

EXTRA 25/02

Death pen**USA (Colorado) Samnang Prim (m) - former child refugee, precise age unknown**

Samnang Prim is facing trial in Colorado for the murder of James Roberts in 1998. On 5 April 2002, the prosecutor must state in court whether he will seek the death penalty against Samnang Prim.

Amnesty International opposes the death penalty unconditionally in every case. The organization also seeks to ensure that international law and safeguards on the death penalty are fully recognized in the diminishing number of countries that still use it. Its particular concern in this case relates to the possibility that Samnang Prim, who was born on an unknown date to a Cambodian mother in a refugee camp in Thailand, was under 18 years old at the time of the crime for which he has been charged. If he was indeed under 18, the prosecution is precluded not only by Colorado law from seeking a death sentence, but also by international law. The International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child prohibit the use of the death penalty against anyone who was under 18 at the time of the crime.

Amnesty International believes that before the State of Colorado can legally seek the death penalty against Samnang Prim, it must prove beyond a reasonable doubt that he had reached 18 years old at the time of the murder for which he has been indicted. Based on its human rights work during and arising from the period 1975-1979 in Cambodia, Amnesty International believes that there are well-founded reasons to believe that Samnang Prim may well have been under 18 at the time the murder of which he is accused (see below).

In addition, Amnesty International has received information indicating that Samnang Prim suffers from significant frontal lobe brain dysfunction. The use of the death penalty against the mentally impaired contradicts international safeguards. The United Nations Commission on Human Rights has repeatedly adopted resolutions calling on retentionist countries not to impose or carry out the death penalty on anyone suffering from "any form of mental disorder".

BACKGROUND INFORMATION

The murder of James E. Roberts occurred in Denver on 7 November 1998. Samnang Prim's date of birth has been given as 16 September 1980, but there is no record of his birth and this appears to have been a date that was assigned to him by officials in Thailand. If this date is correct, Samnang Prim was approximately eight weeks past his 18th birthday at the time of the crime. However, given Samnang Prim's background there are good reasons to believe that he may, in fact, be younger than his listed age.

In Cambodian culture, the exact date of birth is not considered to be important. Parents may remember the astrological year in which their child was born (for example, the Year of the Snake, or the Year of the Rooster), or sometimes the season (for example, it was before the Khmer New Year, it was after the Rainy Season), but the exact date is not seen as an important part of a child's history. In addition, Cambodians tend to add a year to their child's age, in that they would normally say that a newborn child was one year old. This is quite common in other Southeast Asian countries also.

In the specific circumstances of the refugee camps on the Thai-Cambodian border in 1979 and the early 1980s, a number of facts should be noted. In the first

place, the population of these camps was made up of deeply traumatized people, who had suffered greatly both during the 1975 - 1979 "Khmer Rouge" government, but also during the preceding five years of war. For most people in the camps, this was their first exposure to Western norms of personal registration. Many found this a confusing and difficult experience, and for this and other reasons were unable to provide any accurate answers to questions. Secondly, many children born in that era were the product of forced marriages during the Khmer Rouge period, and the women who bore these children were suffering deep emotional distress, as well as severe physical privations. They would not have known the birth dates of their children, and they would in all probability have added to each child's age, partly for the cultural reasons outlined above, and partly because food rations were based on physical needs, and older children were allocated more food. As the majority of the camp populations had been near to starvation on arrival in the camps, there was an overwhelming desire to ensure food security for themselves and their families.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- expressing sympathy for the family and friends of James Roberts, and explaining that you are not seeking to excuse the manner of his death or comment on the guilt or innocence of the accused;
- expressing unconditional opposition to the use of the death penalty, pointing out that it is a punishment that is used in a minority of countries and its use in the USA is causing serious damage to the international reputation of the United States;
- pointing out that international and Colorado law prohibits the use of the death penalty against defendants who were under 18 at the time of the crime, and arguing that the prosecutor should respect the spirit of this law by announcing that he will not pursue the death penalty because of the possibility that Samnang Prim was under 18 at the time of the crime;
- noting evidence that Samnang Prim may suffer significant mental impairment, noting the international community's opposition to the imposition of the death penalty against anyone suffering from such impairment.

APPEALS TO:

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Salutation: Dear District Attorney

COPIES TO: diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.