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# £CAMBODIA

## @Human rights concerns

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#### Introduction

An Amnesty International delegation visited Cambodia in November and December 1992 and gathered information about recent human rights violations in seven provinces in the northwest and southeast of the country. The delegation gained access to territory controlled by the State of Cambodia (SOC), but did not enter areas controlled by the other three factions.<sup>1</sup> It interviewed victims and witnesses of recent human rights violations, representatives of opposition political parties, and local human rights groups. The delegation also met with officials of the United Nations Transitional Authority in Cambodia (UNTAC), whose role was mandated by the 1991 Paris Peace Agreements, and participated in an International Symposium on Human Rights in Cambodia held under the auspices of UNTAC.

UNTAC, numbering some 22,000 civilian and military personnel, is overseeing the implementation of the Peace Agreements in the run-up to multi-party elections scheduled to take place in May 1993. According to the provisions of the Peace Agreements, UNTAC's mandate includes "*general human rights oversight during the transitional period*", and it is empowered to carry out "*the investigation of human rights complaints*", and, "*where appropriate*", take "*corrective action*". Following elections, the elected constituent assembly will draft a constitution to form the basis for a new government. After the constitution is drafted, the 120-member constituent assembly will become a legislative assembly.

Amnesty International is seriously concerned about a number of recent instances of human rights violations that have occurred in Cambodia during the past six months, notwithstanding UNTAC's extensive operation and presence in the country. This report details the organization's concerns in the State of Cambodia, the most serious of which are extrajudicial executions and attempted extrajudicial executions.<sup>2</sup> Other human rights violations discussed below include torture and ill-treatment of prisoners; and harassment of opposition political party members, such as short-term detention, surveillance activities, and death threats.

Amnesty International notes that recent statements by SOC officials have condemned acts of political violence. On 21 December 1992 the National Security Ministry announced: "*The ministry denounces all terrorist activities that are aimed at poisoning the neutral political atmosphere in Cambodia. The National Security Ministry will cooperate with UNTAC to investigate vigorously, find the culprits and*

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<sup>1</sup>The four factions are: The State of Cambodia (SOC), which controls most of the territory and population; the **Partie** of Democratic Kampuchea (PDK), or Khmer Rouge; The National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (known by its French acronym FUNCINPEC); and the Khmer People's National Liberation Front (KPNLF). 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. On 23 October 1991 all four factions along with 18 other nations signed the Paris Peace Agreement.

<sup>2</sup>Amnesty International uses the term "extrajudicial execution" to describe unlawful and deliberate killings of political opponents by governments. Extrajudicial executions do not include killings which occur as a direct or unintended consequence of armed combat, for example the killings of civilians in cross-fire.

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*send them to stand trial and be sentenced in accordance with the law."* However, Amnesty International is concerned at the lack of political will on the part of the SOC authorities at the provincial, district and commune level to investigate these incidents, and their apparent lack of cooperation in many instances with UNTAC officials in their inquiries and investigations. Amnesty International is particularly concerned that no independent functioning judiciary exists under the SOC to carry out impartial investigations into these human rights violations. The organization is also concerned that because no independent investigations take place, those responsible for human rights violations have not been brought to justice and a climate of impunity continues to exist in Cambodia. Amnesty International calls on the SOC authorities to instruct all its officials at the provincial, district, and commune level to condemn politically-motivated violent acts and to cooperate fully with UNTAC in investigating recent incidents, in order to bring to justice those found responsible.

The report also describes violations committed by the **Partie** of Democratic Kampuchea (PDK) during the last six months of 1992. These include incidents of mass killings of Vietnamese civilians; "disappearances"; and detaining or attacking UNTAC personnel. However because Amnesty International did not gain access to areas controlled by the PDK, it is unable to assess the full scope and nature of human rights violations committed against people living in these zones. The PDK has continually refused to cooperate with UNTAC in implementing the Peace Agreements, and denies UNTAC human rights officials access to territory it controls.

## Background

In the interim period before elections, Cambodian sovereignty is embodied by the Supreme National Council (SNC), chaired by Prince Norodom Sihanouk and comprising all four parties to the Peace Agreements. Three of the four parties had agreed to comply with its provisions that all troops be cantoned, disarmed, and demobilized under UNTAC supervision prior to the elections. However, because the PDK has not made its troops available to UNTAC for cantonment, only a small number of the other three factions' soldiers have in fact been disarmed. Although UNTAC has been granted access to the SOC, FUNCINPEC, and KPNLF zones, it does not have unrestricted access to zones controlled by the PDK. The PDK has repeatedly stated that it will not disarm its troops until the SNC is given substantially more power in administering the majority of the country now controlled by the SOC, whom the PDK claims are "Vietnamese puppets". Ceasefire violations involving SOC and PDK forces have escalated since the beginning of the dry season in November, particularly in Kompong Thom and Battambang provinces. However to Amnesty International's knowledge, FUNCINPEC and KPNLF troops have not engaged in fighting.

On 5 August the SNC passed an UNTAC-drafted Electoral Law, and on 10 September it approved regulations which gave political parties the right to open offices throughout Cambodia. UNTAC announced on 17 August that it would begin provisionally registering political parties; by the end of the year 18 political parties had provisionally registered. One such party is the Cambodian People's Party, formerly the People's Party of Kampuchea (RPPK), which is the political arm of the SOC. Both FUNCINPEC and the KPNLF have also been provisionally registered by UNTAC. On 5 October voter registration began, to continue until 31 January 1993. More than 3 million voters had reportedly registered by the end of December.

Although some people in areas controlled by the PDK had reportedly registered to vote, the PDK

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subsequently attempted to stop UNTAC election teams from registering any more voters in their zones. The PDK announced the formation of a new political party on 30 November, called the Cambodian National Union Party (CNUP). The announcement confirmed that the CNUP would only participate in the May 1993 elections if PDK conditions for disarmament were met. The next day it published its political agenda, which, among other things, promised "*To respect fully the universal principles on human rights as stated in the UN Charter.*" Shortly thereafter UNTAC made a public statement to the effect that the CNUP would be able to participate in the elections if it agreed to comply with the Peace Agreements and opened its zones to UNTAC.

Also on 30 November the UN Security Council adopted Resolution 792, which effectively imposed limited sanctions against the PDK for failing to comply with the Peace Agreements and demanded that the PDK immediately fulfil all its obligations under the Agreements. It banned import of petroleum products to the PDK, and indicated it would consider the freezing of PDK assets outside Cambodia if the PDK continued to obstruct implementation of the Peace Agreements. The resolution further requested the UN Secretary General to make recommendations about the holding of a Presidential election "*in conjunction with*" the election for a constituent assembly. A presidential election, for which Prince Sihanouk is expected to run as a sole candidate, has been viewed by some as a means of providing stability while a new government is being formed.

On 15 October the SNC acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the Convention relating to the Status of Refugees and its Protocol; and the Convention on the Elimination of All Forms of Discrimination against Women. The SNC had previously acceded to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights in May.

Accession to these key human rights treaties had been identified by the UN Secretary-General as an important concrete measure to ensure respect for human rights and which would also facilitate UNTAC's efforts to enhance respect for the rule of law. It is regrettable, therefore, that the set of treaties did not include the two Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR). The first Optional Protocol provides for individual complaints of any violations of the ICCPR to be submitted to the treaty-monitoring body, the Human Rights Committee. It would be an important safeguard in future years to ensure full implementation of the provisions of the ICCPR and to provide a means of recourse for individuals against any violations which may occur. The Second Optional Protocol deals with abolition of the death penalty; the death penalty was abolished in the State of Cambodia in 1989 and accession to this instrument would constitute an important confirmation at the international level of this commitment against the use of capital punishment in the country.

## Legal and judicial concerns

On 10 September the SNC 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*, which entered into force on 26 October. The penal code will remain in effect until it is amended or substitute legislation is adopted by the new Legislative Assembly after the elections. Article 73 of the code (*The Abrogation of Inconsistent Rules*) stipulates: "*1. Any text, provision, or written or unwritten rule which is contrary to the letter or the spirit of the present text is purely and simply nullified. 2. Each*

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*existing administrative structure agrees to apply all necessary material and human resources to bring its own texts and practices into conformity with the present text and with the United Nations instruments mentioned herein.*" However it is unclear whether those laws enacted by the SOC National Assembly before 26 October 1992 which are contrary to the provisions of the penal code are still being enforced by the SOC authorities. For example, the ordinary criminal provisions of Decree-Law 27 DL<sup>3</sup> appear to allow for up to seven months' incommunicado detention without charge or trial, which is clearly in contravention of the new code. In this regard, Amnesty International seeks clarification from the SOC authorities about the status of its body of laws.

The penal code contains important provisions relating to the judicial system and criminal procedure, including the treatment of detainees, and circumscribes police powers. It also explicitly incorporates the provisions of some important international standards in this area, such as 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 in the present state of the SOC criminal justice system, it has so far proved almost impossible to implement many of its key provisions.

The lack of a functioning independent judiciary leaves the police free to continue to exercise excessive and arbitrary powers and precludes the possibility of investigations by the SOC authorities into human rights violations which are effective and impartial. The judiciary is not independent from the Cambodian People's Party (CPP), and there are almost no trained judges and lawyers in the country. Owing to the lack of trained lawyers, the penal code does provide that, during the transitional period, ordinary citizens with a secondary school education or even family members may represent an accused person as a defender. Training is being provided by UNTAC to judges, prosecutors, lawyers and defenders, but this is, of necessity, a slow and long-term undertaking.

As a result, few cases come to trial, and it is effectively left up to the discretion of the police to determine if and when a case will be investigated and prosecuted. The SOC police, under 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. It is, therefore, particularly difficult to ensure that cases of human rights violations such as those discussed in this report can be dealt with fairly and impartially within the existing criminal justice system, and those responsible are not being brought to justice as they should be.

In order to address this problem UNTAC has established in early 1993 a Special Prosecutor's Office, which has the power to investigate human rights violations and bring to justice those found responsible. UNTAC Special Prosecutors will be able to review investigations, issue warrants for arrest, indict individuals, and prosecute cases of politically-motivated acts of violence. These unprecedented powers of UNTAC, designed to create a stronger functioning judicial system, are welcome. Amnesty International also welcomes UNTAC's stated intent to protect judges, witnesses and anyone else at risk in the context of these prosecutions. UNTAC civilian police monitors are reportedly already protecting opposition party offices in some provinces. However, these moves further entrench the essential role of UNTAC in the criminal justice system and make it even more imperative at the same time to continue longer-term training and other measures to strengthen a system able to function after the departure of UNTAC.

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<sup>3</sup>Decree-Law 27 DL was promulgated on 12 March 1986. It deals with the authority to "arrest, temporarily detain, release and search".

## Apparent extrajudicial killings and attacks on party offices

Amnesty International is concerned by a significant increase in possible extrajudicial executions and attempted extrajudicial executions in Cambodia during the last six months of 1992. The targets of these attacks were members of opposition political parties, including FUNCINPEC and the Buddhist Liberal Democratic Party (BLDP), which is the political arm of the KPNLF. Apparently politically-motivated killings also occurred in the first half of the year,<sup>4</sup> but the number and scale of armed attacks accelerated in November and December as opposition political parties stepped up their activities and voters began to register for the May 1993 elections. Newly-opened political party offices throughout the country became the targets of armed attacks which appeared to be politically-motivated.

On 19 August five gunmen entered the house of 41-year-old Duong Ngieb, a BLDP activist in Kompong Som (also known as Sihanoukville) in southern Cambodia, at approximately 7.15 pm and shot him twice at close range in the neck and head. He died shortly thereafter. Two other people in the house were injured during the attack. Duong Ngieb had apparently been a former SOC official in charge of security for the local market, but two months prior to his death he had reportedly received a letter from SOC authorities dismissing him from this post because of his affiliation with the BLDP. However local SOC police investigating the incident asserted that Duong Ngieb was not involved in politics, and claimed that the motive of the killing was personal. Independent sources have named two SOC police officers as having organized the killings. They reportedly recruited the five gunmen, who were members of a local gang of criminals, to kill Duong Ngieb. The five were allegedly told by the police that they could rob the house and would be paid a sum of money. One of the police officers also reportedly told the gang members that there would be plenty of work for them to do, because there were other opposition political party members in Kompong Som. It is unclear whether the two have been questioned about their involvement in the incident by the SOC authorities.

Another possible extrajudicial killing of a BLDP activist took place on 2 November in Tlok village, Ba Phnom district, Prey Veng province, eastern Cambodia. Ath Sodhan, aged 38, was shot and killed by a group of seven gunmen at his home at about 8 pm. The shooting was witnessed by the victim's wife, Pao Sokhan, who was also beaten during the attack. She described what happened to Amnesty International: *"After we went to bed I heard a noise and I saw people in the house...I was downstairs and they knocked me down, then they went upstairs...they tied my husband's hands...they took all his party documents. 'Please don't kill my husband' I said after they had said they would take him to the forest and kill him. As soon as I said that they began shooting."* He was hit in the chest, abdomen, hip, and face. She was able to identify two of the gunmen, who were in Cambodian People's Armed Forces (CPAF) uniforms from the Ba Phnom unit, one of whom shot and killed her husband. The other, an associate of her husband, shot and killed Yea Naun, Ath Sodhan's 67-year-old mother, as she came running from her neighbouring house after hearing her daughter-in-law's screams for help.

Pao Sokhan said further that the gunmen had questioned her about her husband's brother, Ath Saran, also a BLDP activist. Ath Saran had previously been a member of the Cambodian People's Party (CPP) youth organization. Ath Sodhan had been a CPAF soldier from 1979 - 1990, and a year after his resignation he joined the BLDP. Both brothers had attended the BLDP inaugural congress on 21-22 May 1992 in Phnom

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<sup>4</sup>Please refer to *State of Cambodia: Human Rights Developments: 1 October 1991 to 31 January 1992* (ASA 23/02/92), pp. 56-60 and *State of Cambodia: Update on human rights concerns* (ASA 23/04/92), pp. 5-6.  
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Penh, and had remained in the capital until October because they said they were afraid to return to their village. Relatives allege that commune authorities had searched for them while they were in hiding, and that a local official had told Ath Sodhan shortly before his death: "*You must be taking care of yourself, especially at night.*" To Amnesty International's knowledge, the SOC authorities have not conducted an independent and impartial investigation of the alleged extrajudicial killing.

In what appeared to be an attempted extrajudicial killing, two men on a motorcycle opened fire on the BLDP headquarters in Koh Kong town, southwest Cambodia, on 8 November between 6.30 and 7.30 pm. The driver reportedly dismounted from the motorcycle and tried to open the gate to the compound, shouting for the occupants of the house to come out. When they failed to do so, the driver allegedly fired an estimated 17 shots from an AK-47 into the compound, wounding Thach Sarin, a 40-year-old security guard, and Keo Savoeun, a 30-year-old kitchen helper. According to reports, a BLDP leader who witnessed the attack identified one of the men as a CPAF colonel. However to Amnesty International's knowledge, the SOC authorities have neither investigated nor condemned the incident. On the contrary, a few days before the incident, SOC officials reportedly stated publicly that opposition political parties were not entitled to open offices in districts, and if they did so the SOC police could not guarantee their protection. The BLDP Koh Kong office opened on 3 October, and there were later reports of BLDP members in the area being personally threatened. One SOC official reportedly told a BLDP member that if he joined a party other than the CPP he should leave Koh Kong because his life would be in danger. On 18 December in Kompong Som, also in southern Cambodia, a grenade was thrown at a BLDP official, but Amnesty International has no further details of the incident.

FUNCINPEC has also been the target of attacks against party offices and members, particularly since their provincial headquarters in Battambang, northwestern Cambodia, officially opened on 30 September. On 12 October at approximately 9.00 am members of CPAF military in two cars pulled up in front of the FUNCINPEC office, told people who were looking at the bulletin board outside to move on or be killed, fired shots into the air, and sped off. When later tracked down by UNTAC civilian police at a local restaurant, the soldiers, including two generals, reportedly threatened to kill them. To Amnesty International's knowledge, in spite of UNTAC intervention, there was no investigation or public condemnation of the incident by SOC authorities.

Voter registration began in Battambang province on 10 November. At 11.30 pm on 12 November in Moug Russei district town a grenade was thrown in front of a house rented by five FUNCINPEC activists. The grenade exploded on an embankment, but there were no casualties. A similar attack occurred at 10.30 pm on 17 November in Bavel district, Battambang province, when a grenade was lobbed at a FUNCINPEC supporter's house. Two men reportedly drove up on a motorcycle, one dismounted and threw the grenade towards the house, which exploded a few metres away.

At 5.30 am on 16 November a grenade was tossed into the kitchen of a house and noodle shop in Thmar Kol district, owned by Prak Doeun, a local FUNCINPEC electoral official. The grenade severely wounded Luy Hap, another FUNCINPEC activist, who was known to visit the shop every morning. He was later hospitalized with abdominal injuries. Several witnesses reportedly saw two men running away from the back of the shop after the grenade was thrown. Prak Doeun and his two daughters were also injured in the blast and were treated at an UNTAC field hospital. Later that day, Prak Doeun told Amnesty International that he thought the attack "*was 100% SOC. I have no enemies here...I began FUNCINPEC work on 10 November with UNTAC permission and immediately afterwards the grenade attack took place*

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*[at 5.30 am]...The SOC police did not show up until 7 am and they did nothing. But as soon as I returned from the hospital they came to visit me and told me that I had 'many other enemies'.*" The SOC police had reportedly registered a complaint with UNTAC on 13 November against Prak Doeun, claiming that he was campaigning too close to a voter registration point. However UNTAC told the SOC authorities that in fact he had been in compliance with the electoral rules.

On 18 November at 1.30 am two grenades were thrown from each side of the FUNCINPEC Headquarters in Battambang, wounding seven party workers, two of them seriously. Later that day Amnesty International interviewed some of the victims and witnesses to the attack, who had seen one person on each side of the building running away, but were unable to identify them. Six of the seven wounded were treated in an UNTAC field hospital, and Sukh Savuth, aged 23, sustained a serious head wound. The others were: 1. Huot Thithora, 21, severe arm injuries; 2. Chhun Lung, 24, injuries on right arm; 3. Khlout Suvan, 24, injuries to the right leg; 4. Plong Bora, 20, arm injury; 5. Haen Victor, 21, leg injury; 6. Mav Sarit, 22, hand and foot injuries. They had all been resting in two lean-to's on either side of the main building when the grenades exploded, scattering shrapnel near their beds.

Local SOC authorities apparently dismissed the possibility that the four attacks were politically motivated, while at the same time claiming to conduct an investigation into the events. Sar Kheng, the SOC Minister of the Interior who was in Battambang on 18 November, reportedly refused to issue a public condemnation of the events because he claimed the Cambodian People's Party (CPP) was not involved.

Attacks against FUNCINPEC offices continued; on 23 November at 7.30 pm in Kompong Ror district, Svay Rieng province in eastern Cambodia, a grenade was thrown into the house of a local FUNCINPEC official. Although he was not at home, members of his family were wounded, including his wife who was reportedly seriously injured, two small daughters and one son. The FUNCINPEC official had reportedly received threats previous to the attack. At 3.30 am on 26 November in Pursat town, western Cambodia, a grenade was thrown into the FUNCINPEC office, seriously wounding two people. On 12 December Su Sareth, a 30-year-old FUNCINPEC member, had his right eye pulled out by unknown assailants in Svay Rieng province. FUNCINPEC leaders claim that he was attacked by a CPAF soldier. On 17 December, in central Kandal province, a FUNCINPEC official was shot dead outside his house by unidentified gunmen. In late December one FUNCINPEC guard was killed when a grenade exploded in the FUNCINPEC office in Banteay Meanchay, northwestern Cambodia. In Sdau village, Ratanak Mondol district, Battambang province 42-year-old In Dar and his 12-year-old son Vun Thom Dar were killed on 28 December when a bomb exploded just outside a FUNCINPEC party office where they were sleeping. FUNCINPEC party workers in the office had received threats from uniformed CPAF soldiers just before the attack.

On 24 November UNTAC discovered five dead bodies in Bavel district, Battambang province. They were found buried in a rice field with their hands tied behind their backs. The five had evidently been killed by blows to the head, disembowelling, or bayonet wounds to the back. They had apparently been arrested by CPAF officials on 18 November along with four others, who were subsequently released. The circumstances of their arrest and deaths is unclear, but Amnesty International remains concerned that the SOC authorities have neither publicly condemned nor investigated the killings.

On 12 December SOC security forces reportedly opened fire on a group of squatters they were forcibly



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evicting from land owned by an SOC official near Phnom Penh. Som Chea, a 50-year-old woman, died after being shot in both legs. The squatters, numbering some 40 families, had allegedly attacked CPAF soldiers with knives. Amnesty International is concerned that excessive force may have been used against the demonstrators. International standards permit lethal force to disperse violent assemblies only when absolutely necessary and in order to protect life. Amnesty International urges the SOC authorities to conduct an investigation into the event, to determine if lethal force was necessary to protect life.

## A general climate of fear and intimidation

Amnesty International is concerned by widespread intimidation of real or impugned critics of the SOC by SOC officials. Targets of intimidation include human rights activists and members of legally-recognized opposition political parties, especially FUNCINPEC and the BLDP, or anyone who protests against SOC policies. Forms of intimidation have included death threats, unwarranted interrogation accompanied by ill-treatment, and surveillance; in several cases these have constituted real restrictions on freedom of expression and association. Intimidation is more severe in rural areas: opposition political party leaders in Battambang, Siem Reap, Prey Veng, and Kompong Cham provinces all told Amnesty International that they had been followed by SOC officials and sometimes questioned. Referring to the temporary nature of UNTAC protection, SOC officials reportedly often quote a traditional Cambodian proverb to people they interrogate: "*The boat moves on, but the river bank remains.*"

Attacks against opposition party members in Battambang province described above have occurred in the context of widespread intimidation by SOC security forces. In early November at the beginning of voter registration CPAF soldiers reportedly told people near an electoral office: "*Any citizen entering a party different from the CPP, beware! This is an area of confrontation.*" On 12 November a local BLDP registration worker in Botus Mongkul district was reportedly told to stop working for the BLDP or "*there would certainly be some difficulties in your region*". That night five shots were fired at the roof of her house. On 26 November at Basan a CPAF soldier allegedly told a FUNCINPEC worker that if the office did not close down "*we will kill you*". On 28 November, five uniformed CPAF soldiers armed with four rifles and one machine gun entered the FUNCINPEC office in Moug Russei and verbally abused party workers, leaving only after UNTAC civilian police intervened.

In Siem Reap province Chuon Chhnuan, a village leader, was beaten on 12 November by an SOC official when he declined to speak in favour of the CPP at a public gathering. Two SOC officials had reportedly organized the meeting of some 200 people at 11.30 am in Trang village, Kondaek commune, where they gave campaigning speeches in support of the CPP. Chuon Chhnuan reportedly did not want to address the group, telling the officials "*I can't speak well in public*". One of the SOC officials reportedly knocked him to the ground with a blow to the head and then kicked him several times, rendering him unconscious. Both the officials then left the meeting. Villagers brought the victim to a hospital in Siem Reap, where he was refused admittance. He was then treated at home and was still coughing up blood a week later.

Another public beating by SOC officials took place in Svay Rieng province in early November. A local employee of Church World Service, a USA-based aid organization, was beaten by a Romeas Hek District official because he protested against SOC policies regarding food distribution to poor families. He objected to the absence of several poor families from an aid eligibility list drawn up by the district, and the inclusion of families related to local officials. As a result, he was reportedly beaten and forced to kiss the shoes of a district official.

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Members of four newly-established Cambodian human rights groups<sup>5</sup> have also been subject to intimidation by SOC authorities. On 20 November a few hours before the official opening of the ADHOC office in Siem Reap, uniformed SOC police came to the site and told them that they did not have permission to open. However the official ceremony took place as planned without interference from the SOC authorities. In Kompong Cham province the governor refused in September to give the local ADHOC office permission to open until UNTAC intervened and the office was allowed to officially open in November. Also in Kompong Cham province a local LICADHO representative was reportedly arrested in September and detained for two days, accused by the local SOC authorities of representing a political party. On 10 December, after a celebration for International Human Rights Day had ended, SOC police reportedly stormed the ADHOC office in Svay Rieng province, confiscating the group's materials and briefly detaining the leaders, including a monk. Phnom Penh University students have also expressed fears for their safety if they join an opposition political party.<sup>6</sup> Police reportedly compile lists of student opposition party members, and in early December one student was allegedly stopped by police on a motorcycle, hit on the head, and warned about his political affiliation.

### Ill-treatment of prisoners and deaths in custody

On 24 August UNTAC investigators entered two previously undisclosed places of detention administered by CPAF in Battambang province. Twelve prisoners were released from one of them, Tasang Prison, including three PDK troops, one KPRLF soldier, four civilian political prisoners and four civilian common criminals. Nine other prisoners, who are CPAF soldiers, are believed to remain in custody. Although Amnesty International has no further details about the prisoners, it is concerned that some of them had been held for political reasons, contrary to the provisions of the Peace Agreements. Amnesty International is further concerned at reports that prisoners in Tasang prison were ill-treated during detention. The SOC authorities had previously claimed to have released all the political prisoners it held.

Amnesty International is also concerned that on 30 June, Sang Seth, an inmate of Tasang Prison, was reportedly removed from prison and killed by prison guards. He had been arrested in April 1992 for robbery and murder. On the evening of 30 June, Sang Seth was reportedly taken from the prison and driven in an army vehicle to Toul Krasang village. Villagers heard one shot fired, and the next day Sang Seth's body was found buried nearby. He was apparently extrajudicially executed by prison guards for a bribe paid by one of his robbery victims.

On 24 August when UNTAC investigators entered the second prison, known as T-6, there were no longer any prisoners held there. The facility had been used as a detention centre for CPAF soldiers, but in the last 18 months had held all types of prisoners. The prisoners had reportedly been routinely beaten, kicked, and deprived of food. Immediately before T-6 was discovered, three prisoners and one guard were reportedly taken from the prison and killed by prison guards on 24 August. Rith, an PDK soldier, and Dam, a common criminal, and an unnamed FUNCINPEC member were taken along with a prison guard called

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<sup>5</sup>These are: the Cambodian Human Rights Association (known by its French acronym ADHOC); Human Rights Vigilance; Outreach; and la Ligue Cambodgienne pour la Promotion et la Defense des Droits de l'homme (LICADHO). They were all formed during 1992.

<sup>6</sup>Students were at the forefront of demonstrations on 21-22 December 1991, where at least eight people were killed by SOC security forces. Please see pp. 38-51, *STATE OF CAMBODIA: Human Rights Developments: 1 October 1991 to 31 January 1992* (ASA 23/02/92).

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Chin Mo to Thipodei, Moung Russei district, Battambang province, where they were shot in the back. Their bodies were later found buried in shallow graves in a grove of trees.

Also in August 1992 a secret military detention centre was discovered in Siem Reap province. The prison was reportedly closed immediately after its discovery by UNTAC. Its inmates, who were common criminals, were transferred to the provincial prison. In early September 1992 UNTAC investigators discovered another military detention centre in Kompong Cham province. Twenty-four of the inmates, who had reportedly been held for petty crimes, were released and the remaining eight were transferred to Tuol Sleng military prison<sup>7</sup> in Phnom Penh. All 32 prisoners were said to be military personnel. Although there appeared to be no political prisoners held at either of these prisons, Amnesty International is concerned that UNTAC and the International Committee of the Red Cross (ICRC) cannot properly monitor prisons whose existence is not disclosed by the SOC authorities.

After the disclosure of the two secret prisons in Battambang, Tea Banh, SOC Minister of Defence, reportedly told all military commanders that they were not allowed to set up detention and interrogation centres in their units. He stated further that the only authorized government-run military detention centre is Tuol Sleng prison in Phnom Penh. Amnesty International welcomes the Minister's statement and hopes that the Ministry of Defence will take practical steps to ensure that all military commanders comply with this order.

Amnesty International is also concerned about reports of torture and cruel, inhuman, or degrading treatment of prisoners in some SOC detention centres; specifically, in Battambang provincial prison; Poipet market police lockup; and in the Ministry of National Security in Phnom Penh. It is further concerned about reports that some prisoners continue to be held in shackles, particularly in police lock-ups, although generally the practice appears to have ceased. UNTAC officials have indicated that continued close monitoring of prison conditions is essential to ensure that practices such as the use of shackles are not resumed. Six prisoners are also reported to have died from malnutrition, although Amnesty International has no further details about these cases.

In Battambang provincial prison common criminals have reportedly been burned, beaten with axes, pistol butts, and sticks since at least early 1992. In August a prisoner was struck on the head with a pistol butt, beaten on the back with a stick after he fell to the ground, and poked in the throat with a burning stick. The prisoner was then threatened with shooting by a senior prison official who had conducted the beatings, reportedly because the prisoner had not cleaned the official's motorcycle properly. In Poipet, a town in Banteay Meanchay province in western Cambodia near the Thai border, the local police, all of whom are allegedly CPAF troops, routinely beat and kicked prisoners during August and September. Beatings occurred at the time of arrest and continued during the first few days of detention. Most of those beaten were arrested for petty crimes and usually not charged or tried. Prisoners were reportedly beaten with chains, bamboo and wooden sticks, and hands and fists.

According to reports, on 25 September a man who was accused solely of being a FUNCINPEC member was arrested, severely beaten, and released two hours later. He was arrested in Phnom Penh by six armed men at 9 am, handcuffed and kicked by a master sergeant, who held a pistol to his head, and punched and kicked him in the chest repeatedly when he attempted to escape. He was then driven on a motorcycle to a

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<sup>7</sup>The military detention centre is not the same prison which the PDK used as an interrogation and torture centre when they were in power.

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building inside the Ministry of National Security compound and again kicked in the chest repeatedly in the presence of six men in uniform, one of whom was a captain. He was taken to a cell at the back of the building, punched in the face and kicked in the chest. After being removed from the cell, he was brought into another room and asked if he was a member of FUNCINPEC. He said that although he was not a member, his parents were, and was told by his interrogators that he would be killed if he did not confess. Another official then entered the room, gave him some money for medicine and told him to leave. After he returned home, he was taken to an UNTAC hospital for treatment of two broken ribs, a fractured sternum, and severe bruises on the chest and face. He believes that he may have been arrested instead of his brother-in-law, who is a FUNCINPEC member. Amnesty International is concerned that the SOC authorities appear to have neither investigated nor acknowledged the incident.

## Political prisoners

Because the SOC Government has not made public a comprehensive list of all political prisoners who have been released since it came to power in 1979, Amnesty International is unable to determine if those political prisoners whose detention it had documented have now been released. Nevertheless the organization believes that the vast majority of political prisoners are no longer in detention in Cambodia. However it remains concerned that, because no central log of prisons or prisoners has been made available to ICRC or UNTAC, political prisoners may be detained in smaller prisons which neither organization has regular access to. Amnesty International welcomes the establishment of a prison commission by the SOC Ministry of National Security in July 1992, and calls on this commission to compile prisoner lists, to be given to the ICRC and UNTAC on a regular basis.

## Gross human rights violations committed by the PDK

Amnesty International is gravely concerned by the killing of at least 39 ethnic Vietnamese civilians, two ethnic Cambodian civilians and the "disappearance" of 11 others which have been attributed to the PDK and which constitute a pattern of gross human rights violations. The presence of foreign forces in Cambodia is contrary to the Peace Agreements, which the PDK claims are being violated. The PDK has asserted that many ethnic Vietnamese civilians living in Cambodia are in fact Vietnamese soldiers; however, UNTAC has found no evidence to support this allegation. The PDK claims further that Vietnam is continuing in its attempts to colonize Cambodia, although Vietnam reportedly withdrew most of its troops in September 1989. The faction objects to ongoing Vietnamese immigration into Cambodia, saying that there are more than two million now in the country. While this number is generally considered to be exaggerated, there are hundreds of thousands of Vietnamese in Cambodia, some of whom have lived there for several generations. In 1970 under the USA-backed Lon Nol government, there were mass killings and deportations of ethnic Vietnamese by government security forces. Many Vietnamese fled Cambodia when the PDK overthrew Lon Nol's government in 1975, and almost all of the few who remained were killed by PDK forces after it gained control of Cambodia. Some returned after the Vietnamese invaded Cambodia in 1978, removing the PDK from power. Since the Peace Agreements were signed, there has been an influx of new Vietnamese immigrants who came to seek employment.

Massacres of Vietnamese civilians has increased in the last half of the year, but there were reports of earlier massacres in April and May. On 28 April 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

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Vietnamese men. Villagers who had witnessed the attack and escaped were able to describe what happened, but there are evidently no further details of a second attack in Kompong Chhnang province which reportedly took place on 14 May.

On 21 July between 8.30 and 9.30 pm PDK troops reportedly attacked the village of Tuk Meas, Banteay Meas district, Kampot province near the Vietnamese border, killing eight Vietnamese civilians and injuring one three-year-old boy. The village comprises 163 families, five of whom are ethnic Vietnamese and had reportedly lived in the village for decades. The local SOC militia was on duty at the time, and reportedly saw 30 to 50 uniformed men armed with AK-47's and grenades approach the village. There was a brief exchange of fire before the militia withdrew and the intruders split into three groups and entered the village, attacking two houses. The PDK troops were allegedly intending to kill Tob Be, a retired Vietnamese army captain, who escaped with his family from the rear of his house, subsequently fleeing to Viet Nam.

Villagers reportedly heard the men call: "*Go on, kill the Vietnamese enemy.*" The attack lasted about one hour. Those killed were: 1. Ngieng Tang, a 35-year-old baker, shot dead; 2. his wife Lim Ngon Fang, aged 20, shot dead; 3. their week-old child, who died when it fell from its mother's arms after she was shot; 4. Em La, male, age 15, shot dead; 5. Em Outra, age 13, his sister, shot dead; 6. Em Tourng, male, aged 11; 7. Em Troy, male, age 9; 8. Em Trok, male, aged 30, uncle of the four dead children, who was disembowelled. Their brother Em Tring, aged 3, escaped and was subsequently taken to the hospital with neck and leg wounds. A CPAF military unit stationed one kilometer away heard the shooting, but reportedly did not intervene.

On 29 July the PDK denied responsibility for the killings, stating that CPAF troops killed the Vietnamese. The Voice of Great National Union Front of Cambodia, the PDK radio broadcast, inferred their motivation for the attack: "*...As such, the Cambodian soldiers...have become impatient at the Vietnamese aggressors' expansion and annexation of their land and villages...The fury of the local people and Cambodian soldiers is now extremely fierce.*" PDK Chairman Khieu Samphan said in a 20 August press interview: "*UNTAC must understand the urgency of resolving the problem of the Vietnamese settlers who are part of the Vietnamese occupation plan which continues to swallow Cambodia. If the Cambodian people cannot see a peaceful solution to the problem, they will seek other means.*"

On 3 October another massacre of ethnic Vietnamese by PDK forces occurred near Chamkaleu village, in 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 to urge 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 found 11 bodies. All of them had been shot in the head, probably 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*

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*derogatory Cambodian term for Vietnamese] aggressor forces are still carrying on their aggression and occupation of Cambodia, while Yvon immigrants are continuing to plunder land and farms of the Cambodian people, thus acutely antagonizing the Cambodian people."*

At about the same time as the Koh Kong massacre, eight 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 reportedly stopped by armed men at Prek Kloh, about 40 kilometers from their home. They were: 1. Le Yang Muk, male, age 41; 2. Le Yang Song, son of Muk, age 13; 3. Bui Hom, male, age 21; 4. Bui Them, brother of Hom, age 14; 5. Le Yang Nguyen, male, age 44  
6. Nguyen Thi Kha, wife of Le, age 31; 7. Trang Yang Lom, male, age 20; 8. Trang Yang Lien, brother of Lom, age 24. Initially the local PDK commander General Men Ran admitted that they had kidnapped the Vietnamese, claiming that four of them were in fact Vietnamese soldiers and that therefore he had the right to abduct them. He reportedly 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 kidnapped, and claimed to know nothing about them. Amnesty International is concerned about the "disappearance" of these eight people, and calls on the PDK to account for their whereabouts.

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 recent killings Amnesty International is concerned that their deaths may have been politically motivated.

On 27 December PDK forces attacked Phum Taches, a fishing village in Kompong Tralach district in Kompong Chhnang province, killing 12 ethnic Vietnamese, four of them children, and injuring 13 others, some of them seriously. Two Cambodians were also killed in the attack and another Vietnamese died the next day in hospital. Twenty-four PDK soldiers reportedly arrived at the village on the Tonle Sap in two boats, and asked villagers to identify ethnic Vietnamese, who were then killed. They reportedly fired B-40 rocket-propelled grenades into at least two houses. When people began to flee towards the river bank, they opened fire with AK-47's. Leaflets left behind in the village by the PDK reportedly accused UNTAC of collaborating with Vietnam, and threatened to kill anyone serving "the yvon".

Amnesty International is further concerned by the PDK's practice of taking UNTAC personnel as prisoners and its deliberate attacks against UNTAC emplacements. During the month of December PDK troops took at least four groups of UNTAC peace-keeping troops as prisoners, releasing them all unharmed after holding them for a few days. The PDK leadership claimed that UNTAC troops had entered its zones of control without its permission, and that some of them were spying on PDK troop positions. In the final incident in northeastern Kratie province, the PDK threatened to execute nine UNTAC troops, one Russian helicopter pilot, and one interpreter if UNTAC attempted to rescue them by force. They were released on 20 December after UNTAC negotiations with senior PDK officials. In a 20 December statement, Khieu Samphan accused UNTAC of provoking the confrontations by entering PDK zones without permission. He further claimed it was part of a plot to discredit the PDK, designed to mislead the UN Security Council into imposing sanctions against the PDK.

In other attacks against UNTAC personnel, PDK forces reportedly fired artillery shells at UN electoral workers on 6 December in Kompong Thom province, an area of major ceasefire violations between SOC

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and PDK forces. An UNTAC staff member present at the time believed that the shells were aimed directly at his tent. One Cambodian woman was injured in the attack. The next day the local PDK commander reportedly ordered the UN to leave the area, and subsequently UN electoral registration teams were withdrawn, although UNTAC troops remained. On 31 December PDK forces deliberately fired more than 80 mortar shells at UN buildings in Svay Loeu district, Siem Reap province in the northwest of Cambodia, although there were no injuries. It appeared that the PDK attacked UNTAC in connection with UNTAC attempts to register voters in the area. Following negotiations with the PDK the same day, 45 UNTAC civilian and military personnel were safely evacuated from the area. PDK spokesmen later denied that they had attacked UNTAC personnel.

## Recommendations

All four parties which comprise the SNC have the responsibility to uphold the principles enshrined in the seven international human rights instruments which have been acceded to by the SNC, and to cooperate with UNTAC fully in the implementation of the Peace Agreements. Amnesty International is particularly concerned that the PDK has refused to comply with the Peace Agreements, and calls on it in the strongest terms to do so. In particular the PDK should immediately grant UNTAC access to the territory and population which it controls and cooperate fully in any investigations of human rights violations believed to have been committed by PDK forces.

### Recommendations to the State of Cambodia

- 1.The SOC should ensure that all its laws and practices are brought into conformity with the international human rights treaties and the instruments adopted by the SNC, including the penal code. It should also ensure the full implementation of other international standards relating to the judiciary, law enforcement officials and the treatment of detainees, as set out in the new penal code.**
- 2.The SOC should cooperate fully with all components of UNTAC, particularly in the investigation and prosecution of cases of human rights violations and in the implementation of any corrective measures put forward by UNTAC.**
- 3.The SOC should instruct all its officials at the provincial, district, and commune level to immediately investigate violent attacks which appear to be politically-motivated.**
- 4.The SOC should ensure that any of its officials believed to be responsible for human rights violations are brought to justice. It should also ensure that officials who are implicated in extrajudicial executions are removed from power, in accordance with Principle 15 in the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions which provides that: "*Those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.*"**
- 5.The SOC should instruct the police to adhere strictly to the provisions of the penal code, particularly as regards the permissible powers of arrest and detention and respect for the functions and decisions of prosecutors and the judiciary under the code.**

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**6. The prison commission should compile and publish a comprehensive list of all political prisoners who have been released since the SOC has been in power. The commission should also maintain a central up-to-date register of all prisoners and prisons administered by the SOC. The SOC should ensure that all provincial military and civilian officials do not maintain secret detention centres in their areas of command.**

**7. The SOC should ensure that the torture and ill-treatment of prisoners is absolutely prohibited in accordance with international standards such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and that any officials implicated in such practices are removed.**



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Recommendations to the **Partie** of Democratic Kampuchea

**Amnesty International urges the Partie of Democratic Kampuchea (PDK), as a member of the Supreme National Council of Cambodia, to immediately implement the following recommendations:**

**1. Instruct all troops under its command not to arbitrarily kill civilians under any circumstances. As a member of the SNC, which acceded to seven international human rights instruments, the PDK is obligated to uphold the rights enshrined in these treaties, including the right to life. Article 6 of the ICCPR states: "*No one shall be arbitrarily deprived of his life.*"**

**2. Account for the 11 Vietnamese civilians who "disappeared" while in PDK custody. Instruct all PDK troops not to arbitrarily detain, ill-treat, or kill civilians either in its zones of control or those controlled by the other three factions.**

**3. Ensure that its troops receive orders not to detain or attack UNTAC personnel, and to cooperate fully with UNTAC in implementing all aspects of the Peace Agreements, particularly those pertaining to human rights.**

## The role of UNTAC

Under the terms of the Peace Agreements which contain explicit provisions for the full observance of human rights in Cambodia, UNTAC plays a key role in the promotion and protection of human rights. Charged with responsibility for fostering an environment in which respect for human rights shall be ensured, UNTAC includes a Human Rights Component with a mandate to implement a program of human rights education; exercise general human rights oversight and investigate complaints; and, where appropriate, take corrective action. UNTAC's Civil Administration Component also has an important role in the field of human rights. It has a wide-ranging responsibility to exercise supervision and direct control over administrative bodies which could influence the outcome of the elections, in order to secure a neutral political environment conducive to free and fair elections. For example, one of the five key areas in which this Component is to give special attention is public security. Furthermore, UNTAC civilian police monitors are responsible for supervision or control of local civil police to ensure that law and order are maintained effectively and impartially and that human rights are fully protected.

In his February 1992 report on Cambodia to the Security Council [S/23613], the Secretary-General indicated that UNTAC would have only a modest number of human rights officers, with no staff devoted exclusively to human rights at the provincial levels. It was anticipated that all UNTAC staff would be charged with carrying out human rights functions as an integral part of their duties. Subsequently, however, it was decided to place human rights officers in the provinces and, by the end of 1992, the Human Rights Component consisted of an office at UNTAC headquarters in Phnom Penh with some 10 professionals, divided into two units covering investigation and education respectively, and a human rights officer in each of UNTAC's 21 provincial offices. However, this still represents a relatively small number of staff and it remains essential that there is close cooperation on human rights matters within UNTAC, particularly among the Human Rights Component, the Civil Administration Component and the Police Component. In some respects such cooperation has not been as effective as it should be if all UNTAC officials are to play an integrated and coordinated role in securing respect for human rights.

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UNTAC has, however, been carrying out an extensive and important program of work on human rights. At an International Symposium on Human Rights in Cambodia, held under the auspices of the Human Rights Component of UNTAC from 30 November to 2 December 1992, it was reported that some 300 complaints had been received by the Component's office in Phnom Penh and about the same number from all the provincial offices, covering a wide range of issues such as land disputes, intimidation and harassment and wrongful death. Of these, 161 had been taken up by the Human Rights Component or passed on to other relevant UNTAC officials. Investigations of human rights complaints are generally carried out by human rights officers in conjunction with the civilian police monitors. A quick response mechanism has been developed in serious cases of violations whereby a preliminary investigation is carried out and reported on in seven days. In some cases, it appears that investigations have been inconclusive, often because of lack of evidence and/or lack of cooperation from Cambodian officials. In other cases, UNTAC officials have recommended to the UN Special Representative in Cambodia that "corrective action" be taken, such as the removal of an official, the payment of compensation to victims or the bringing to justice of those responsible. However, the implementation of corrective measures appears so far to have been less than effective and, unless such steps are vigorously pursued at the highest levels of UNTAC and the Cambodian authorities cooperate fully, human rights protection cannot be secured.

Human rights education and training programs have been an important part of UNTAC's activities. The Civil Administration Component, civilian police monitors and the Human Rights Component have all been involved in conducting human rights training programs for judges and prosecutors; police; and defence lawyers and defenders respectively. Human rights education programs have also been set up for Cambodian administrative officials, UNTAC staff and professional, civic and activist Cambodian groups, as well as in schools and the University of Phnom Penh. A human rights information program for the general public has been launched through the media with the involvement of UNTAC's Information Component.

The task facing UNTAC in building human rights awareness and in establishing effective protection mechanisms is enormous. The lack of an independent functioning legal and judicial system or other institutions for human rights protection is only one impediment. Independent human rights organizations are at the earliest stages of development and still feel very much at risk in undertaking human rights work. Delays in the full deployment of UNTAC also mean that many of its activities are still at a relatively early stage and that much more remains to be done.

At the International Symposium on Human Rights in Cambodia in late 1992, the UN Special Representative and officials of the Human Rights Component expressed their concern at the recent wave of human rights violations and noted the enormity of the task facing UNTAC in carrying out its mandate. In his opening address, the Special Representative expressed his concern about "*a number of serious incidents which have undermined the neutral political environment we are charged to maintain*". The Special Representative said "*there has not been a satisfactory response by the responsible authorities to any of these incidents*" and called on all parties to take steps to prevent such acts and to seriously investigate those which had already occurred.

There is also no doubt that the set-backs which UNTAC has experienced, most notably the continued refusal of the PDK to cooperate with UNTAC or to participate in the full implementation of the Peace Agreements, has had a negative effect on all aspects of the operation, including in the field of human

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rights. However, it also appears that human rights considerations may have been subordinate to the larger political and military objectives of UNTAC, particularly in the critical early stages of the operation which has tended to compromise the effective implementation of the human rights mandate. The operation also did not include longer-term plans for the institutionalization and consolidation of human rights promotion and protection beyond the transitional period and proposals for this are only now beginning to be formulated.

There has also been very little public reporting on UNTAC's activities, and the problems it faces, in the field of human rights. In the Secretary-General's second progress report on UNTAC in September 1992 [S/24578], there was only a very brief summary of these activities. The total number of complaints received and taken up was noted, but no break-down was given of the different types of violations reported, nor any details of the progress or outcome of any investigations or corrective measures taken or envisaged, beyond stating that such measures had been taken where necessary. It was noted that a review of the existing judicial and penal systems was being undertaken, in light of the provisions of the International Covenant on Civil and Political Rights which had been acceded to by the SNC in May. However there was no indication of the enormous deficiencies in these systems and the scope of the tasks involved to address them. The important field of human rights education and training and the Civil Administration Component's control and supervision of the administration, including in the difficult area of public security, were also touched upon only in a fairly general and cursory way. The November 1992 report on the implementation of Security Council Resolution 783 [S/24800] was also very brief, although this was not intended to be a full progress report on the full scope of UNTAC's mandate. This report did, however, in its discussion about the military situation, include details of attacks on UNTAC personnel stating that those occurred in areas where the PDK was known to be present, and the killings of ethnic Vietnamese in Kampot and Koh Kong provinces, noting that UNTAC investigations had indicated that PDK units were responsible.

Amnesty International believes it is imperative, as the elections draw closer, that prompt and effective action to deal with human rights violations are at the top of UNTAC's agenda. The establishment of a Special Prosecutor's Office is important in this regard and it must be made clear to all parties that firm measures will be pursued by UNTAC, at the highest level if necessary, in respect of all human rights violations and that the strict observance of human rights is an essential element in creating a neutral environment for elections, free of fear and intimidation.

Cooperation on human rights activities among the various components of UNTAC should be improved and intensified. It is also to be hoped that the Secretary-General's report to the 49th session of the Commission on Human Rights and future progress reports on UNTAC's operations will include a more detailed account of its human rights activities and will fully reflect the difficulties experienced, corrective measures taken and any other recommendations for improving its effectiveness in the field of human rights. It would be particularly important, for example, to provide in due course a detailed account of the functioning of the Special Prosecutor's Office which represents an important and unprecedented development in the UNTAC's operation.

A fuller discussion of the needs and deficiencies which UNTAC is trying to address in areas which impact on human rights protection, such as a detailed analysis of the criminal justice system, would also give the international community a more accurate picture of the enormity of the task facing UNTAC and would help to dispel unrealistic expectations which UNTAC cannot hope to fulfil in the time that remains. It

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would also be valuable if the reports could reflect UNTAC's recommendations for longer-term measures needed to continue and build on its work after the transitional period to assist the new government of Cambodia. As indicated below, this should incorporate a continued role for the UN in the post-UNTAC period.

## A UN role after UNTAC

In light of the extremely precarious human rights situation in Cambodia and the need for sustained and long-term measures to institutionalize human rights promotion and protection, Amnesty International believes that it is imperative that continuing UN human rights scrutiny, backed by an on-site UN presence in the country, be established when UNTAC departs. Prior experience has shown that the human rights situation can be very fragile immediately after elections when a new government should be given every support by the international community in its efforts to ensure respect for human rights. This is particularly the case in Cambodia, given its history of a whole-sale disregard for human rights and the fact that the establishment of a strong institutional human rights framework will be a gradual and long-term process. After having established an operation of the scale of UNTAC, with its unprecedented mandate to supervise and control so many areas of government administration, and to ensure respect for human rights, it would be irresponsible and short-sighted for the UN to abruptly withdraw entirely after the elections.

The Peace Agreements envisage that UNTAC's mandate will end when the elected constituent assembly has approved the constitution and transformed itself into a legislative assembly and a new government has been created. If free and fair elections take place as scheduled in May 1993, the UNTAC operation would come to an end by mid-1993. It is clear that the short time which remains is simply insufficient for the international community to be satisfied that the infrastructure and the climate necessary to ensure the full protection of human rights is established in Cambodia. The Peace Agreements already envisage the desirability of continued international scrutiny by providing that the UN Commission on Human Rights should continue to monitor the human rights situation closely, such as by the appointment of a Special Rapporteur who would report annually to the Commission and the General Assembly. At the International Symposium on Human Rights in late 1992, which took this up as one of its main recommendations, the UN Special Representative in Cambodia expressed strong support for the appointment of a Special Rapporteur, backed up by an operational presence in the country by the UN Centre for Human Rights. The Centre for Human Rights has also been working on programs of technical assistance to Cambodia, as called for in Decision 1992/102 of the Commission on Human Rights and Resolution 1992/17 of its Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Although the UN's human rights bodies, such as the Commission on Human Rights, did not, regrettably, play a role when UNTAC was established and its human rights mandate elaborated, it is now appropriate that the UN role after UNTAC should be centered within the human rights program. It is also necessary that UNTAC officials working in the field of human rights should cooperate closely with the Commission on Human Rights and the UN Centre for Human Rights in formulating the future UN role in Cambodia and in ensuring a smooth transition and the continuation of ongoing activities and programs, such as in the field of human rights education and training. The time-frame requires that decisions on a post-UNTAC UN role be taken at the 49th session of the Commission on Human Rights so that this can be put in place in 1993 as the transitional period comes to an end.

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Amnesty International strongly supports the appointment by the Commission on Human Rights of a Special Rapporteur on Cambodia. The Special Rapporteur should have a broad mandate incorporating on-going monitoring and investigation of the human rights situation; recommendations for and oversight of human rights training and education programs and other technical assistance; working with the new government to encourage the development of independent institutions for human rights protection; and maintaining contacts with human rights organizations in Cambodia and with other relevant professional and civic groups as well as with international non-governmental organizations. The Special Rapporteur should report to the General Assembly and to the Commission on Human Rights. In addition, in the event of any serious deterioration in the situation, he or she should be able to draw this to the attention of the Secretary-General for urgent attention, rather than waiting for the next session of the General Assembly or the Commission. Such approaches to the Secretary-General and measures taken by him in response should be fully reported to the General Assembly and the Commission so that these bodies are apprised of the situation and can determine what steps need to be taken.

It is clear, however, that the appointment of a Special Rapporteur to visit the country for a few weeks each year is insufficient to meet the needs of this situation and would not allow the close and sustained follow-up necessary to continue UNTAC's work. Amnesty International also strongly supports the proposal for the Centre for Human Rights to establish an operational presence in Cambodia. Human rights staff, working closely with the Special Rapporteur, could assist in the implementation of all aspects of the Special Rapporteur's mandate and in the continuation of the activities and programs established by UNTAC. An on-site human rights presence would need to have sufficient resources to carry out its tasks effectively, both in the provinces as well as in Phnom Penh.

The Special Rapporteur and human rights staff based in Cambodia should also cooperate closely with other UN human rights mechanisms and procedures, such as the thematic mechanisms of the Commission on Human Rights who could accompany the Special Rapporteur on joint visits to examine and make recommendations on human rights questions falling within their respective mandates. The Special Rapporteur on summary or arbitrary executions could, for example, be encouraged now to examine recent instances of political killings and to advise on measures to address this. Advice and assistance should also be provided to the new government on the fulfilment of its obligations under the international treaties to which it is now a party and particularly on the preparation of the necessary periodic reports on its implementation of these instruments.