavy concentration of PDK attacks on ethnic Vietnamese occurred in the two months immediately preceding the elections which took place from 23 to 28 May 1993. Seven attacks occurred in March and April alone, during which period almost 50 ethnic Vietnamese were killed and over 30 others wounded. As a direct result of these attacks, large groups of ethnic Vietnamese fled by boat down the Tonle Sap and Mekong rivers towards Viet Nam. Armed UNTAC units monitored the exodus from patrol boats and by air. Many of those fleeing the violence settled in the area immediately around Phnom Penh while others (as many as 30,000) crossed the border into Viet Nam.

One of the worst single massacres of ethnic Vietnamese by the PDK took place on 10 March 1993 in the floating village of Chong Khneas on the Tonle Sap in Siem Reap province. Thirty-three ethnic Vietnamese died and up to 24 were wounded. The vast majority of the 1,000 inhabitants of the village are ethnic Vietnamese who have lived in the village for many years. In the days preceding the attack, Cambodian villagers reportedly became aware of an impending assault and began quietly leaving Chong Khneas without warning other inhabitants.

Approximately six boats were commandeered at noon on 10 March by a group of about 20 men, some of whom were described as wearing PDK uniforms while others were in civilian clothing. All were reported to be carrying AK-47 assault weapons. After eating a meal together, the armed soldiers and the boatmen reached Chong Khneas shortly before dark. At 8.30 pm the boats split into two groups, four to open fire on the village video parlour and two to fire on the two targeted houseboats. During the ensuing attack, there was no response on the part of the SOC police, which maintained a post in the village. The attackers fired into the video parlour and the houseboats over a period estimated by witnesses as between 15 and 30 minutes. Many of the victims were women and children who died instantly in the video parlour. All of those killed and most of the injured were ethnic Vietnamese. A warrant was subsequently issued by UNTAC for the arrest of the suspected commander of the PDK military unit, Loeung Dara. No arrest has been made.

Other attacks on ethnic Vietnamese occurred on 24 March, in Chnok Tru, a fishing village in Kompong Chhnang province, in which 10 to 20 armed men attacked three fishing boats and shot or clubbed to death eight ethnic Vietnamese and wounded one other; on 27

March, when 10 PDK soldiers attacked a Vietnamese floating village on the Tonle Sap and injured a 16-year old girl, and on 31 March, when one ethnic Vietnamese was injured by a PDK attack in Kompong Chhnang province.

In April, the pattern of singling out victims for arbitrary killings because of their ethnic origin continued. On 4 April six ethnic Vietnamese were reported killed in Stung Treng province; on 8 April Lieng Yang Treng, an ethnic Vietnamese, was killed near Kset Borei village, Pursat province, following his "arrest" by PDK soldiers in uniform¹⁰; on 9 April an ethnic Vietnamese, Nang Chang, was shot dead by two PDK attackers in Santhuk village, Kompong Thom. Nang Chang was a former captain in the Vietnamese army but had left the army in 1981 to marry a Cambodian; he worked as a bicycle repairman in his village. One attack was reported in May: on 8 May in Otres village, Sihanoukville, Ly Long (46), a former lieutenant colonel who had married a Cambodian and settled in the district, was killed by a group of five men wearing CPAF uniforms.¹¹ He was taken 300 metres from his house, shot in the back of the head and left beside the river. The style of execution suggested that the killers might be PDK soldiers.

Other attacks in June resulted in at least seven more deaths of ethnic Vietnamese: in Sihanoukville on 1 June, four were killed and one injured following the abduction of eight fishermen; the fate of the other three is unknown; in Stung Treng on 6 June, two were killed, apparently by a former CPAF soldier, and in Kratie on 7 June, one ethnic Vietnamese was killed. Three ethnic Vietnamese were killed in Pursat on 2 July, apparently after being held for ransom. A Cambodian who went fishing with the group was apparently sent back with the ransom message. The local CPAF went in pursuit of the PDK forces who, when they realized what was happening, shot dead all three of their detainees immediately.

UNTAC investigations since the beginning of July have concluded that PDK forces have renewed a campaign of terror and violence against ethnic Vietnamese in Kompong Chhnang province. This campaign appears to be in direct response to the first returns of ethnic Vietnamese fishermen to that area, subsequent to the exodus that occurred after PDK attacks in March. It is accompanied by constant broadcasts on PDK radio which strive to incite racial violence against ethnic Vietnamese. In a 27 July radio broadcast which is representative of PDK public statements, the "Voice of the Great National Union Front of Cambodia" reported:

¹⁰ Warrants for the arrest by UNTAC of three PDK soldiers were issued in July 1993 after one of the soldiers, Mr. Mao (19) surrendered to CPAF and implicated himself and two others in the killing. One of the two, Mr. Vith (30), confirmed the details after he, too, surrendered to CPAF on 21 April. The third soldier, Mr. Thai is still at large. Mr. Vith claimed that they had been "following orders from the NADK to arrest and kill Vietnamese in the forest".

¹¹ Both PDK and CPAF troops sometimes wear each other's uniforms as a disguise.

"At the present time, bad elements in the alliance are colluding with the Vietnamese aggressors to send back tens of thousands of Vietnamese settlers in Cambodia...The overwhelming majority of these old and new Vietnamese settlers are armed and rely on the existing Viet Nam's state authority in Cambodia...For this reason, the Cambodian people, who have been robbed by the Vietnamese aggressors and their puppets and lackeys, are furious and have chased out these Vietnamese settlers, particularly those in the Tonle Sap area, back to Viet Nam."

A PDK unit commanded by Snguon based in the Koh Ta Mouv area of Boribo district is reportedly responsible for the killing of at least eight ethnic Vietnamese in two separate incidents between 7 and 9 July. It was reported that the local Cambodian population was so terrorized that they abandoned a wounded ethnic Vietnamese for fear of drawing the retribution of Snguon's forces. An UNTAC investigation suggested that these killings are part of a coordinated effort on the part of the PDK forces to keep pressure on ethnic Vietnamese not to return to the homes they had fled prior to the elections.

4. Conclusion and Recommendations

In the context of continued fighting by the PDK, the ethnic Vietnamese have become a tool for maintaining a state of terror and endemic violence in many parts of the country. Statements by other factions have further contributed to the sanctioning of violence directed against the ethnic Vietnamese. Moreover, the previous failure of SOC officials to make clear statements condemning the killing of ethnic Vietnamese helped to create a sense of impunity for the perpetrators of violence against them.

On 24 July, the Provisional National Government of Cambodia (PNGC) made the following statement:

"The Provisional National Government of Cambodia wishes to express compassion for the Vietnamese nationals who lost their lives when Khmer Rouge troops...attacked Kompong Chhnang Province between 8th and 12th July 1993...Demanding that the PDK immediately put a halt to these cruel acts, the PNGC resolutely condemns all onslaughts cowardly carried out on ordinary, unarmed people, regardless of their nationality, living on Cambodian soil."

Amnesty International is calling on the Cambodian parties and the eighteen nations who are signatories to the Paris Peace Agreements to take all possible steps to ensure that the killing of ethnic Vietnamese does not continue.

4.1 Recommendations to the Partiz of Democratic Kampuchea

- ◆ Amnesty International calls on the PDK to abide by Common Article 3 of the Geneva Conventions, which applies to all parties to non-international armed conflict, to instruct all PDK troops not to arbitrarily kill civilians under any circumstances. Common Article 3 states **inter alia**:

*"(1) Persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed **hors de combat** by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (2) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment;..."*

4.2 Recommendations to the Provisional National Government of Cambodia

- ◆ ensure that the new Constitution of Cambodia contains explicit provisions for the protection of all ethnic minorities irrespective of their legal status;
- ◆ develop a clear policy for the protection of ethnic minorities, including appropriate provision within the criminal code for the punishment of those found guilty of human rights violations against members of ethnic minority groups;
- ◆ continue to make clear public statements reflecting a commitment to the protection of minorities and condemning all acts of violence against those belonging to any ethnic minority;

4.3 Recommendations to the 18 other signatories to the Peace Agreements

- ◆ take whatever diplomatic steps may be possible to urge the **Partie** of Democratic Kampuchea (PDK) to cease all attacks against civilians, whether committed against ethnic Vietnamese or others in Cambodia;
- ◆ assist in whatever ways may be feasible in the reconstruction of a Cambodian society in which there is full respect for the law, proper enforcement, and the creation of an independent judiciary;

- ◆ assist in all possible ways to ensure effective monitoring, investigation and punishment of all human rights violations in Cambodia.