

# KINGDOM OF CAMBODIA

## Law and order - without the law

On 3 December 1999, Cambodia's Prime Minister Hun Sen issued an order to rearrest "*all suspect armed robbers, kidnappers and drug-trafficking criminals.*"<sup>1</sup> Within hours of the Prime Minister's order, Phnom Penh police began rearresting people who had previously been released on the direction of the Phnom Penh Municipal Court. The Prime Minister's directive, which was addressed to authorities throughout the country, followed a 29 November 1999 letter from Chea Sophara, the Governor of Cambodia's capital Phnom Penh, complaining of corruption in the Municipal Court. Attached to his letter (details of which were made available to the press), was a list of 66 names of people he labelled "criminals" who had been released on the order of Municipal Court judges during the first two and a half weeks of November 1999. The list of names consisted entirely of people who had been detained in PJ prison in Phnom Penh. This prison is administered by the police, who are also responsible for carrying out arrests of criminal suspects.<sup>2</sup>

The first rearrests in Phnom Penh were of people named on the list of 66 detainees who had been released from PJ prison. A further list of over 100 persons was made public by the central T3 prison, and individuals from this list were also quickly arrested by Phnom Penh police. An Amnesty International delegation visiting Cambodia at the time investigated a number of cases from the first list and found that nine were minors and ten had been held in pre-trial detention for more than six months, in violation of the Penal Code.

By March 2000, more than 40 people remained in detention on the basis of the Prime Minister's order. There are no guidelines on how long the directive is to be enforced, or what procedures are to be followed for those detained under the directive. Amnesty International believes that the orders from Prime Minister Hun Sen and the actions of officials who carried them out contravene Cambodia's Constitution, domestic laws and international human rights standards to which Cambodia is a state party. It also represents a step backwards in the struggle to establish an independent, competent judicial system in Cambodia.

Cambodia's judicial system is weak and struggles to deal with the demands placed upon it. Both the civil and military court are subject to political pressure and allegations of corruption in criminal cases are commonplace. International attention is currently focussed on Cambodia's courts because of the possible trials of individuals accused of responsibility for the grave violations of human rights in the country during the Democratic Kampuchea era (1975 - 1979). A United Nations Group of Experts which visited the country in 1998 recommended last year that an *ad hoc* international tribunal be established to try those suspected of involvement in the crimes against humanity of that era. The Cambodian government rejected

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<sup>1</sup>An unofficial translation of the entire text of the Prime Minister's directive is provided as an Appendix at the end of this document.

<sup>2</sup>The name "PJ" prison was adopted during the colonial period, as an abbreviation for "Police Judiciare".

the Experts' report and stated that the suspects would be tried in Cambodia, under domestic laws, but allowing for the participation of some international judges and experts. Negotiations continue over what form the trials might take, but the imposition of executive authority over who should or should not be in custody in Cambodia underlines longstanding concerns about the independence of the judiciary and its capacity to conduct any trials to international standards for fairness. Already struggling with severe shortages of human and financial resources, the judicial system is now also subject to arbitrary and unconstitutional direct interference by the executive branch of government, undermining human rights protection and preventing the independent administration of justice.

## Background

The problems in Cambodia's judicial system are a product of the country's turbulent history. When Cambodia gained independence from France in 1953, the judicial system was based on the French system. This was reflected in Cambodia's laws and in the manner in which investigations and trials were conducted. Following a coup d'état in 1970, the country descended into civil war; many people left to escape the fighting and start new lives abroad, including members of the legal profession. During the period of Democratic Kampuchea (17 April 1975 to 7 January 1979, when the country was ruled by the Communist Party of Kampuchea, commonly referred to as the Khmer Rouge), there was no formal judicial system at all, and almost all of the lawyers and judges who had remained in the country were killed or died of disease, starvation and overwork on collective farms.

On 25 December 1978, the Vietnamese army invaded the country; Democratic Kampuchea collapsed by 7 January 1979, and a new government was formed. The People's Republic of Kampuchea (later renamed the State of Cambodia) imported many elements of the Vietnamese judicial system into Cambodian judicial practice. New laws were passed, and attempts were made to re-establish a judicial system throughout the country. Human and material resources were extremely limited, and war with the armed forces of the Khmer Rouge and other opposition groups continued. Trials fell far short of international standards for fairness and the courts relied heavily on confessions from the accused. The Vietnamese withdrew their troops from Cambodia in 1989, but civil war continued until 1991, and hundreds of political prisoners were held in detention.

Following an internationally-brokered peace agreement in 1991, the United Nations Transitional Authority in Cambodia (UNTAC) arrived in the country to oversee the peace process and organize elections, which were held in 1993. In 1992 the "*Provisions relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period*" (commonly known as the UNTAC Penal Code) were introduced and remain in force today. While efforts have been made to improve the training and capacity of the legal profession in Cambodia, and newly qualified lawyers are now working in the country, there is still an acute shortage of trained personnel. Many practices from earlier eras remain common, and people are often convicted on the basis of confessions obtained under duress,

without corroborating evidence. International standards for fair trial are still frequently breached, violating both international and domestic laws. Salaries for judges, prosecutors and court officials are extremely low, and the courts remain vulnerable both to corruption and political interference.

Cambodia's Constitution<sup>3</sup> states in Chapter 11 that the judiciary shall be an independent power, which shall guarantee and uphold impartiality and protect the rights and freedoms of the people. Article 130 states clearly that "judicial power shall not be granted to the legislative or executive branches of government." The Constitution states that the King is the guarantor of judicial independence, assisted by a body called the Supreme Council of Magistracy, which "shall be established by an organic law which shall determine its composition and functions."<sup>4</sup> The law on the Organization and Functioning of the Supreme Council of Magistracy was passed by the National Assembly in December 1994, but the Supreme Council of Magistracy did not meet until December 1997. A second meeting was held in May 1998, and the Supreme Council of Magistracy began to meet more regularly by the end of 1999. Serious questions remain about its independence. As in many of Cambodia's institutions, appointees have political affiliations. The Supreme Council of Magistracy has yet to demonstrate that it has either the will or the ability to protect the independence of the judiciary. However, it is the only institution which has the power to take disciplinary actions against judges and prosecutors. The Minister of Justice is also a member of the Council, thus violating the constitutional provisions for the separation of executive and judicial powers in Cambodia.

### **Chea Sophara's allegations**

Cambodia, and in particular Phnom Penh, has experienced rising crime levels in recent years. Violent street crime and kidnapping have raised strong concerns with the general public. Confidence in the police and the courts is very low, and in recent months there have been many vigilante killings of alleged thieves by angry mobs. It was against this background that Phnom Penh Governor Chea Sophara announced on 30 November 1999 that he had evidence of court corruption, and that he had written to the King, the Prime Minister and the Minister of Justice about the problem. By 1 December 1999, newspapers had obtained and published the list of 66 prisoners - labelled "criminals" by Chea Sophara - who had been released from PJ prison, on the orders of the Phnom Penh Municipal Court. On 2 December 1999, Justice Minister Uk Vithun announced that a committee had been formed to investigate the Governor's allegations of corruption within the Municipal Court. He said that if the committee found court officials

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<sup>3</sup>The Constitution dates from 1993, but was substantially amended in 1999, in order to allow for the creation of the Senate, as agreed during the negotiations to form a new coalition government in 1998. All Constitution articles and chapters quoted in this paper refer to the amended 1999 version.

<sup>4</sup>Article 134 of the Constitution of the Kingdom of Cambodia.

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to be implicated in the taking of bribes to release prisoners, the cases would be sent to the Supreme Council of Magistracy.<sup>5</sup>

### **Hun Sen's directive**

The directive to rearrest criminal suspects released by the courts came from Prime Minister Hun Sen on Friday 3 December 1999. Hun Sen said:

*“In order to suppress the irregularities in the implementation of the law, to strengthen social order and security, and to contribute to the reform of the judiciary, I respectfully issue the following order:*

*1. In the entire country, all suspected armed robbers, kidnappers and drug-trafficking offender criminals who: have been released by the courts because charges were dropped; were temporarily released from detention; were issued warrants of exemption from prosecution after arrest warrants had been issued; or were released prior to serving the complete sentence - must be recaptured. ...*

*2. The Ministry of Justice must set up a special working group ... to research irregularities in releases ...*

*3. From this day forward, armed forces, especially the judicial police and judicial military police ... must immediately recapture all persons who have conducted armed robberies, kidnappings and drug trafficking activities.*

*These arrests must be done after the court has made a decision to release that contains irregularities.”*

The order was sent to the Minister of Justice, the Co-Ministers of the Interior, the Co-Ministers of National Defence, the Commander in Chief of the Armed Forces, the National Police Director, the Commander of the Internal Security Forces, and all Municipal and Provincial Government Delegates. Within hours, the rearrest campaign in Phnom Penh had begun, although there was no apparent attempt to follow the directive about alleged offences. Anyone named on the list of 66 released prisoners, regardless of their alleged offence or the reason for their release became a target.

### **In police cells**

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<sup>5</sup>*The Cambodia Daily*, 3 December 1999.

On Saturday 4 December 1999, pro-government newspapers published a list of 26 people who had already been rearrested, from the PJ list of 66 names. An Amnesty International delegate, together with local human rights workers, visited five police stations in Phnom Penh, looking for people from this group of 26 who had been detained. Police at all the stations visited by Amnesty International were cooperative, although local human rights workers encountered difficulties at other police stations in the capital. All of the police officials said they were implementing the orders of the Prime Minister by arresting individuals from the list. However, none of them were sure what they should do with the people they had rearrested, and stated that they were waiting for instructions from those in authority.

In the first police station, Amnesty International found two prisoners who appeared on the list of those released from PJ prison. One was a teenager who had been taken without a warrant from his house at 2am, by a group of six or seven police armed with AK-47 rifles. His parents had asked whether they could instead bring him to the police station in the morning, but the request was refused. When asked if he had any questions, the young man replied that he would like the human rights workers to ask the police why he was in the police station and how long he would be under arrest. The police chief at this station stated firmly that the two prisoners were not technically under arrest; he claimed they had been “invited” to the police station and had accepted that invitation.

Article 18 of the UNTAC Penal Code states:

*“Arrest without a warrant. Police may arrest anyone found in the act of committing a cognizable offence, in particular:*

- if the suspect is observed committing a crime or misdemeanour, or if pursued by a public hue and cry;*
- if the suspect is identified at the scene of a crime or misdemeanour by witnesses or the victim;*
- if the suspect attempts to flee the scene of a crime or misdemeanour.”*

In all other cases, a warrant must be obtained prior to arrest. Thus the rearrest without warrants the 26 people from the list of 66 names was not lawful.

At another police station, Amnesty International found a young man with an apparent mental disability, who was unable to respond to any questions, did not appear to know where he was, or why, and who had not been visited by relatives since his detention the previous evening. In Cambodia, when people are held in police custody, they must rely on relatives to provide them with the basic necessities of food and water, so the young man had not had anything to eat or drink for almost 24 hours. Arrangements were made with the police to ensure that human rights workers would be allowed to provide food and water for the duration of his custody. However, none of the police were able to say how long they expected to detain the young man; the only reason for his rearrest was that his name was on the list of 66.

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Another young man, whose name also appeared on the list of 66, was found detained in squalid conditions at a sub-district police station. He expressed bewilderment at his rearrest, and explained anxiously that the court case was over, that he had not committed a criminal offence and that this had been recognised by the court. He told Amnesty International “*I was involved in an unhappy love affair, but I’m not a criminal. I don’t know when I will be free and I don’t dare to ask.*”

## The list

Amnesty International and local human rights workers analysed the list provided to the newspapers by Chea Sophara, from PJ prison. It was immediately apparent that some of those released had been set free by the court, in accordance with the law, because they had been held for an excessive period of pre-trial detention. The UNTAC Penal Code states:

*“The duration of pre-trial detention must in no case exceed four months. However, upon the decision of a judge setting out the reasons, this period may be extended to six months, if justified by the requirements of the investigation. Minors less than 13 years of age may not be placed in pre-trial detention; minors 13 to 18 years of age may not be placed in pre-trial detention for more than one month. The length of such detention may be doubled if the minor is charged with a crime.”*

On the list of 66 names from PJ prison, ten adults had been released by the court, following excessive pre-trial detention, ranging from just under seven months to over a year. In addition, two minors had been held for over months before being released by the court.

At least six people on the list had been released on bail by the court. Phnom Penh’s prisons are crowded and conditions are poor. Innocent people can be detained in these conditions for months awaiting trial. Article 14 of the UNTAC Penal Code states that “the accused has the right to petition the judge for [pre-trial] release” and stipulates clearly restricted grounds for placing a subject in pre-trial detention.<sup>6</sup> While the law is clear, the courts have only recently started to use bail as an option for suspects awaiting trial. Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR), to which Cambodia is a party states:

*“It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at*

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<sup>6</sup>The law states: “Only the judge, if so petitioned by the prosecutor, may decide to keep an accused in prison, and only if there is a risk of escape or non-appearance manifested by the absence of such factors as a job, a family, a home, or if there is reason to believe that the accused will influence witnesses or the conduct of the investigation.”

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*any other stage of the judicial proceedings, and, should the occasion arise, for execution of the judgement.”*

Release from detention pending trial is thus laid down by international standards as the general rule rather than the exception. It does not mean that charges are dropped, and does not constitute a dereliction of duty by the courts.

Some of those released by the court had been acquitted of the crimes with which they were charged. A fundamental principle of the right to a fair trial is that every person charged with a criminal offence shall be presumed innocent until and unless proved guilty according to the law after a trial that is conducted fairly. If a person is acquitted of a criminal offence by final judgement of a court, the judgement is binding on all state authorities.

### **New court proceedings**

On Monday 6 December, more than 30 people from the list of 66 released detainees were already in detention in Phnom Penh police stations. The only reason for these rearrests was the order from the Prime Minister. The police are not authorised to hold anyone longer than 48 hours without bringing them to appear before a judge, and in the absence of other instructions, on 6 December, the police brought the rearrested detainees to the Phnom Penh Municipal Court. This is the same court whose officials were the subject of Chea Sophara's allegations. Requests were made to the court for detention warrants, which must include reference to the legal grounds for detention. Municipal Court officials signed 25 detention warrants that day, citing "Hun Sen's statement" as the legal grounds for detention. The police then transported the prisoners to T3 prison for detention there, but this was refused, on the grounds that the legal reference on the detention warrants was not recognised by the prison authorities. The police then took the prisoners to PJ prison, where they were accepted. More arrests followed in the next days.

### **Suspension of court staff**

On 7 December 1999, Justice Minister Uk Vithun suspended from duty the Head of the Phnom Penh Municipal Court and its Chief Prosecutor, because of the allegations made against them of corruption. Under the Constitution, only the Supreme Council of Magistracy has the power to act in disciplinary proceedings against judges and prosecutors. The Minister of Justice is a member of the Supreme Council of Magistracy, which in itself raises serious questions about the independence of this body from the government. However, in addition, Article 12 of the 1994 Law on the Organization and Functioning of the Supreme Council of Magistracy excludes the Minister of Justice from meetings of the Disciplinary Council, which should be convened to consider cases of disciplinary actions against judges and prosecutors. In such cases, the King takes the place of the Minister of Justice. The suspension of the court officials by the Minister of Justice contravened Cambodian law because he is not authorised to act in such

matters. After their suspension, the two court officials were simply transferred to other duties by the Supreme Council of Magistracy, which has yet to examine the allegations of court corruption.

### **Meetings with officials**

An Amnesty International delegation in Cambodia in December raised the issue of the Prime Ministerial directive and the allegations of Governor Chea Sophara in meetings with government ministers, and with Chea Sophara himself. At the meeting with Chea Sophara, the Governor said that “*the manner in which these people were set free by the courts was illegal and they are robbers and murderers.*” Chea Sophara said that there was a serious problem with crime in the city and that the people wanted action. He said that he had no choice but to act.

Amnesty International pointed out that the logical conclusion from the rearrest campaign was that everyone arrested by the police was a criminal, and that the only role for the courts was to decide for how long they should go to prison, not whether there was any evidence against them. By labelling everyone arrested by the police a criminal, the right to be presumed innocent was denied to suspects, and the court could not exercise its independence if its decisions were overturned by the executive branch of government. Amnesty International agreed with the Governor that the court has many problems, but disagreed about the way to solve these problems.

The delegation also had a meeting with Deputy Prime Minister and Minister of Interior Sar Kheng, who supported the rearrest order, saying that it “*enjoys full support from all people, as those offenders are against security of society.*” He said that “*independence of the court should mean independence from government, not independence to accept bribes and release prisoners.*”

At a meeting with the Minister of Justice, Amnesty International again outlined the organization’s concerns, and asked that the law be upheld. Although the Minister listened to the delegation’s comments, he made no commitments to alter the policy.

### **Developments since December 1999**

The directive from Hun Sen was sent to all provinces of Cambodia, as well as to Phnom Penh. The Ministry of Justice and Ministry of Interior produced a list of more than 700 names of people who should be rearrested on the basis of the directive. In Kampot Province and Svay Rieng Province, a limited number of rearrests were carried out (seven in Kampot and 12 in Svay Rieng). By March 2000, one person remained detained in Kampot and eight in Svay Rieng. Fifty two people were rearrested in Phnom Penh of whom 37 are still detained in prison, following the issuing of detention warrants by the court. Fourteen of the others have been released and one remains detained without a court warrant. Their future remains unclear. The

prohibition of double jeopardy means that no one may be tried or punished again in the same jurisdiction for a criminal offence if they have been finally convicted or acquitted of that offence. But the prohibition does not prevent the reopening of cases (including new trials) when there has been a miscarriage of justice. However, under Cambodian law, cases can only be reopened if the purpose is to establish the innocence of a condemned person.<sup>7</sup> The blanket assumption that everyone who was released is in fact guilty and must be reconvicted clearly violates the international standards for fair trial, and Cambodia's domestic laws.

Implementation of the directive in the provincial areas has been extremely limited. Prosecutors in provincial courts say that the directive is impossible to implement without violating both the Constitution and the law. There are no guidelines on how long the directive is to be enforced, or about what will happen to those who have been rearrested. Committees have been established in some provinces to review cases where the courts have released a suspect. Participation in these committees varies from province to province.

The authority and independence of the court has been severely dented by the directive. It has always been a difficult task for a Cambodian judge to dismiss a case if there is insufficient evidence, or to take the word of a civilian in court over that of a police officer. The directive to rearrest has further undermined the tentative steps towards real political independence made by some court officials in recent years.

In 1999, Cambodia's initial report on implementation of the ICCPR<sup>8</sup> was considered by the UN Human Rights Committee. In the report, the Cambodian authorities admitted that the judiciary is not fully independent, as it should be under the Constitution. Most importantly, the report states:

*“The independence of the judiciary is guaranteed by law. However, practice has shown that, owing to interference and pressure from other branches, the courts are not fully independent...Interference by other branches in the work of the courts most often takes the form of pressure, obstruction of proceedings and threats by those in power, particularly when they are members of the armed forces ... [T]he Constitution stipulate[s] that the courts must render their decisions impartially and strictly according to the law. However, the courts' decisions depend on the independence of the judiciary and on equality before the law. As the independence of the*

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<sup>7</sup>Article 228 of the 1993 State of Cambodia Law on Criminal Procedure states “The revision is a remedy at law against judgements which become final and which acquire res judicata. The only purpose of the revision is to re-establish the innocence of the condemned person.”

<sup>8</sup>UN document CCPR/C/81/Add.12 Initial Reports of States parties due in 1993: Cambodia. 23 September 1998.

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*judiciary and the equality of all before the law are not fully guaranteed, the impartiality of the courts also cannot be fully guaranteed.”<sup>9</sup>*

Members of the Human Rights Committee questioned the Cambodian government representative about the problems facing the judiciary, and in particular the lack of judicial independence in the country. In their concluding observations, the Human Rights Committee noted:

*“The Committee is concerned that the justice system remains weak due to the killing or expulsion of professionally trained lawyers during the conflict, the lack of training and resources for the new judiciary and their susceptibility to bribery and political pressure. The Committee is also concerned that the Supreme Council of the Magistracy is not independent of government influence, and that it has not yet been able to deal with the many allegations of judicial incompetence and unethical behaviour. The Committee is further concerned that the judiciary seeks the opinion of the Ministry of Justice in regard to the interpretation of laws and that the Ministry issues circulars which are binding on judges. The State party should take urgent measures to strengthen the judiciary and to guarantee its independence, and to ensure that all allegations of corruption or undue pressure on the judiciary are dealt with promptly.”<sup>10</sup>*

Only six months after the UN Human Rights Committee made its recommendations, which were based on examination of Cambodia’s report, and the written and verbal answers from government representatives to the Committee’s questions, the Cambodian Prime Minister effectively imposed executive authority over court decisions, through the issuing of the 3 December 1999 directive. Instead of distancing the executive branch of government from the judiciary, as required by the Constitution, the directive serves to undermine the principle of judicial independence.

Many countries throughout the world face the problem of rising crime, including violent crime. Short-term populist solutions that undermine the independence of the judiciary and the rule of law do not serve the long-term interests of society. If the executive branch of government can simply intervene to overturn the decisions of the judiciary whenever it suits them, a culture based on the protection of human rights and the rule of law will not be able to develop in Cambodia. It is an acknowledged fact that Cambodia’s judicial system is weak, and subject to political pressure and corrupt practices. The way forward is to strengthen the

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<sup>9</sup>Ibid.

<sup>10</sup>UN Document CCPR/C/79/Add.108 Concluding Observations on Cambodia, 27 July 1999, emphasis added.

institutions, promote respect for the judiciary and the rule of law and ensure that those charged with upholding the law are seen as worthy of that respect. Rearresting juveniles in the middle of the night to appease public fears about crime is a large step backwards. Attempting to impose “law and order” by operating outside the law does not constitute progress.

## **Recommendations**

Amnesty International recommends:

- that the Prime Ministerial directive of 3 December 1999 be rescinded;
- all those arrested under this order should be released, unless there is new and compelling evidence of involvement in other crimes for which they should be promptly charged, in accordance with the law;
- steps should also be taken to ensure the independence and proper functioning of the Supreme Council of Magistracy. At a minimum, the law should be amended to ensure that the Minister of Justice, a member of the executive branch of government, should not sit on the Supreme Council of Magistracy;
- the Cambodian authorities should implement the recommendations of the UN Human Rights Committee from July 1999, with particular regard to the need for guarantees of judicial independence.

## APPENDIX

Unofficial translation

**Kingdom of Cambodia  
Nation Religion King**

**Cambodian Government**

No.167 lo sa.

To:  
Minister of Justice  
Co-Ministers of the Interior  
Co-Ministers of National Defence  
Commander in Chief of the Armed Forces  
National Police Director  
Commander of the Internal Security Forces  
All Municipal and Provincial Government Delegates

Recently there has been a rash of armed robberies, kidnaping for ransom and drug trafficking; and there has also been the suppression and regular arrests by the responsible institutions and local authorities at all levels, armed forces of all kinds, with the cooperation and the full support of the people.

However it is a great pity, a number of offenders have been discreetly released, without trial in the name of the independence of the judiciary, and in the name of the lack of evidence to charge, and without a request to the responsible bodies to complete the requisite additional documentation to proceed with charges. There are other strange cases which must be revealed, like the court which issued arrest warrants for offenders, and when the authorities caught them, or sighted them, the offenders had court warrants that on the contrary released them from the charges. In addition, criminals who are a number of convicted armed robbers and kidnapers for ransom, who have been convicted to serve sentences, have been released before the period specified by the court order.

These irregularities in the implementation of the law, especially regarding armed robbers and kidnappers, has created fear in the population, who don't dare to cooperate with the responsible forces, because they are afraid they will be [victims of] revenge after criminals are released without punishment, and the loss of morale of the responsible forces, the loss of faith in the courts, has given rise to great rumours in society about corruption in the courts, at a time when a large number of criminals have left detention facilities and acted in impudently, having fun, because they have avoided the charges of the court or have received the permission to be temporarily outside of detention, or have been released before completing their specified sentences, etc. And the results of their acts of armed robbery and kidnaping which would be reduced, in fact continue to persist, and a number of them are the same old criminals, that the court has decided to free without trial.

In order to suppress the irregularities in the implementation of the law, to strengthen social order and security, and to contribute to the reform of the judiciary, I respectfully issue the following order:

1. In the entire country, all suspect armed robber, kidnapper and drug trafficking offender criminals who: have been released by the courts because charges were dropped; were temporarily released from detention; were issued warrants of exemption from prosecution after arrest warrants had been issued; or were released prior to serving the complete sentence etc. - must be recaptured. Responsible authorities must issue urgent orders to engage in actions to round up all those persons with maximum speed in all parts of the country. And all those persons must be kept in the provinces and municipalities, who are caught, as well as instigate investigations into the reasons that each individual was released or had their charges dropped.
2. The Ministry of Justice must set up a special working group which will cooperate as a matter of urgency with the responsible institutions in order to research irregularities in releases, the dropping of charges against individual pre-trial detainees, and to report back to the Prime Minister with absolute speed.
3. From this day forward, armed forces, especially the judicial police and judicial gendarmes, who are responsible for protection of detention facilities, protecting court institutions, must immediately recapture all persons who have conducted armed robberies, kidnaping and drug trafficking activities, who the court have given releases to, whose charges have been dropped, who have been placed outside of detention or released prior to serving their full sentences.

These arrests must be done after the court has made a decision to release that contains irregularities.

As the executive branch, we respect the independence of the courts, however we also do not permit rotten individuals in the court to act unreasonably towards the nation, the people, under the banner of judicial independence either. We are resolved to find the bad people in the

courts, in order to safeguard the honour, the value and the effectiveness of the court institution, and to help contribute to the reform of the judicial system in the whole nation.

Having received this instruction, it must be implemented effectively according to the spirit of the law, to suppress offences against the law, protect social order and security, respect the duties that each person must fulfil before the law without exception and to strengthen the rule of law.

Phnom Penh 3 December 1999

Prime Minister

(signature and seal)

Hun Sen

Cc:

- Cabinet of HRH the King
- Senate Secretariat
- National Assembly Secretariat
- Council of Ministers Secretariat
- Supreme Council of Magistracy
- Cabinet of Samdech Prime Minister
- Documents