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KINGDOM OF CAMBODIA

Diminishing Respect for Human Rights

“The Kingdom of Cambodia recognizes and respects human rights as defined in the United Nations Charter, the Universal Declaration of Human Rights and all treaties and conventions concerning human rights, women’s rights and children’s rights.”¹

“What is one person’s democratic and human rights can be another man’s poison.”²

Introduction

1995 saw a steady deterioration in the human rights situation in Cambodia; political violence returned to the capital Phnom Penh, prisoners of conscience were detained in the country’s prisons and newspaper editors were put on trial for expressing their opinions, as the attitude of the Royal Government of Cambodia to political opponents became increasingly intolerant. Prominent government critics were threatened and intimidated and one was arrested on charges which appeared to be politically motivated. Members of the armed forces and police committed human rights violations with impunity, and those responsible for past violations were not brought to justice. In spite of progress in some areas, including training in human rights standards for police and military personnel, Amnesty International fears that the rights to freedom of association, assembly and expression - exercised by many for the first time during the United Nations-sponsored transitional period - appear to be again under threat in Cambodia. The climate in which opposition politicians, journalists, newspaper editors and human rights workers must operate is increasingly harsh, and the political space afforded them by the Royal Government has narrowed significantly since the elections in 1993.

¹ Article 31, Constitution of the Kingdom of Cambodia, September 1993.

² “Vital Issues Addressed By HRH Samdech Krom Preah Norodom Ranariddh, First Prime Minister of The Royal Government of the Kingdom of Cambodia vis-a-vis the Current Situation of the Country.” Text printed in the *Phnom Penh Post*, August 27 - September 7 1995, pp.-9.

This report is based on research conducted by Amnesty International in Cambodia in April and November 1995. In the following pages, Amnesty International details incidents of violence, detention of prisoners of conscience, torture, and deliberate and arbitrary killings by agents of the state. The report also highlights some improvements which Amnesty International believes have been made by the government throughout the year. Details of human rights abuses committed by the forces of the armed opposition group the National Army of Democratic Kampuchea (NADK or Khmer Rouge) are also included.

Amnesty International is a worldwide movement which is independent of any government, ideology, political grouping or religious creed. The organization's work is based on the principles laid down in the United Nations Universal Declaration of Human Rights. Amnesty International seeks the release of prisoners of conscience, that is people detained anywhere on account of their beliefs, colour, sex, ethnic origin, language or religion, who have not used or advocated violence. The organization works for fair and prompt trials for all political prisoners, and on behalf of such people detained without charge or trial. Amnesty International opposes the death penalty, torture and other forms of cruel, inhuman or degrading treatment or punishment of all prisoners. It also campaigns against "disappearances" and extrajudicial executions. The organization opposes human rights abuses committed by non-governmental entities (NGEs), where such groups exercise control over civilian populations. Amnesty International takes no position on the political orientation of any government or opposition group, and is solely concerned with the promotion and protection of human rights.

Political background

The coalition Royal Government of Cambodia came to power in October 1993, following the end of the mandate of the United Nations Transitional Authority in Cambodia (UNTAC). The Agreement on a Comprehensive Political Settlement of the Cambodia Conflict (commonly known as the Paris Peace Agreements), designed to bring an end to the long-running civil war in the country was signed in Paris in October 1991 by the four warring factions.³ Under the

³ The four factions which signed the Paris Peace Agreements were the State of Cambodia Government (SOC) run by the Cambodian People's Party (CPP); the Partie of Democratic Kampuchea (PDK) commonly known as the 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). Eighteen countries also signed: Australia, Brunei, Canada, China, France, India, Indonesia, Japan, Laos, Malaysia, New Zealand, the Philippines, Russia, Singapore, Thailand, Viet Nam, the United Kingdom and the United States of America.

terms of the agreement, UNTAC was given authority to oversee the administrative functions of government, organize the cantonment of each faction's armed forces and the subsequent demobilization of 70% of these armed forces, and to organize democratic elections in the country. During the period of the UNTAC mandate, Cambodia acceded to all the major international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Although the implementation of the Paris Peace Agreements was hampered, most notably by the PDK's refusal to cooperate in the cantonment process and eventual withdrawal from the peace process, democratic elections organized by UNTAC in Cambodia were held in May 1993.⁴ Voter turnout was extremely high, and the result was a narrow victory for the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (known by its French acronym FUNCINPEC), led by Prince Norodom Ranariddh. The Cambodian People's Party (CPP) led by Hun Sen came second, and the Buddhist Liberal Democratic Party (BLDP) was third in the poll. A coalition provisional government was formed and a new constitution drawn up, re-establishing Cambodia as a monarchy and detailing the Kingdom's system of government. Some of the rights and freedoms enshrined in the international human rights standards to which Cambodia is a state party have been included in the new constitution.⁵ With the departure of UNTAC personnel in September of that year the Royal Government of Cambodia assumed full control over the country's affairs. At the head of the Royal Government are First Prime Minister Prince Norodom Ranariddh and Second Prime Minister Hun Sen. The First Prime Minister's father, Prince Norodom Sihanouk, who had been head of the Supreme National Council, the embodiment of Cambodian sovereignty during the UNTAC period, was crowned King of Cambodia in September 1993 and the new constitution was promulgated.

Although human rights violations and abuses occurred during the UNTAC period, great progress was made in human rights promotion and protection. A free press flourished for the first time, and the roots of civil society were formed, with the growth of a local human rights movement, and the subsequent formation of non-governmental organizations concerned

⁴ For more details of the human rights situation in Cambodia during the UNTAC period, see Amnesty International reports: *Cambodia: Human Rights Developments 1 October 1991 to 31 January 1992* (AI Index: ASA 23/12/92); *State of Cambodia: Update on human rights concerns* (AI Index: ASA 23/04/92); *Cambodia: Human rights concerns July to December 1992* (AI Index: ASA 23/01/93); and *Cambodia: Arbitrary killings of ethnic Vietnamese* (AI Index: ASA 23/05/93).

⁵ See Amnesty International *Kingdom of Cambodia: Human rights and the new constitution* (AI Index: ASA 23/01/94, January 1994).

with economic development. In spite of the ongoing human rights problems during the UNTAC period, Cambodian people enjoyed basic human rights at a level they had not experienced during decades of civil war and repressive government. While only four political parties won seats in the National Assembly, many more fielded candidates in the elections, and the rights to freedom of association, assembly and expression were exercised by many for the first time. It is these basic human rights which appear again to be under threat in Cambodia, as those in power seek to limit the rights of those outside the upper echelons of government to publish their opinions and to organize political opposition movements.

Recent developments

The first political crisis faced by the new government occurred when UNTAC was still deployed in the country. Two prominent CPP elected National Assembly members, Prince Norodom Chakropong and General Sin Song led an abortive secessionist movement in the eastern provinces of the country, and fled to neighbouring Viet Nam when it failed. They later returned to the country, and attempted to take their seats in the National Assembly, but FUNCINPEC members objected. Eventually a compromise was reached and the two men were allowed to sit in the National Assembly, but in July 1994 they were accused by the Royal Government of leading a coup attempt in Phnom Penh. Prince Chakropong was allowed to go into exile following the intervention of his father the King. Sin Song was placed under house arrest, but escaped to Thailand; both were sentenced *in absentia* to long prison terms.⁶ A third man, senior police General Sin Sen was sentenced to 18 years' imprisonment. In March 1996, Sin Sen was moved from T3 prison in Phnom Penh to house arrest. According to the Ministry of Justice, he was moved on health grounds.

In October 1994, Sam Rainsy, a senior FUNCINPEC and National Assembly member and outspoken Minister of Finance and Economics was dismissed from his position in the government, after he had criticised government policy on forestry and the environment, and made strong statements about government corruption. He also criticised the wording of a draft law to outlaw the Khmer Rouge on the grounds that, if implemented, it could lead to violations of human rights. After his removal from the Ministry of Finance, Sam Rainsy continued to criticise the actions of the Royal Cambodian Government. His became one of

⁶ For more details on human rights issues related to the coup attempt, see Amnesty International *Kingdom of Cambodia: Illegal detention of nine Thai nationals* (ASA 23/14/94, October 1994).

the few dissenting voices heard in the National Assembly. By early 1995 both he and his family had received death threats, and had been labelled as “pro-Khmer Rouge”, a serious accusation in Cambodia. In May, he was expelled from FUNCINPEC and in June from the National Assembly. He has consistently challenged the legality of his expulsion. In November 1995 Sam Rainsy founded a new political party, *Cheat Khmae* - the Khmer Nation Party (KNP). The government declared the party illegal, and members have been subject to harassment, including at the main party office in Phnom Penh.⁷

FUNCINPEC was not the only party to suffer internal disagreements. The smallest party in the coalition, the BLDP split into two factions, one led by Son Sann, and the other by Information Minister Ieng Mouly. The two Prime Ministers recognised Ieng Mouly’s faction as the legitimate BLDP and on 9 July 1995 this faction held a party congress at which a new executive committee was elected. Son Sann and his supporters did not attend the congress and they were not included in the new committee. Son Sann and five other elected BLDP National Assembly members who supported him were expelled from the Ieng Mouly faction of the BLDP. One of those expelled was the chair of the Parliamentary Commission on Human Rights, Kem Sokha, who has been a leading human rights advocate in Cambodia since the UNTAC period. The Son Sann BLDP faction attempted to hold a party congress in October 1995, but the proceedings were disrupted by grenade attacks.⁸ At the time of writing, proceedings to expel the six Son Sann BLDP members from the National Assembly had not been initiated by the Ieng Mouly BLDP faction.

In November 1995 a key political development occurred, with the house arrest, detention and subsequent exile of National Assembly member Prince Norodom Sirivudh, the Secretary-General of FUNCINPEC, former Minister of Foreign Affairs, and half-brother of King Norodom Sihanouk. Prince Sirivudh, who had been increasingly outspoken in his criticism of the government since resigning his post at the Foreign Affairs Ministry in October 1994, was detained on serious criminal charges, linked to an alleged plot to kill the Second Prime Minister. Prince Sirivudh was exiled to France in December 1995, and tried *in absentia* in February 1996. He was sentenced to 10 years’ imprisonment, after a trial lasting less than four hours. After thorough investigation of the case, and the very flimsy evidence provided by the prosecution, Amnesty International believes that the charges against Prince

⁷ For more details on this issue see pp.18-20

⁸ For more details on this see pages 47-49

Sirivudh are politically motivated, and that the circumstances of his house arrest and detention violate Cambodian law and international standards for fair trial.⁹

The first cases of prosecutions under the 1994 Law on Outlawing the “Democratic Kampuchea” Group - the Khmer Rouge - were heard in provincial courts during 1995. Amnesty International’s concerns about the human rights implications of this law were reinforced throughout 1995, as application of the law appeared to be dependent upon the whims of individuals in different provinces. The organization’s original concern that the law could be applied arbitrarily has been reinforced based on an analysis of cases actually brought to court.

Amnesty International welcomes the fact that the Appeals Court, established in May 1994, has been hearing cases. While very serious concerns remain about the independence of the Cambodian judicial system, incremental improvements such as this are positive developments.

The growing capacity of the human rights movement in Cambodia is also welcomed by Amnesty International. Although some of the groups have faced problems in the last year, particularly in their operations in some of the provinces, they have continued to function in spite of these difficulties, and are increasingly entrenched in Cambodian society. The courage and dedication of the workers in the human rights movement offers real hope for the future promotion and protection of human rights in Cambodia.

In the following pages, Amnesty International documents the cases which have come to the organization’s attention in the last 15 months. Updates on specific cases from previous years are also included. A comprehensive Appendix detailing the cases raised by Amnesty International in the last two years, and the response or action of the Royal Government in these cases can be found at the end of the main text. Amnesty International notes that while progress continues in the area of education and training, particularly amongst the military and police, in the majority of cases of human rights violations committed by agents of the state brought to the attention of the Cambodian authorities, little or no progress appears to have been made. The organization recommends that the authorities take note of the cases raised in this report, and of those mentioned again in the Appendix, and that thorough, impartial investigations are carried out without delay into these cases. The results of such investigations should be made public, and those responsible should be brought to justice. The Royal

⁹ For more details on Prince Sirivudh’s case see pages 11-16

Government of Cambodia has made some progress in attempting to establish a human rights culture in the country, through its education and training for military and police personnel, and its cooperation with the United Nations Centre for Human Rights. However, consolidating such progress, and turning the promotion and protection of human rights from an abstract concept into a concrete reality requires justice and equality before the law. It is in this field that Amnesty International believes the Royal Cambodian Government has yet to make significant progress.

Detention, torture and ill-treatment

1995 saw the return of detention of prisoners of conscience in Cambodia. Seven people were detained during the year because of their peaceful political activities; this marks a return to previous practices in Cambodia, where people were routinely imprisoned for expressing views which differed from those of the government of the day. Under the terms of the Paris Peace Agreements, all such prisoners were released by 1992, and when the new government came to power after the May 1993 elections, freedom of expression, publication and assembly were guaranteed under Article 41 of the new constitution. The first prisoner of conscience detained since the Royal Government came to power was newspaper editor Nguon Non, who was arrested in July 1994 in connection with articles he had published relating to the alleged coup attempt of 2 July. He was later released on unconditional bail, and the charges against him have not since been pursued by the government.¹⁰ However, in 1995, people were again detained for their peaceful political activities. Amnesty International also found evidence of unlawful detention, torture and ill-treatment of suspects while in police custody.

The case of Sith Kosaing Sin and five others

Six prisoners of conscience were arrested in August, in connection with two leaflets written by a former leader of FUNCINPEC youth, Sith Kosaing Sin. The leaflets expressed views critical of the Royal Government and of FUNCINPEC, but both were peaceful critiques, and did not advocate the use of violence.

On the morning of Saturday 5 August, four men were arrested by police in Tuol Svay Prey section, Chamkar Morn district, Phnom Penh, while they were standing outside a building, tying copies of the leaflets onto helium-filled balloons. The four were Lim Nem, Kay Vichet, Sam Soun and his son Sam Sophann. The police confiscated about 100 copies of the two leaflets and took the men to the local police station. They were later transferred to the Security Office of the Phnom Penh Municipal Police Commissariat. A fifth man, Son Yin was arrested at his home in the capital later that day.

At about 4pm that afternoon, Sith Kosaing Sin went to the Municipal Police Commissariat where the men were being held, apparently seeking their release. According

¹⁰ For further details see *Cambodia: Arrest of newspaper editor Nguon Non* (AI Index: ASA 23/12/94, 18 July 1994) and *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995 pp.38-39).

to information received by Amnesty International, he requested that the police release the five men and detain him instead, as he had written the leaflets, and the five men had been paid 20,000 riels (less than US\$10) by him to distribute them using the balloons. Sith Kosaing Sin said that he had distributed leaflets using this method on two previous occasions. The police then detained him, but did not release the five other men. On Friday 11 August the men were transferred from the Municipal Police Commissariat to T3 prison in Phnom Penh.

Translations of the two leaflets obtained by Amnesty International revealed that the texts, although critical of the Royal Government, were peaceful critiques and did not advocate the use of violence. One leaflet, entitled "Khmer People Welcome the Returning Repatriation of the King Sihanouk to the Homeland" referred to the return to Cambodia from China of the monarch King Norodom Sihanouk a short time before. The leaflet states; "the population has strong hopes and leaves their destiny with the King ... If the Khmer unify the Khmer will be strong. If the Khmer work together to build the country, then the Khmer will prosper". It then says that the Khmer younger generation wishes to make recommendations to the Royal Government as to how to improve conditions in the country. The leaflet ends with an appeal to the Secretary of State of the United States of America, Warren Christopher, to "help Cambodia abide by human rights, follow democracy, obey the law and promote independence of the courts, ensure the press law can ensure freedom of expression and the right to speak out against corruption." Warren Christopher visited Cambodia on 4 August 1995.

The second leaflet is headed "Statement of a group of ex-youths of FUNCINPEC" and calls on fellow countrymen, members and former members of FUNCINPEC and "all nationalists" to remember the years of "sacrifice" when the party was founded and fought in the civil war. It then states the view that after FUNCINPEC's victory in the election there has been corruption, which has "ma[d]e their own society shaky, by victimizing those in favour of the nation and democracy, and gradually hav[ing] them removed from this organization, alleging them of being traitors of useless corrupt persons, or alleging them of causing social turmoil." The leaflet calls on "nation-lovers of all circles, both inside and outside the country" to "be absolutely against those acts of human rights violations, absolute power and the suppression of the voices of the people..." At no point in either leaflet did Sith Kosaing Sin advocate the use of violence, or incite others to commit acts of violence in support of his ideas.

In spite of the peaceful nature of his criticism, Sith Kosaing Sin and the five men who helped him distribute his leaflets were charged with incitement as a result of their attempt to distribute the leaflets criticising the Royal Government. The charges were brought under

Article 60 of the "Provisions relating to the Judiciary and Criminal Law and Procedure applicable in Cambodia during the Transitional Period". This law was adopted by the Supreme National Council of Cambodia on 10 September 1992, during the time of UNTAC's presence in the country, and in accordance with the terms of the 1993 constitution, it remains valid until such time as a new Penal Code is approved by the National Assembly. It is commonly referred to as the UNTAC Penal Code. There was nothing in the text of the two leaflets to justify such charges under Article 60, as their contents did not incite criminal activity, and there is nothing in Cambodian law which made it a crime to tie these leaflets onto balloons. In an appeal for the men's release in August 1995, Amnesty International said:

"The peaceful expression of non-violent opposition to a government is a fundamental human right, guaranteed under the International Covenant on Civil and Political Rights (ICCPR). Cambodia is a party to the ICCPR, and is obliged to uphold the standards it lays down regarding basic human rights. The arrest and detention of Sith Kosaing Sin, Son Yin, Lim Nem, Sam Sophann, Sam Soun and Kay Vichet is a clear violation of this obligation. These men are detained solely for the non-violent expression of their peaceful political views as guaranteed by Article 19 of the ICCPR."¹¹

The men's detention also violated procedural aspects of Cambodian law, as they were arrested without a warrant, and they were not brought before a judge within 48 hours. King Norodom Sihanouk wrote to the two Prime Ministers in August, requesting that the men be given an amnesty. Amnesty International members sent appeals to the Cambodian authorities, requesting that the men be immediately and unconditionally released. On 18 September, the six were released from prison after all charges against them were dropped. Amnesty International welcomed their release, and maintained that they should never have been detained.

The case of Heng At

Heng At, a 50-year-old policeman in Kampong Cham Province spent more than three months in detention, because he made remarks critical of the First Prime Minister and the royal family,

¹¹ See Amnesty International *Kingdom of Cambodia: Detention of six prisoners of conscience* (AI Index: ASA 23/13/95, 14 August 1995).

after consuming a large quantity of alcoholic drinks. A former member of FUNCINPEC, Heng At had campaigned for the party in Kampong Cham for the 1993 elections. On the evening of 2 October 1995, Heng At and two friends entered a restaurant several kilometres south of Kampong Cham town. Heng At had been drinking heavily, and was already intoxicated by the time they reached the restaurant. He made several derogatory remarks about the First Prime Minister Prince Ranariddh (who was visiting the province at that time), which were overheard by Pau Bun Sreu, an elected National Assembly member and Deputy-Secretary General of FUNCINPEC. Pau Bun Sreu ordered his bodyguards and members of the First Prime Minister's bodyguard unit who were also in the restaurant to arrest Heng At. Members of these bodyguard units have a duty to protect the person and property of the individual to whom they are assigned, not to carry out arrests unless the individual they are protecting is directly physically threatened. No one was physically threatened by Heng At in the restaurant on 2 October 1995, and the individual against whom his remarks were made was not present.

The bodyguards arrested Heng At and also detained one of his drinking companions; the other ran away. The two men were taken by the bodyguards to a Military Police station, and were interrogated. Heng At was apparently unconscious on arrival at the Military Police station, having consumed such a large amount of alcohol. His companion went outside the room for a time, and when he returned found that Heng At had a bruised eye and a cut on the forehead which was bleeding heavily. Heng At's companion was released, while he was transferred to the Provincial Prison, where he was detained, although no charges or official warrant for his arrest had been produced. The only written documents relating to the case were a "Note on an event" provided by Pau Bun Sreu, and witnessed by others in his party, and a transfer order from the Military Police in Kampong Cham asking that the police bring the "perpetrator" of drunk and disorderly conduct and *lese majesté* to justice. There are no *lese majesté* laws in Cambodia. Pau Bun Sreu's note reads:

"At 7pm on 2 October 1995, at a shop in front of the textile factory, an individual named Heng At entered and shouted out, cursing the Prince. 'This mother-fucking Prince is causing misery to the people.' And he cursed in this manner many times which is a violation of Constitutional Law. I, Pau Bun Sreu decided to arrest and send this person to the General Staff of the Military Police in Kampong Cham Province, so that things could proceed according to law."

It was signed by Pau Bun Sreu and six others. Such a document has no force in Cambodian law, as it is not an official arrest warrant. National Assembly members do not have any authority to order the arrest of individuals.

Local human rights workers became aware of the case, and visited Heng At in prison. He seemed to have no memory of the events of the night of 2 October, having been so drunk at the time. They tried to make interventions on his behalf with Pau Bun Sreu, as he had ordered the arrest. However, although no formal charges had been laid against Heng At, and no warrant for his arrest and detention was obtained from the court, he continued to be held in the Provincial Prison in Kampong Cham, apparently on the basis of the note from Pau Bun Sreu. Heng At's wife was allowed to visit him at the prison and bring him food, and he also had access to human rights workers and a defender. After more than six weeks at the prison, Heng At was eventually transferred to the Provincial Police Commissariat. Although conditions at the Commissariat were much better than those at the prison, Heng At was still detained without any legal basis. The police were very unhappy about the detention of one of their own staff, but felt unable to release him, apparently because of political pressure.

On 1 December 1995, Amnesty International met Heng At at the Provincial Police Commissariat in Kampong Cham. Two months after his arrest, his face still bore the marks of bruising, apparently the result of the beating inflicted on him. At that point, no file on the case had been submitted to the Prosecutor, and the police were anxious that the matter should be dealt with as an internal disciplinary issue. One policeman who commented on the matter said:

“The police are not the original detainers in this case. The arrest was carried out by the bodyguards of the higher-ups. Although the things Heng At said were scurrilous, in our view they did not constitute a criminal offence.”

Heng At was finally released from the Provincial Police Commissariat in January 1996. However, according to the information obtained by Amnesty International, there is still pressure from senior FUNCINPEC officials to pursue criminal proceedings against him. Heng At made some rude remarks about a member of the government and the royal family while under the influence of alcohol. While his actions may have been impolite, they did not constitute a criminal offence. He was arrested on the order of an important member of a political party, and unlawfully detained without charge or trial for more than three months. At

no point was due process of law applied. Amnesty International remains concerned that the orders of a powerful individual can still take precedence over the rule of law in Cambodia.

The case of Prince Norodom Sirivudh

Prince Norodom Sirivudh is the half-brother of King Norodom Sihanouk, and an elected member of the National Assembly. He served as Secretary-General of FUNCINPEC, and was Minister of Foreign Affairs until resigning the position in October 1994. After his resignation, Prince Sirivudh became an increasingly vocal government critic. He was outspoken in defence of Sam Rainsy's position as a member of FUNCINPEC and the National Assembly, and also called regularly for a FUNCINPEC party congress to be held. On 18 November 1995, Prince Sirivudh received a visit in the evening at his house in Phnom Penh from senior FUNCINPEC members, advising him to leave the country. He refused to go, and maintained that he had done nothing wrong, and therefore had no reason to flee. On the night of 18 - 19 November, the house was surrounded by heavily armed police and military police, and Prince Sirivudh was placed under house arrest. The house arrest was ordered after allegations of an alleged plot to kill Second Prime Minister Hun Sen were published in a Khmer newspaper, *Angkor Thmei*. The government also had in its possession a cassette recording which they claimed was the voice of Prince Sirivudh saying he would kill Hun Sen.



1 Prince Norodom Sirivudh

The house arrest of Prince Norodom Sirivudh was an infringement of his rights under Article 80 of the Cambodian constitution which states:

“National Assembly members enjoy parliamentary immunity ... Accusations against, arrest, detention or imprisonment of any member of the National Assembly may only take place with the approval of the National Assembly or of the Standing Committee of the National Assembly during an interval between sessions of the National Assembly, except in cases of flagrant criminal offences. In this latter case, the competent Ministry must report to the National Assembly or to the Standing Committee of the National Assembly for its decision. Decisions of the Standing Committee of the National Assembly shall be submitted to the next session of the National Assembly for approval by a two-thirds majority of the entire National Assembly.”

According to the information provided to Amnesty International, Prince Norodom Sirivudh had not committed a flagrant crime when he was detained by armed police at his house. Thus his detention violated the Constitution.

On Monday 21 November, the Standing Committee of the National Assembly met to consider whether the issue of Prince Sirivudh’s parliamentary immunity should be included on the agenda for Tuesday’s National Assembly meeting. The FUNCINPEC representatives on the Committee had not received instructions as to how to vote at the meeting, and the vote was carried in favour of including this as an agenda item, by the CPP representatives. Later that day, FUNCINPEC National Assembly members were summoned to a party meeting at the house of First Prime Minister Prince Norodom Ranariddh. At the meeting, they were played the cassette tape with the alleged evidence against Prince Sirivudh. They were told by the First Prime Minister that anyone who voted against the motion to lift the parliamentary immunity would have to take responsibility if any harm later befell Prince Sirivudh, including death. It was implied that Prince Sirivudh was likely to be harmed physically, if the lifting of parliamentary immunity was not passed by the National Assembly.

Amnesty International has spoken to a number of people who heard the cassette recording. Apparently, only one side of the conversation is audible, and the tape is of very poor quality. Most of those who had heard it thought the voice probably was that of Prince

Sirivudh, but they could not be sure because of the tape quality. No one who spoke to Amnesty International believed that the conversation they heard on the tape represented a serious declaration of intent to harm anyone. According to the information gathered by Amnesty International, the tape recording is of a telephone conversation, rather than a conversation by radio, as was rumoured at the time of the arrest. The organization draws the attention of the prosecuting authorities to Article 40 of the Cambodian Constitution which states:

“Protection of the rights to inviolability of residence and confidentiality of correspondence by mail, telegram, facsimile, telex and telephone shall be guaranteed.”

On Tuesday 22 November, the National Assembly met in Phnom Penh. National Assembly President Chea Sim (CPP) did not attend the session, and his deputy Loy Sim Chheang (FUNCINPEC) read out a statement regarding the decision of the Standing Committee. A vote was taken as to whether Prince Sirivudh’s parliamentary immunity should be lifted and was unanimously in favour.

During the afternoon on Tuesday 21 November, Prince Norodom Sirivudh was arrested at his home in Phnom Penh by the Chief of the Judicial Police, the Chief Prosecutor and the President of the Phnom Penh Tribunal. He was taken to T3 prison in Phnom Penh. Later that day, following an intervention from the Royal Palace, Prince Sirivudh was transferred to the Ministry of Interior, where he was detained in a first-floor office under armed guard. The preliminary charges against him were under Article 36 of the UNTAC Penal code, Article Four of the 1994 law to outlaw the “Democratic Kampuchea” group (Khmer Rouge law), and Articles One and Three of the anti-terrorism act of 1992. His wife was allowed to visit him on Wednesday 22 November. At that point he was allowed to receive no other visitors. He was not interrogated, but was visited by You Hok Kry, FUNCINPEC Minister of Interior.

The case against Prince Sirivudh was based on the cassette recording produced by the government and evidence from the journalist So Naro, who published the article about the alleged plot in *Angkor Thmei*. His article was based on a conversation he claims to have had with Prince Sirivudh, when he and a colleague who sold advertising for the newspaper went to try to sell calendars to the Prince, which honoured the King’s birthday. So Naro initially claimed to have a tape recording of the conversation, but later retracted this claim. After the publication of the article in *Angkor Thmei*, both So Naro and his colleague were taken to Hun

Sen's residence in Takmau, Kandal Province and questioned about the meeting, prior to Prince Sirivudh being placed under house arrest.

During his detention at the Ministry of Interior, Prince Sirivudh was questioned once, about the conversation on the cassette tape. Apart from this, he was not interrogated. When he had appointed lawyers, they applied to the Phnom Penh Court for permission to visit their client, which was granted.

The Cambodian authorities obtained a warrant to search Prince Sirivudh's house. They confiscated 20 weapons, six of which were licensed to the Prince's bodyguards. Amnesty International had access to a list of the weapons confiscated from Prince Sirivudh's house, and has learned that formal applications for official licensing of the weapons had been submitted to the competent authorities by the bodyguards, but had not been processed. The organization understands that among the weapons seized there were two AK-47 rifles which were the personal property of Prince Sirivudh, and which were not licensed.

On 12 December, King Sihanouk wrote to Second Prime Minister Hun Sen, requesting a "semi-pardon" for his half-brother and for him to be allowed to live in France in exile. Prince Sirivudh was transferred to the Royal Palace, from where he signed letters to the two Prime Ministers, apologising for his actions, undertaking to leave the country and live in exile, to have no involvement in politics, and not to join any political movement with Sam Rainsy. The letters were widely publicised in Cambodia. Prince Sirivudh arrived in France on 24 December 1995.

In January 1996 Prince Sirivudh gave an interview to the French magazine *Le Point*, in which he criticised the two Prime Ministers, and expressed support for Sam Rainsy. Amnesty International spoke to Prince Sirivudh about his case. He maintained his innocence on all the charges, and said that his remarks had been taken out of context and did not amount to a plot to assassinate anyone.

On 5 February 1996, a trial date for Prince Sirivudh was set for 15 February. This was later changed to 22 February, as insufficient notice of the trial date had been given to the defence team, in contravention of Cambodian law. The charges under the 1994 law to Outlaw the "Democratic Kampuchea" Group, and under the 1992 Terrorism Law were dropped, but an additional charge under Article 54 of the UNTAC Penal Code, relating to the illegal bearing of weapons was added. Article 36 of the UNTAC Penal Code carries a maximum penalty of 15 years' imprisonment, and Article 54 carries a maximum penalty of

three years' imprisonment. Second Prime Minister Hun Sen said before the trial that Prince Sirivudh would not be in danger if he came back to face trial, but said that "after the trial is over, the prince will be going to T3 prison."¹² On 12 February, Prince Sirivudh's wife, Christine Alfsen-Norodom received a death threat at her house in Phnom Penh. An anonymous telephone caller said that her life would be in danger when she left the house to attend the trial. Amnesty International issued an appeal for her safety and that of her children.¹³ Prince Sirivudh issued a statement on 13 February, announcing that he would not return for the trial hearing, citing concerns about his safety, and saying that *'I refuse to participate in this parody of justice.'*

The trial took place *in absentia* on 22 February 1996. At the Phnom Penh Court, heavily armed military police, some carrying rocket launchers, patrolled the courtyard. The hearing lasted only four hours. The prosecution alleged that Prince Sirivudh had plotted to assassinate the Second Prime Minister, and to that end had organized a group of armed individuals ready to act when he gave a signal. No evidence was produced as to who these people were, where they lived, or what the nature of their contact with Prince Sirivudh was. The prosecution did not even give their names. The prosecution did not submit the tape recording of the telephone conversation as evidence, as this would have been unconstitutional, but introduced as evidence an affidavit from Ung Phan, a National Assembly member to whom Prince Sirivudh had been speaking on the telephone. Ung Phan did not attend the trial, and thus the defence lawyers had no opportunity to question him. The journalist So Naro and his colleague Pheary were both summoned by the prosecution. According to reports, Prince Sirivudh's defence lawyers concentrated on legal arguments during their submission, called no witnesses and did not attempt to question the few witnesses called by the prosecution. The judge ruled that there was enough proof that Prince Sirivudh had formed a group of armed individuals, and that he intended to kill Second Prime Minister Hun Sen. He found Prince Sirivudh guilty and sentenced him to 10 years' imprisonment.

Following his arrest in November, Amnesty International expressed concern about the case of Prince Sirivudh, and called for his right to a fair trial to be upheld.¹⁴ On the basis of

¹² See *Cambodia Daily* "Prince Can Attend Trial, PM Signals" 8 February 1996.

¹³ Amnesty International Urgent Action 21/96 *Cambodia: Fear for safety* (AI Index: ASA 23/01/96, 12 February 1996).

¹⁴ Amnesty International News Service 232/95 *Kingdom of Cambodia: Right to a Fair Trial Must be Upheld* (AI Index: ASA 23/17/95, 27 November 1995)

reports received about the conduct of Prince Sirivudh's trial, Amnesty International is concerned that it failed to meet international standards for a fair trial. The organization believes that the trial, conviction and sentence of Prince Sirivudh serve only to underline Amnesty International's long-standing concerns about the independence of Cambodia's judicial system.

Arrest and detention of nine people in Phnom Penh

Between the 12 and 14 December 1995, nine people were arrested and detained in Phnom Penh. All are apparently suspected of having links with the NADK, and the nine are now believed to be facing charges under Article 36 of the UNTAC Penal code. The police involved in the arrests allegedly found leaflets and charts linking the detainees with the Khmer Rouge, at the homes of some of those detained. Hand grenades were also allegedly discovered at the homes of some of those arrested. Based on information received, Amnesty International is concerned that these nine detainees may not have been accorded all of their rights under international fair trial standards. All nine individuals have been in detention in T-3 prison, Phnom Penh, since mid-December 1995. Although they all have had access to defenders, Amnesty International is concerned at unconfirmed reports that during the first two months of their detention, the detainees were not able to meet privately with their defenders. The right to communicate with counsel is guaranteed by Article 14(3) of the ICCPR. According to information available to Amnesty International, access to the documentation relating to these cases for at least one of the defenders has allegedly been restricted by the authorities.¹⁵

There is limited information available on the cases of the nine detainees. It is possible that some of them may be detained solely because of their peaceful political opinions. Amnesty International is seeking more information about these people; some of them may be prisoners of conscience, in which case Amnesty International believes they should be released immediately and unconditionally. All of the nine have been detained without trial for more than four months at the time of writing. The right to a fair and prompt trial is guaranteed by Article 14 of the ICCPR, to which Cambodia is a state party.

¹⁵ Article 14(3) of the ICCPR guarantees the right to adequate facilities and time to prepare a defence, and the right to communicate with counsel. The Human Rights Committee General Comments specify that the rights set out in Article 14(3) of the ICCPR include the right of the accused and his/her counsel to access to documents and other evidence which the accused requires to prepare his/her case. See Official Records of the UN General Assembly, thirty ninth session, Supplement No. 40, para. 144 (a/39/40) 1984.

Illegal detention and torture

Amnesty International knows of a number of cases of illegal detention and ill-treatment in custody which have occurred over the last year. One of the most serious occurred in Phnom Penh on the night of the 13 - 14 July, when four men, three of whom were employed as bodyguards by Sam Rainsy, were arrested and beaten by 30 to 40 soldiers. The incident occurred just a few weeks after Sam Rainsy's expulsion from the National Assembly, at a time when he was outside the country. According to a statement released by the bodyguards on 14 July, they were detained and tortured by the soldiers, who interrogated them for 16 hours, in an attempt to force them to incriminate Sam Rainsy as a member of the Khmer Rouge.

On 13 July 1995 at 5pm a man called Thea, who was an acquaintance of one of the bodyguards arrived at Sam Rainsy's house, and invited four people - Sam Rainsy's bodyguards Um Samoeun, Seng Sopharith and Nguon Han, and a fourth man Cheav Koab, who is the bodyguard of the Second Deputy Governor of Siem Reap - to go and have dinner with him. The men all went to a restaurant together, and at the restaurant they were greeted by two other friends of Thea. At the end of the meal, the men were preparing to return to Sam Rainsy's house, but the two friends suggested that they go first to their house. Sam Rainsy's bodyguards agreed to go, and got into a car with the two men. However, the building they were taken to was the Research Department of the Ministry of Defence, where they were met by between 30 and 40 armed soldiers, who forced them out of the car at gunpoint and made them kneel on the ground. The four were handcuffed and searched, and their belongings and weapons were removed. They were then separated, and taken to rooms where they were beaten and threatened. All four were interrogated and intimidated: the soldiers beat them with rifle butts, pointed guns at their heads, punched them and banged their heads on the table. The soldiers tried to make the men answer questions about Sam Rainsy and recorded their answers on tape. The soldiers demanded to know who visited Sam Rainsy and how often. They were told that they had been arrested "for the political crime of involvement with the Khmer Rouge".¹⁶

According to the statement released by the four men, the soldiers tried repeatedly to make them state that Sam Rainsy is a Khmer Rouge agent and a traitor. One of them was told:

¹⁶ Joint Statement of the Bodyguards of His Excellency Sam Rainsy, Phnom Penh 14 July 1995. Official Translation.

"If you don't answer, your head will be soaked with blood ...
Even if you are not shot, your head will be smashed to bits,
and no one will be able to help you."

The soldiers repeatedly demanded that the men admit to working with the Khmer Rouge, and interspersed these demands with threats, such as:

"Now do you want to stay alive or not? Do you ever want to see your mother and father again? If you want to see them again then you've got to answer that you're Khmer Rouge. Answer me. I'll give you 15 minutes and if you don't answer I'll take you to Kampong Speu and soften up your bones because my subordinates have prepared the vehicles already."

The men were forced to respond to questions with answers prepared by the soldiers. The commander of the soldiers listened to the answers, and forced them to repeat them, if he was not satisfied.

After 16 hours in detention the four men were released at 1.30pm on 14 July 1995, following interventions which resulted in an official statement declaring that they were not involved in anything which damaged the national interest, and that the interrogators regarded the case as null and void. According to a report in a Cambodian newspaper, Co-Minister of Defence Tea Banh admitted publicly that the arrest had occurred, as the soldiers were concerned about the man from Siem Reap. According to the article, Tea Banh claimed that the man was not a bodyguard but a soldier stationed in Siem Reap. He denied that the case had anything to do with Sam Rainsy, and also refuted the men's claim that they had been tortured, saying they had simply been asked questions.¹⁷ No further statement has been made by the government, and to Amnesty International's knowledge, no action was taken against the soldiers who carried out the detention and torture.

Amnesty International was gravely concerned at the events which took place on the night of the 13-14 July 1995, which constituted a violation of the rights of the four men detained. The organization issued a statement calling on the Royal Cambodian Government to launch an immediate, impartial investigation into the incident, to make the results of the

¹⁷ See "Rainsy Guards Arrested, Asked to Make KR Links" *The Cambodia Daily* 17 July 1995.

investigation public and to bring those responsible to justice.¹⁸ It also reminded the Royal Cambodian Government that Cambodia's own constitution renders information extracted under torture inadmissible, according to Article 38:

"The law shall guarantee against bodily assaults on any person ... Confessions obtained through either physical or mental coercion may not be used as proof of guilt."

Cases of ill-treatment

*"The problem is that suspects don't know their rights and the legacy of previous regimes is that as soon as they are threatened they panic, so they are malleable. And there is no mark left from holding a gun to someone's head."*¹⁹

Ill-treatment and torture by agents of the state was not confined to Phnom Penh. Amnesty International learned of several cases of ill-treatment in the provinces, where police used beatings, mock executions and food deprivation in an attempt to extract confessions from suspects.

In March, a 15-year-old boy was arrested in a village in Battambang province, shortly after the body of a teenage girl who had been raped and murdered, was discovered. The boy, a student at the Battambang Lycee was arrested on 4 March by a group of four or five policemen who searched his house, and found a blood-stained bandage, and a spot of blood on his trousers. The boy suffers from nosebleeds, and told the police that he had used the bandage during a recent nosebleed. He was taken to the police station in Svay Pao district, where he was interrogated by the police and tortured. He was beaten and kicked by police using their hands and feet to strike him. They handcuffed his hands behind his back and held a pistol to his head, telling him they were going to kill him there and then, as he was stubbornly refusing to confess to the crime, although they had already gathered the evidence. For the first 24 hours, the boy was denied food and water, and he was held in solitary confinement in a

¹⁸ See *Kingdom of Cambodia: Human rights violated - government acts to silence critics* (AI Index: ASA 23/12/95, 17 July 1995).

¹⁹ Interview with a court defender, Cambodia, November 1995.

dark cell for one day. In the morning the police placed a plate of food in front of him and told him he could eat after he had confessed to the crime.

Under torture he was forced to confess to the rape and murder of the young girl. He was held in incommunicado detention for three days and nights - in contravention of Cambodian law and international human rights standards - before being taken to court. The court ordered he should be detained in the provincial prison, and he was transferred there and held for two and a half months before a local defender managed to see him and secure bail on the grounds that the boy was a minor. Prison personnel were able to confirm that the boy suffers from nosebleeds, as the problem had recurred during his incarceration. Another man has been arrested in connection with the case, but in November 1995 when Amnesty International was investigating the case, the case file relating to the boy remained with the investigative magistrate. Forensic evidence which the boy's defender is confident will clear his client has been sent to the USA for analysis.

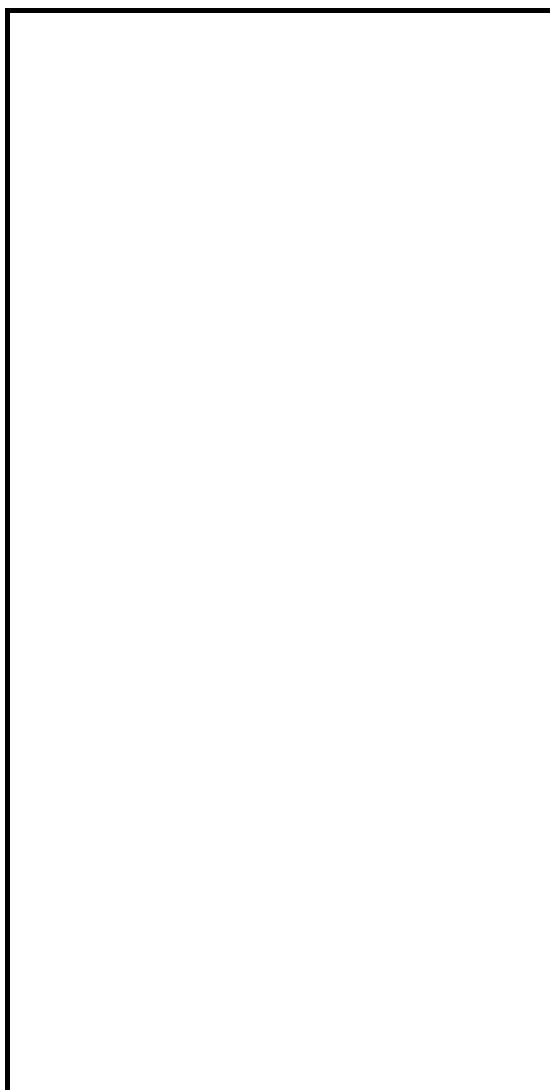
Another case of police ill-treatment occurred in Battambang province on 7 July 1995. A student from Phnom Penh University had come back to Battambang to visit his family.²⁰ It was the time of the primary school examinations, and a crowd gathered around the building where the examination was taking place. The student was in the crowd when he heard shouts that the District Chief was coming, and he saw four or five policemen in uniform standing behind him, and the District Governor standing at his side. Everyone else around him ran away but the student walked, and was shouted at by the police. One of the police asked him why he was "so pig-headed" and he asked in reply whether or not the policeman had seen him walking away. At this point one policeman rushed over and began hitting him with his fist on the back of the head, while another policeman prevented him from escaping. In a written complaint about the incident, the student said:

"When I fell to the ground [one policeman] put his knees into my back and struck me with his fists again, both on my face and on the back of my head, for 10 minutes, until I bled on my shirt and on the ground. Only when he saw this did the District Governor shout out for them to stop, saying that's enough... I would like to make it clear that while I was being victimized the District Governor was standing there watching,

²⁰ Amnesty International is not publishing the man's name, in order to protect him from possible reprisals.

and it was only once I began to bleed seriously that he shouted out for them to stop.’²¹

The student was then taken to the criminal department of the Battambang District Police station where he was interrogated. His parents eventually found him there and took him to the hospital, where the doctor recommended he stay for five days, due to the seriousness of his injuries.



2 Leng Theuan, photographed at the time of his release.

There was a case of torture in Kompong Cham province in March 1995, which came to the attention of Amnesty International. In the morning on 20 March, Leng Theuan was at the market in Thnal Toteung negotiating to buy a motorcycle, when a group of Military Police from Tbaung Khmum district surrounded him, pointed their weapons at him, and forced him to kneel down. He was handcuffed and taken to Tbaung Khmum district military police headquarters where he was detained for two days, interrogated, beaten and tortured three times with electric shocks. The Military Police accused Leng Theuan of being a motorcycle thief, but they produced no evidence to support this accusation and he maintained his innocence. The Tbaung Khmum military police did not have an arrest warrant to detain Leng Theuan, and did not seek one. His detention was illegal under Cambodian law. Human rights workers heard about the case

²¹ Written testimony of victim, obtained by Amnesty International in November 1995.

and raised it with the Provincial Military Police headquarters, which then intervened to have Leng Theuan released. However, according to information obtained by Amnesty International, Leng Theuan's family had to pay the Tbaung Khmum District Military Police before they would release him. A complaint filed against the Tbaung Khmum District Military Police was sent to the court in Kompong Cham province, although by November 1995 there was no progress in the case.

Following this incident in March 1995, the Provincial Military Police headquarters requested local human rights workers to provide training for their district officers in human rights. Training sessions have since taken place, a development welcomed by Amnesty International.

No redress for victims

Even when people know their rights in detention, the prevailing climate in the Cambodian judicial system makes it almost impossible for those whose rights have been violated to seek redress. Human rights workers and defenders told Amnesty International that it is hard for victims to pursue complaints against police and military officers who have been involved in ill-treatment of detainees. One said:

“It is very difficult for us to put these sort of cases to the magistrate as the only witnesses will be the police and they are not likely to support us and we don't actually see the ill-treatment take place.”

Another said:

“Theoretically [the victim] could lodge a complaint about his treatment [in detention] but we wouldn't advise it. It just gives the police an excuse to argue that defenders are obstructive.”²²

Ill-treatment in detention used to be pervasive throughout Cambodia. During the UNTAC period, progress was made regarding this problem. However, ill-treatment still

²² Amnesty International interviews in Cambodia, November 1995.

occurs during detention, and a key reason for this is that human rights workers and defenders are denied access to detainees during the first 48 hours of detention. Even if a human rights worker or defender knows that an individual has been detained and seeks access within the first 48 hours, permission is usually denied by the detaining authorities. They cite Article 10 of the UNTAC Penal Code as justification for this. Article 10 states:

“Legal Assistance:

1. The right to assistance of an attorney or counsel is assured for any person accused of a misdemeanour or crime.
2. No one may be detained on Cambodian territory more than 48 hours without access to assistance of counsel, an attorney or another representative authorized by the present text, no matter what the alleged offence may be.

Part one of Article 10 guarantees the right to a defender to anyone accused of a crime, but in effect, the very poor drafting of part two of Article 10 of the UNTAC penal code has been used to justify the practice of detaining people with no access to any kind of defence for up to two days. During this period the detainees are vulnerable to torture or ill-treatment by the detaining authorities, and have no redress. One defender expressed frustration at the problem, with reference to a particular case of police ill-treatment. He had gone to the police station to see the suspect before the end of the 48 hour period and said, “I could see he was hand-cuffed, but then we were pushed away.” The suspect in question was beaten and subjected to death threats during the first 48 hours of detention, but there was nothing the defender could do to prevent it. Amnesty International believes that Article 10 of the UNTAC Penal Code needs urgent revision, in order to prevent the police from holding suspects in incommunicado detention.

Even after the 48 hour period has expired, many suspects do not have access to a defender until just before a case comes to court. Most prisoners are unaware of their rights and unless they specifically request access to a defender, they are unlikely to see one. One defender told Amnesty International:

“It’s not easy to get access to the prisoners who are detained during the early periods of detention, and one has to go through the police or the family...What tends to happen is

that people don't come to us, and we're not brought in until very late in the process, often not until the case gets to the adjudicating magistrate do they think to bring us in.'²³

Thus, people in detention often go through many interrogation sessions, without having had the benefit of any legal advice or representation. Often, by the time a defender is brought in to assist them, the case has already reached the trial stage. The defenders working in the court system in Cambodia attempt to represent the interests of those accused of criminal offences, but if they are denied access to those who should be their clients, they are not able to perform their function. Urgent attention needs to be given to the issue of prompt and timely access to defenders for those in detention. Prisoners are all too often not aware of their right to a defender, and thus do not request one. It should be the responsibility of the detaining authorities to inform prisoners of their rights, as required by Principle 13 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which states:

“Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.”

Further, Principle 17 states that:

“1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

“2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases

²³ Interview with a defender, November 1995.

where the interests of justice so require and without payment by him if he does not have sufficient means to pay.”

Treatment of prisoners in detention

Amnesty International reminds the police and the prosecuting authorities of their duties towards prisoners under international human rights standards and Cambodian law. The International Covenant on Civil and Political Rights to which Cambodia is a party states:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” (Article 7)

“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” (Article 10)

In addition, Cambodia’s Constitution prohibits torture of detainees, and the use of coercion to extract confessions.

“Coercion, physical torture or any actions that aggravate the punishment meted out against a detainee or prisoner shall be prohibited. The perpetrators, accomplices and conspirators shall be punished by law.

“Confessions obtained through either physical or mental coercion may not be used as proof of guilt.” (Article 38).

Torture and ill-treatment of detainees by the Cambodian police is a violation of the human rights of those detainees, and breaches Cambodian law and international human rights standards. Amnesty International draws the attention of the Royal Government to the illustrative cases of torture and ill-treatment by the police outlined above, and calls on the authorities to initiate independent and impartial investigations into allegations of torture or ill-treatment of detainees, and bring those responsible for such conduct to justice. Local human rights workers and defenders who talked to Amnesty International about cases of ill-treatment pointed out how difficult it is for them to bring these cases to court, as in most such cases, the only witnesses to alleged ill-treatment are the police themselves and the victim, and it is simply the victim’s word against that of several policemen. Amnesty International notes that human

rights training programs for police and armed forces personnel have been operative in Cambodia during the tenure of the Royal Government. These courses are run under the auspices of local human rights groups, and also by the Office of the UN Centre for Human Rights in Cambodia. Such training is welcome, and clearly very necessary in order to ensure that all those involved in arrest and detention procedures in the country understand and uphold the rights of detained persons at all times.

Impunity for agents of the state

Armed police and soldiers in Cambodia who commit human rights violations, including killings of unarmed civilians, are rarely brought to justice. Impunity for human rights violators is one of Amnesty International's major concerns in the Kingdom, and during research visits in 1995, the organization found evidence of killings by agents of the state, for which no one had been called to account. In some cases, police officers have shot to kill individuals whom they suspect of involvement in criminal activities, rather than attempting to apprehend them alive. In other cases, individuals have been extra judicially executed on suspicion of links with armed opposition groups. Of particular concern to Amnesty International is the fact that bereaved family members appear to be routinely threatened by those responsible for the killings of their

relatives. The victims' families are often prevented from pursuing complaints against human rights violators because they are protected by fellow officers in the police or the army, or by individuals within the criminal justice system who are either threatened themselves, or in the pay of the violators. Until there is justice and equality before the law in Cambodia, members of the police and armed forces will continue to impose their will on the civilian population, and violate human rights with impunity.

The case of Khlaeng Chhiep

Khlaeng Chhiep was a 35-year-old man, and a resident of Voat Chaeng village, Sangkae district, Battambang province. He came from a peasant family, was married and had four children. He and his family had been resident for some time in Khmer Rouge-administered refugee camps on the Thai border, and also in territory controlled by the NADK, and had come back to Cambodia in 1992 under the repatriation which followed the Paris Peace Agreements. On their return to Cambodia, the family made a living raising pigs and selling fruit. Khlaeng Chhiep was slightly handicapped, as his right foot had been injured in an anti-personnel mine explosion some years earlier.

On 12 June 1995, a number of villagers were gathered at a restaurant, drinking alcohol. Khlaeng Chhiep was among them. A heated argument ensued and Khlaeng Chhiep was accused by one of those present of being "a contemptible traitor" which probably referred to the fact that he had lived and worked in areas of Cambodia controlled by the NADK. A fight ensued between Khlaeng Chhiep and the man who had insulted him, who left the scene saying he was going to get a hatchet with which to kill Khlaeng Chhiep, who responded that he would attack his opponent with a hand grenade. Khlaeng Chhiep threw a hand grenade near the railway line at Au Sralav station. A child was slightly injured from shrapnel, but there were no other casualties.



3 Khlaeng Chhiep's funeral.

Khlaeng Chhiep was arrested and tied up by the Au Sralav police, who lectured him about throwing the grenade. He was then released, and went to the parents of the injured child, to whom he gave some money. He then went home.

At about 4.30pm, the sub-district chief and seven members of the local militia unit came to Khlaeng Chhiep's house. They made no attempt to arrest him, but started firing their guns as they approached. Khlaeng Chhiep saw them coming and tried to run away, but was hampered by his injured foot. His wife ran out of the house and shouted at the militia men not to shoot, because her husband was incapable of running away and escaping, but the shooting continued for several minutes. Khlaeng Chhiep was found in a rice field, shot several times in the back. The militia men told his wife that they did not want to approach the place where he was lying, as he had a grenade in his hand, but in fact all he had been carrying was some food, and he was unarmed. Khlaeng Chhiep was carried back to his house but died from his wounds.

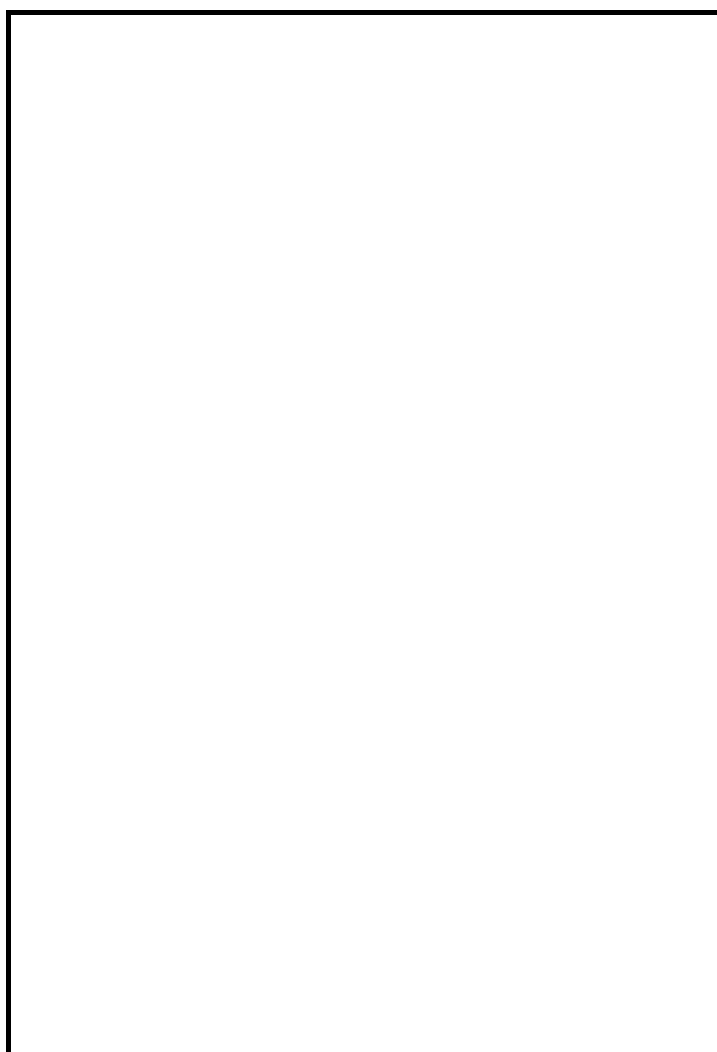
After the funeral, Khlaeng Chhiep's widow was summoned to a meeting by the District Chief, at which the police were also present. She was asked "whether she wanted money or to have the perpetrators put in prison". Khlaeng Chhiep's widow requested financial compensation for his death, because she had four children to care for. She asked for 10 million riels (about US\$4,000), but was told that soldiers don't have that sort of money, and was eventually pressured into accepting 1,300,000 riels (about US\$590). In exchange, she was told that she should not pursue any complaint against the people who killed her husband. However, she later told local human rights workers that this agreement had been forced on her, and she wished to make a complaint. A complaint was lodged with the court, and the widow moved to another village, as she was worried that there would be reprisals. She received two written summons from the District police to come and discuss the case, as they claim she has reneged on a deal and should give back the compensation she received.

This type of case is typical. Agents of the state are responsible for a killing, and they tell the family of the victim that financial compensation is available but on the condition that no complaint against the perpetrators is pursued in the courts. The majority of those involved in such situations are poor, have no idea of their rights under the law, and have just been bereaved of the family breadwinner. They usually accept compensation, because they have no money. Family members rarely know that under the law, it is the responsibility of the police and the prosecutor to investigate every act of violent crime, including killings by agents of the state, and that those responsible should be brought before the court. The issue of financial compensation is a separate one, and should not be presented as something which is available only if a complaint is not pursued.

Other such cases include the killing of Chhoern Korn in Kampot Province in September 1994. Amnesty International publicised this case one year after it happened, because in spite of overwhelming evidence, no steps had been taken by the authorities to bring the perpetrators to justice, and a poor, illiterate widow had been given a very small sum of money in return for an undertaking that she would not pursue a complaint.²⁴ The law must be applied equally to all people in Cambodia, including members of the police and armed forces. Agents of the state should not be allowed to killing with impunity.

²⁴ See Amnesty International *Kingdom of Cambodia: Impunity in Kampot Province - the death of Chhoern Korn* (AI Index: ASA 23/15/95 October 1995).

**The case
of Neth
Thongand
Mov Ving**



4 The bodies of Neth Thong and Mov Ving, who were both shot four or five times and apparently severely beaten before they died.

FUNCINPEC members Neth Thong and Mov Ving were playing volleyball in O'Krobou village, Mong commune, Mong Russei district, Battambang province on 5 February 1995, when they were surrounded by a group of about 30 soldiers, police and militia men. They were arrested without a warrant and taken into custody at Kach Char village, some two kilometres away. Relatives who went seeking their release were threatened with death by armed men and were sent away. At about 4pm that afternoon, local villagers heard the sound of shots being fired; the bodies of Neth Thong and Mov Ving were discovered the next morning, both had been shot four or five times, and had apparently been severely beaten before they died. During the funeral ceremonies, members of the families were harassed by local officials, asking them why they "were giving funerals to members of the Khmer Rouge?" The families sought refuge in a local Buddhist temple, too frightened to remain in their homes.

Two men were arrested in connection with the case, a district policeman and a soldier. One was released from custody on 12 May 1995 with the proviso that he appear before the court if called upon, while the second was released on 12 July and all charges against him were dropped. On 15 August 1995, the Battambang Provincial Court convicted three men *in absentia* for the murders of Neth Thong and Mov Ving. The three, Chhan K'at, Ngeu Chap and Mam Reum are all subdistrict militiamen. They were each sentenced to 15 years' imprisonment and ordered to pay a heavy fine in compensation to the widows of the two victims. However, in November 1995 when Amnesty International visited Battambang province, Chhan K'at was still living in the area, and Mam Reum was resident in a village only eight kilometres from the widows' homes. Ngeu Chap had left the province. People who spoke to Amnesty International said that Mam Reum clearly did not feel he was in imminent danger of arrest, in spite of the court judgement. Some members of the victims' families remain concerned for their safety, and one is still too afraid to sleep at home.

Further cases in Mong Russei District

Amnesty International has received information about two further cases of alleged extra-judicial executions in Mong Russei district, Battambang province. The first took place on 18

December 1995, when Oeurng Chhoeurb, a 34-year-old male farmer from Bung Bey village, Mong Russei district was travelling home by ox-cart with his wife and sister-in-law. At about 5.30pm, Oeurng Chhoeurb was arrested by members of the commune militia from Bung Bey village and soldiers from a military unit and allegedly accused of having links with the NADK. Oeurng Chhoeurb was taken to a rice field in Toul Sleng village, Mong Russei district and allegedly executed. His body was reportedly not given to his family for a funeral ceremony. To Amnesty International's knowledge no one has been arrested in connection with the killing of Oeurng Chhoeurb.

A second alleged extra judicial execution took place in Mong Russei district on 8 February 1996. The victim, Chhourn Chhang was a 37-year-old male farmer, from Pen village, Mong Russei district. During the afternoon of 8 February he and two other men were searching for some missing cattle in Rolours village, Mong Russei district, when all three were arrested by military personnel reportedly from RCAF Regiment 12, Battalion 123, which is stationed in the village. The three men were reportedly taken by their captors to Wat Rolours, where the soldiers beat them and accused them of being members of the NADK. Chhourn Chhang was then taken to a place called Prek O, and allegedly executed. According to the information available to Amnesty International, the other two men were taken to the Mong Russei district military headquarters; it is not known what happened to them after that. Amnesty International has received no reports of any arrests in connection with the killing of Chhourn Chhang in February 1996, or the detention of his two companions.

The killing of Reung Than

In Battambang province in April 1995 a young man called Reung Than, a returnee from the border camps who suffered from a speech impediment and a mental handicap was shot dead by a village militia man. Reung Than went to watch a boxing match in a neighbouring village in Battambang district, and was walking home when heavy rain began to fall. He took shelter under a nearby house²⁵ which happened to belong to a local militia man. The man came out of his house and accused Reung Than of stealing his property. Reung Than said that he was sheltering from the rain, but the militia man pulled him out from under the house, shot him through the head and killed him. Reung Than's mother is a widow and is also a returnee from the border camps. She herself is unwell and not in a position to pursue a complaint. Although local human rights workers took up the case, there was no progress with the court proceedings by November 1995, and the militia man was still at large, and in possession of

²⁵ Cambodian houses are often built on stilts, with an open, sheltered area underneath the building.

his weapon. In this case, no interim compensation was paid to the victim's family. This was a clear case of murder, and yet it seems that no investigation is to be carried out because the perpetrator is a serving member of the village militia.

Lack of action

Amnesty International is concerned that the three men convicted of the murders of Neth Thong and Mov Ving are still at large, and that no attempt has been made to arrest them, although their whereabouts is common knowledge in the province. The failure of the police to implement arrest warrants handed down by the courts makes a mockery of the justice system in the province, and allows human rights violators literally to get away with murder. There have been no satisfactory investigations into the murder of Reung Than by a village militia man. Members of the armed forces, the police and the militia are able to kill with impunity because the law is not adequately enforced in Cambodia, when agents of the state are implicated in human rights violations or criminal activities.

In the course of its investigations in Cambodia in 1995, Amnesty International found evidence of many cases where agents of the state are alleged to have committed extra judicial executions, and yet have not been brought to justice for their actions. For example, in Kampot province, on 1 January 1995 there were 23 outstanding arrest warrants against members of the police and armed forces in the province, on charges of murder. In all these cases, the individuals concerned had simply been transferred from the unit in which they had been serving to another unit in the same province. One law enforcement official told Amnesty International: "They are still walking around with guns. The local population is extremely afraid of them." Urgent steps need to be taken to ensure that in cases of violent crime where those implicated are members of the police and armed forces, there are procedures to ensure that full, impartial investigations are carried out, and that those named on arrest warrants are actually brought to justice. Until people serving in the police and the military are subject to the same rules as the rest of the population, the cycle of impunity will go on, and human rights violations will continue.

Concerned parties, including Amnesty International have drawn the attention of the competent authorities in Cambodia to the problem of impunity for human rights violators, both in general terms, and in the context of specific human rights violations. The organization regrets that in the majority of cases, no action has been taken. An appendix to this report details issues brought to the attention of the Royal Government by Amnesty International over the last two years and the response to the organization's concerns.

Update on the case of the S-91 unit, Battambang Province

In March 1995, Amnesty International reported in detail on the serious human rights violations committed in Battambang Province by the military unit known as S-91, or B-2.²⁶ A Special Investigation Commission was established by the two Prime Ministers, but its working methods fell far short of the minimum standards required for confidentiality and protection of sources, and some of the Commission members were closely involved in the military and political hierarchy of the province. Amnesty International expressed concern about the composition and working methods of the Special Investigation Commission and greatly regrets the fact that by April 1996 none of those responsible for serious violations of human rights committed by the S-91 military unit have been brought to justice for those offences. However, the organization notes that as many as 12 members and former members of the unit were in detention by November 1995, on charges unrelated to the violations reported in 1994. Other senior members of S-91 are no longer resident in Battambang province. Local people who talked to Amnesty International said that the atmosphere in the province had improved with their absence. The organization noted improvements in the general human rights situation in Battambang compared to the situation in November 1994, but renews its call to the Cambodian authorities to ensure that members and former members of the S-91 unit of the RCAF are brought to justice for their part in serious human rights violations in the province between 1992 and 1994, including extra judicial executions, torture and arbitrary detention.

²⁶ Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995) pp.-14.

Freedom of expression, association and assembly

The fundamental human rights to freedom of expression, association and assembly were undermined throughout 1995, in a series of incidents, ranging from prosecution of newspaper editors because of opinions they published, to grenade attacks on supporters of one faction of a political party. No progress was made in bringing to justice those responsible for the murders of two journalists in 1994, and the opposition press remained vulnerable to attack. Supporters of a new political party were subjected to harassment and threats. The rhetoric from the Royal Government became harsh and intolerant, and was indicative of the increasingly restrictive political climate.

Amnesty International is concerned at the potential impact of new legislation passed in Cambodia on freedom of expression. The organization is also worried about the prosecution of a number of journalists and editors, and the fairness of the judicial proceedings. At least three editors are facing prison terms following prosecutions based on articles they had published; these articles did not advocate or incite violence, but contained peaceful criticism of the Royal Cambodian Government. If these newspaper editors are imprisoned as a result of the court cases detailed below, Amnesty International believes they would be prisoners of conscience. The organization is also concerned at the lack of any progress in investigations relating to attacks on newspaper offices, at least one of which was apparently condoned by a senior member of the Royal Government.

Cambodian journalistic standards reflect a lack of experience with freedom of the press, following the sudden lifting of publishing restrictions during the UNTAC period after many years of tight government controls. Under a UNESCO-sponsored training program, many journalists are receiving training. There are now three journalists' associations in Cambodia, two of which have official recognition. The Khmer Journalists' Association is the oldest, and at one stage could claim membership of most journalists working in Phnom Penh. Following various disagreements, journalists working with pro-government newspapers set up their own association, the League of Cambodian Journalists. A third association, consisting mainly of journalists working with opposition newspapers had not been officially recognised by the Ministry of Information at the time of writing. Training is available to journalists whatever their affiliation, and it is hoped that journalistic standards will rise, as a result of this training. A free press can be a fundamental element in the protection of human rights, but these steps can be undermined by state action against press freedom, including prison sentences for journalists and newspaper editors in response to opinions they have published.

The new Press law

The most important legal development with implications for human rights in 1995 was the passing of the new Press law by the National Assembly in July. The first draft of the new Press law made public in early 1994, attracted widespread criticism from human rights groups, lawyers and journalists and was withdrawn. A later draft, made public in November 1994, was even more harsh than the original, and the criminal penalties it allowed exceeded those

of the 1992 State of Cambodia Press law in force at the time. Of particular concern to Amnesty International was the fact that the draft law imposed criminal penalties on the publication of certain material judged to be against the public interest. This would violate the right to freedom of expression, and constitutes an infringement of international human rights standards. Amnesty International, along with many other groups and concerned parties expressed concern to the Royal Government about the wording of the law.²⁷

The law which was finally approved by the Council of Ministers and the National Assembly represented a significant improvement on earlier drafts, but still raises serious human rights concerns. Criminal penalties have been withdrawn which is welcome, but the possibility of prosecution of journalists and editors under the penal code as well as the Press law remains, thus allowing for the detention of individuals as prisoners of conscience because of the peaceful opinions they have published. This is a clear violation of international standards relating to freedom of expression, including the International Covenant on Civil and Political Rights (ICCPR) to which Cambodia is a party.

Article 12 of the new Press law states: “The press shall not publish or reproduce information that affects national security or political stability. The employer, editor or author of the text can be fined from five million riels to fifteen million riels without taking into account any possible punishment under criminal law.” This article raise particular human rights concerns. The terms “national security” and “political stability” are not defined in the law, and could potentially be used to punish anyone who publishes articles critical of the government. Article 19 of the ICCPR, to which Cambodia is a state party, guarantees the right to freedom of expression. Section 3(b) of Article 19 recognises that the right to freedom of expression carries special duties and responsibilities, and may therefore be subject to certain restrictions. National security is mentioned as a limiting case, but any restrictions on freedom of expression relating to national security must be provided by law. Article 12 of the new Press law does not define “national security” or “political stability” and is therefore open to abuse. Those charged with offences under Article 12 of the law could also face criminal prosecutions under the penal code, and be imprisoned for the articles they publish. Amnesty International considers that press laws should uphold the guarantees to freedom of expression as stated in international human rights standards. The new Cambodian Press law does not meet these criteria. King Norodom Sihanouk would not sign the new law, but shortly after he left the

²⁷ See Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95) pp.42-44 and *Kingdom of Cambodia: The Draft Press Law* (AI Index: ASA 23/10/95 20 June 1995).

country on a visit to Indonesia at the end of August, the President of the National Assembly, Chea Sim signed it, under a power which allows him to do this in the absence of the head of state. The law took effect in Phnom Penh 10 days later, and in the provinces after 20 days.

The majority of the court cases detailed below are not covered by the legislation referred to above, but by several different laws which applied before the new law came into force. Most charges were brought under the Provisions Relating to the Judiciary and Criminal Law and Procedure applicable during the Transitional Period, approved by the Supreme National Council in September 1992, and commonly referred to as the UNTAC Penal code. This law remains in force until such time as a new penal code is passed by the National Assembly. The articles in the UNTAC Penal code relating to issues of freedom of expression are so broad that they allow for the imprisonment of journalists and editors, in direct contravention of international human rights standards which protect freedom of expression. Orders to close newspapers were issued on the basis of provisions in the 1992 State of Cambodia Press law, which was valid in Cambodia until the new Press law was passed in July 1995. This law greatly restricted the right to freedom of expression.

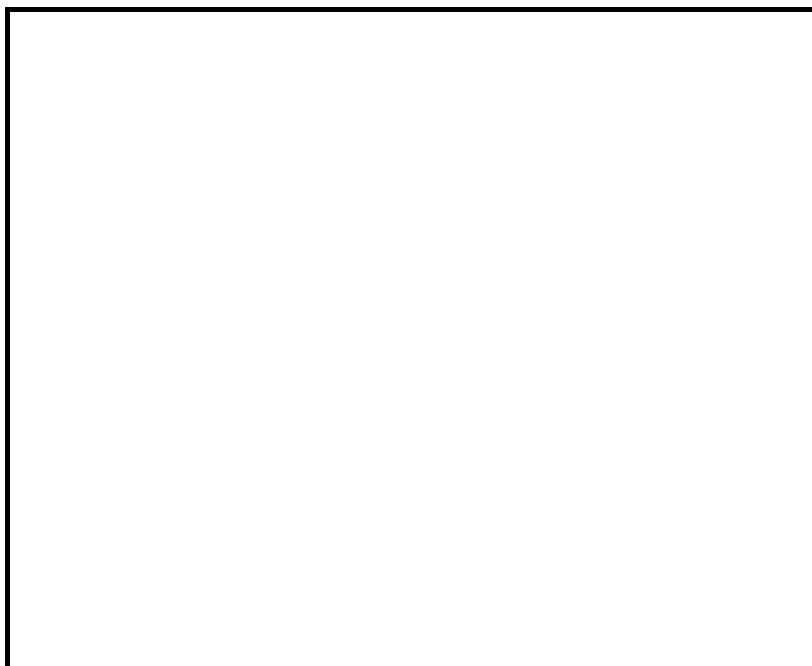
Trials of newspaper editors

Three newspaper editors in Cambodia are currently facing prison terms as a result of prosecutions brought in relation to articles critical of the Royal Government, which they published in their newspapers. While all are currently at liberty, awaiting appeal hearings in the Supreme Court, if the convictions and sentences are upheld, two of them will immediately be imprisoned, and the third may also face imprisonment if he is unable to pay a heavy fine. If these men are imprisoned as a result of the prosecutions brought in relation to these articles, none of which advocated or incited violence, Amnesty International believes they will be prisoners of conscience.

The case of Chan Rotana

Chan Rotana was until recently the editor of the newspaper *Samleng Yuvachen Khmer* ("Voice of Khmer Youth"). His predecessor Nuon Chan was murdered in broad daylight in Phnom Penh in September 1994, shortly after he had been warned by the office of the First Prime Minister and the Interior Ministry about the content of his newspaper, which was critical of the government. Two men who were arrested and charged with his killing were later released when a judge ruled that their confessions had been extracted under torture. There

was no evidence to link them with the crime. There has been no further action on the case by the authorities.²⁸



5 Chan Rotana

On 27 February 1995 at the Phnom Penh Municipal Court, Chan Rotana was found guilty of the crime of “disinformation” and sentenced to one year’s imprisonment and a fine of five million Cambodian riels (approximately US\$2,000). He was charged under Article 62 of the UNTAC Penal code, in relation to an article published in *Samleng Yuvachen Khmer* on 12-13 January 1995, entitled “Ranariddh is more stupid than Hun Sen Three Times a Day”. The article is a simplistic satirical piece, written in the voice of a young woman. Article 62 relates to disinformation and states:

²⁸ for more information on the killing of Nuon Chan, see Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995, pp40-41).

“When the publication, distribution or reproduction by whatever means, of statements which are false, fabricated, falsified or dishonestly attributed to a third party; made in bad faith and intended to cause hurt; disturbs or is likely to disturb the public peace, the director or other representative of the publication or other means of communication whose decision it was to publish, distribute or reproduce these statements shall be liable to a penalty of imprisonment of from six months to three years, and a fine of from one million to ten million riels.”²⁹

During the trial, the prosecutor argued that the newspaper article had affected the honour of First Prime Minister Prince Norodom Ranariddh, and had caused distrust among citizens and civil servants. Chan Rotana’s defender argued that the newspaper article was an opinion piece, and did not constitute a statement of fact. Further, he argued that in the six weeks that had elapsed since the article was published, it had caused no disturbance of the public peace. While the defender was presenting the defence on behalf of the accused, the judge told him, “this is not the time to interpret the law, that is for the judge to do.” After the arguments were presented by both sides, the judge announced a guilty verdict in less than five minutes. He said that the newspaper article had been degrading to the First Prime Minister and thus had affected public order. He then passed sentence.

Chan Rotana appealed against his sentence. The appeal was heard on 6 October 1995, and during the hearing, counsel for the prosecution requested that the charge be changed from “disinformation” under Article 62, to Article 63 of the law, relating to defamation and libel. The panel of three judges agreed to the request and without a trial on the amended charge, upheld the conviction and sentence. This is a clear breach of proper procedures under Cambodian law and international standards for a fair trial. Amnesty International considers that as drafted, Articles 62 and 63 set out two distinct crimes with separate elements, and the failure to: (i) promptly notify Chan Rotana of the charges against him; (ii) grant Chan Rotana and his defender adequate time and facilities to prepare a defence; and (iii) to bring Chan Rotana to a new trial on the different charges is a violation of

²⁹ This is a direct translation from the official French version of the law. The official English version allows for fines of up to three million riels, while the official French version, and the Khmer translation, which appears to have been made from the French version, allow for fines of up to 10 million riels. It is not clear why this discrepancy occurred.

Cambodian law and of international standards, specifically Article 14 of the ICCPR. On 13 December Chan Rotana filed an appeal with the Supreme Court against the decision of the Appeal Court. He is no longer editor of the newspaper, having taken up a position in the new Khmer Nation Party.

The case of Hen Vipheak

Hen Vipheak is the editor of *Sereipheap Thmei* ("New Liberty News"). The newspaper began publishing in July 1994, with a circulation of between 4,000 and 12,000 copies per issue. The editorial line is strongly critical of the Royal Government. Hen Vipheak was charged with "disinformation" under Article 62 of the UNTAC Penal Code in relation to an article published in *Sereipheap Thmei* in February 1995. The article appeared under the headline "Country of thieves" and took the form of a reader's letter, which asserted that the two Prime Ministers had been responsible for theft of the nation's assets, both before and after the elections. Hen Vipheak's trial took place at the Phnom Penh Municipal Court on 20 May 1995. The basis of Hen Vipheak's defence was that the article represented an opinion rather than factual reporting, and therefore did not constitute disinformation. Under questioning from the judge, Hen Vipheak maintained that the article was the opinion of one of the newspaper's readers, and that he had simply edited the article and published it. He refused to reveal the identity of the author. The judge became angry with Hen Vipheak and eventually ordered him to be quiet. He was allowed to speak again at the close of the trial, during which time he questioned the independence of the court, saying that he did not believe the court would bring justice. The judge retired for 15 minutes before returning to the court room to announce that he found Hen Vipheak guilty and that his judgement was "supported by all the evidence". He sentenced Hen Vipheak to one year's imprisonment and a fine of five million riels (about US\$2000). He also ordered the closure of the newspaper under Article 46 of the State of Cambodia Press Law 1992. The sentence was stayed, pending appeal.

Attack on *Sereipheap Thmei* office

Hen Vipheak's appeal was due to be heard on 27 October. However, on 23 October, three truckloads of men armed with sticks and axes broke into the *Sereipheap Thmei* office. One office worker was injured by a blow to the head, and publishing equipment worth thousands of dollars was damaged. Some of the attackers who arrived on the trucks were carrying signs saying "Down with New Liberty News". Witnesses at the scene said that police in the area watched the attack take place, but did not attempt to intervene.

Hen Vipheak told Amnesty International: *“I think they came to kill me, but as it happened I left the building shortly before the event. The man who was attacked told the attackers he was just a guard and not involved in the paper, because otherwise he might have been killed.”* It appears that the attack was provoked by an article published in *Sereipheap Thmei* on 21 October, criticising a development project funded by Second Prime Minister Hun Sen in Kraingyov commune, Kandal Province. Hen Vipheak published a photograph of flooded rice fields and a road which had been breached by the water, and said in an accompanying article that Hun Sen’s project was no good. It was alleged that the attackers came from Kraingyov, but witnesses to the attack on the *Sereipheap Thmei* offices disputed that all the people who arrived at the premises in the trucks were genuine residents of Kraingyov. It has been reported to Amnesty International that some of the attackers were members of the Second Prime Minister’s bodyguard unit.

In a speech delivered to Kraingyov villagers on 30 October, the Second Prime Minister appeared to endorse the violent activities of the demonstrators. He said: *“I would just like to exercise my right...to express the opinion that Kraingyov people were not wrong in their action...Those who are opposed to Kraingyov people...are Khmer Rouge.”* He also offered to provide transport to the people, should they wish to exercise their right to “demonstrate” again.³⁰

It appears that there is to be no investigation into the attack on the *Sereipheap Thmei* offices and the assault on one staff member, and that no attempt will be made to bring the perpetrators of the violence to justice. Indeed, rather than ensure a proper criminal investigation is carried out, the Second Prime Minister’s statement could be seen as signalling approval for such violent attacks. This is worrying, as government ministers have a particular responsibility to uphold and not to undermine the law and human rights.

Appeal against his conviction

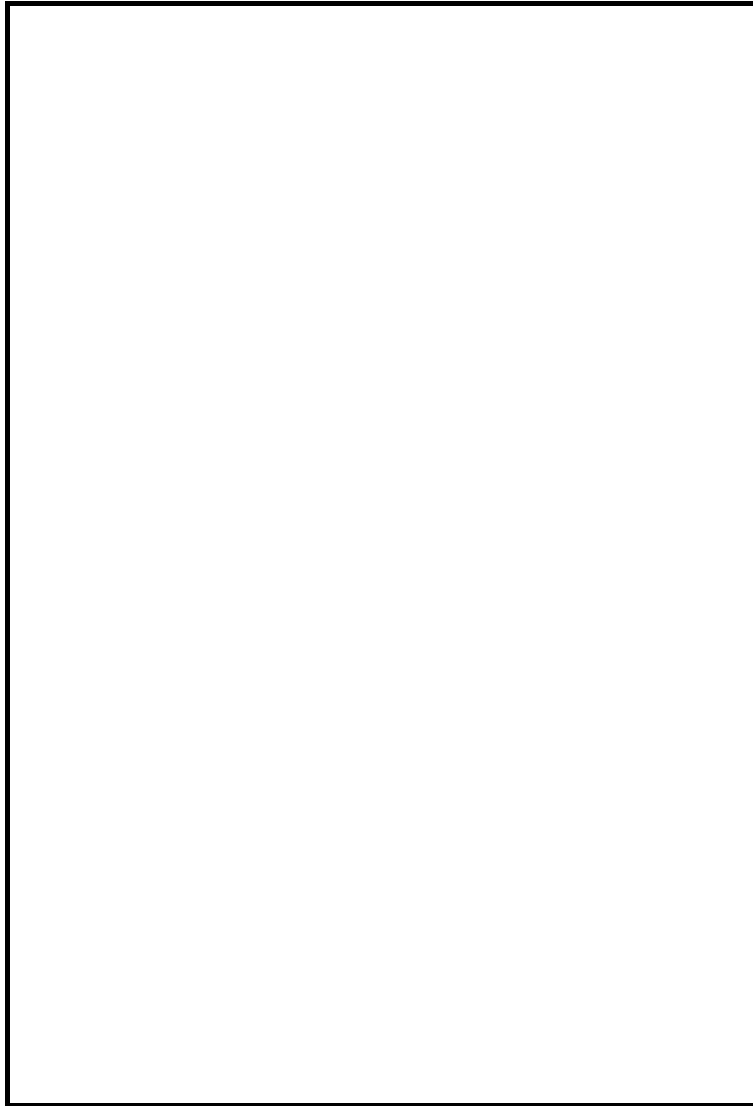
Following the attack on his newspaper’s office, Hen Vipheak requested a postponement of his Appeal Court hearing, which was granted. When the appeal was heard on 22 December, the court upheld the guilty verdict and declared that the defendant must serve one year in prison, pay the large fine, and that *Sereipheap Thmei* must be closed down. Hen Vipheak is appealing to the Supreme Court. Both his and Chan Rotana’s sentences have been stayed, pending the decision of the Supreme Court decision on each of their cases. Should that court

³⁰ See “PM says attackers defended their honour” in *Phnom Penh Post* November 3-16 1995.

uphold the sentences then all appeals procedures will have been exhausted, and the two men will go to prison. Amnesty International considers that, should they be imprisoned as a result of these court proceedings, Hen Vipheak and Chan Rotana would be prisoners of conscience.

The case of Thun Bun Ly

Thun Bun Ly faced criminal charges in connection with articles published in his newspaper *Oddomkete Khmer* (“Khmer Ideal”). The government has suspended the publication of his newspaper on more than one occasion. The first case against him was heard on 19 May 1995 at the Phnom Penh Municipal Court. He was charged with disinformation under Article 62 of the UNTAC Penal code and defamation under Article 63. The charges related to an article published in the 30-31 October 1994 edition of *Oddomkete Khmer*. The article at issue was a reader’s letter which criticised the two Prime Ministers and said that they should “stop barking”. There was nothing in the article which advocated or incited violence. Thun Bun Ly was found guilty on both counts and fined five million riels (about \$2000). If he is unable to pay the fine, he faces imprisonment. The court also ruled that publication of *Oddomkete Khmer* should be permanently suspended. The payment of the fine was stayed, pending appeal.



6 Thun Bun Ly

Appeal Court decision

On 13 October, the Appeal Court upheld the conviction of May 1995 on the charge of defamation (Article 63), and ordered Thun Bun Ly to pay a fine of five million riels or go to prison for one year. According to the opinion of one of the Appeal Court judges, “*the government was elected by the people to represent the whole country. It is not proper to use the word barking when referring to the leaders.*” Thun Bun Ly said in his defence that the article was an opinion piece not a statement of fact, and that he would have issued a retraction if the government had requested one, but they had not. The charge under Article 62 was apparently dropped by the prosecution at the beginning of the hearing. Thun Bun Ly intends to appeal to the Supreme Court.

Second trial

Thun Bun Ly was tried again on 16 August 1995, on charges under Article 62 of the UNTAC Penal code, relating to articles published in *Oddomkete Khmer* on 21 - 23 January, and 410 and 12 February 1995. At the hearing, Thun Bun Ly was questioned by the judge, and his answers to these questions provoked laughter in the court, which prompted the judge to suspend the hearing until 28 August. The court reconvened on 28 August, and there was tight security in the area, as 30 military police armed with automatic weapons and other municipal police surrounded the area. Thun Bun Ly maintained throughout the hearing that in his articles he had been expressing his views and not making factual statements. However, according to reports, the judge said “*Giving an opinion and providing news are the same.*” Thun Bun Ly asked for evidence that his articles had threatened national security or disrupted the public peace. The lawyer for the Council of Ministers, acting for the Royal Government, reportedly stated that “*all the articles affected national security*” without providing any evidence to support this assertion. He also claimed that in addition to the offence under Article 62, Thun Bun Ly was guilty of defamation, under Article 63 of the UNTAC Penal code. Thun Bun Ly’s defender objected to the introduction of new charges during the course of the trial, but the prosecutor disagreed with him. The judge took 15 minutes to consider the verdict and pronounced Thun Bun Ly guilty of offences under both Articles 62 and 63. Thun Bun Ly was sentenced to a fine of ten million riels (about US\$4,000) and was told that if he does not pay the fine he faces two years in prison. The judge also ordered that the newspaper be permanently suspended from publication. Again, the sentence was stayed, pending appeal. If Thun Bun Ly is sent to prison as a result of the court cases detailed above, Amnesty International believes he would be a prisoner of conscience. The articles for which he has been prosecuted neither advocated nor incited violence.

Thun Bun Ly has brought a civil case against the government seeking financial compensation for the enforced closure of his newspaper.

Breach of international human rights standards

Three newspaper editors are facing prison terms in Cambodia following prosecutions initiated by the Royal Government based on articles published in their newspapers, which did not advocate or incite violence. This is a matter of concern to Amnesty International. The organization believes that the specific articles mentioned above, which were published in their newspapers should not result in them being sent to prison. The guarantee of freedom of expression, which Cambodia is bound to protect as a state party to the ICCPR must be upheld.

Acts of violence

Amnesty International is concerned at a number of violent assaults on individuals involved in the media, and attacks on newspaper offices. Amnesty International has no record of anyone being brought to justice for such attacks in the period since the Royal Government came to power. In addition, there have been several cases where the authorities have clearly failed in their duty to carry out prompt investigations into these types of incidents.

Attack on the offices of *Damnoeng Pil Proek*

Damnoeng Pil Proek (“Morning News”) is the newspaper edited by Nguon Non, who was briefly detained as a prisoner of conscience during 1994. The editorial line of the paper is still strongly anti-government, and Nguon Non still faces charges because of the articles he published in *Damnoeng Pil Proek* in 1994, which did not advocate or incite violence. In August 1995, Nguon Non received abusive and threatening anonymous telephone calls. He was also the target of attacks in the pro-government newspaper *Koh Santepheap* (“Island of Peace”) in early September; in one issue a photograph of Nguon Non appeared with the caption, “How can we soften such hard features?” On the evening of 7 September, a grenade exploded in the courtyard of the offices of *Damnoeng Pil Proek*; one person living across the street was slightly injured by shrapnel. Eight people who were in the newspaper offices were not hurt. Police came to the scene within 15 minutes to investigate the blast, but no one has been brought to justice for the attack.

Shooting of Ek Mongkul

Ek Mongkul is one of the most popular and well-known radio presenters in Cambodia, with daily shows on a radio station owned by FUNCINPEC. He also had a twice-weekly lunchtime program called "Papers' views" where he would read out editorials from various newspapers, including the opposition press, adding his own comments. On the morning of 8 February 1996, Ek Mongkul was going to fetch his children from their school behind the Royal Palace in Phnom Penh. Two men on a fast motorbike drove past him, and the pillion passenger pulled out a pistol and fired five bullets, then drove off. Ek Mongkul was hit three times, in the chest, shoulder and neck. He was taken to the Calmette Hospital in the capital for emergency treatment. One of the bullets caused serious injuries and later that day Ek Mongkul was evacuated by air to Bangkok, Thailand, to receive medical treatment there. At the time of writing, it was not known who carried out the assassination attempt on Ek Mongkul. Amnesty International calls upon the Cambodian authorities to ensure that a thorough investigation is carried out into the shooting, and that those responsible are brought to justice. The organization notes that in previous instances where journalists have been attacked, the cases have not been resolved.

No progress in earlier cases

In March 1994 two unidentified men threw a hand grenade in the office of the *Antarakhum* ("Intervention") newspaper. One year later Amnesty International noted with regret that the Cambodian authorities had apparently not made any serious attempts to identify those responsible for this attack.³¹ The case remains unresolved two years on.

Similarly, Amnesty International appealed to the Cambodian Government to launch an impartial investigation into the murder of Nuon Chan and bring those responsible to justice, but since the release early in 1995 of two men who apparently had been wrongly arrested in connection with the killing, no further action appears to have been taken to bring the perpetrators to justice. No progress has been reported in the investigation into the murder of journalist Chan Dara (full name Sao Chan Dara) who was murdered in Kampong Cham town, Kampong Cham province in December 1994.³² A police lieutenant arrested and charged with

³¹ See Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995, pp41-42).

³² For details of the case see Amnesty International Urgent Action 441/94 *Cambodia: Possible extrajudicial execution/Fear for safety* (AI Index: ASA 23/17/94, 14 December 1994) and *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995, pp40-41).

his murder was acquitted in May 1995, and no further progress has been reported in the investigation.³³

A free press represents one of the pillars of civil society, and an important step in the protection of basic human rights. If those involved in the media live in fear and under threat of imprisonment or physical assault and death on the basis of the articles they publish, which do not incite or advocate violence, Amnesty International believes that they are prevented from exercising their fundamental human right to freedom of expression.

Freedom of association

The right to freedom of association is guaranteed in the ICCPR. Article 22 provides in part that “everyone shall have the right to freedom of association with others...” Article 42 of Cambodia’s constitution guarantees the right to form political parties and associations, as determined by law. The only law pertaining to political parties in Cambodia is the UNTAC Electoral Law. Its provisions regarding political parties relate to the conditions a party had to fulfill in order to be able to participate in the May 1993 elections.

In November 1995, Sam Rainsy launched a new political party, *Cheat Khmae* (Khmer Nation Party or KNP). The official opening of the party took place in Phnom Penh at a ceremony on the 9 November. Representatives from the diplomatic community were invited and attended.

Sam Rainsy claims he provided the Ministry of Interior with the necessary documentation for registration to participate in elections, as detailed in the UNTAC electoral law, including the names and thumb prints of more than five thousand registered voters who supported the new party. He also gave the details of the party statutes, bank account number, party symbol and the names of people on the Steering Committee and party officials. While

³³ This police officer has been implicated in other crimes, including the murder of a teenage boy in Kampong Cham Provincial town, shortly after his acquittal on charges of murdering Sao Chan Dara. A warrant has been issued for his arrest, but he absconded from his post, and has not been apprehended.

there was a degree of confusion at the outset, relating in part to the national holidays in Cambodia at the time of the launch, all this information was in the hands of the Ministry of Interior by the middle of November 1995. First Prime Minister Prince Norodom Ranariddh declared that the new party was illegal shortly after the opening ceremony took place. At the end of November, Sam Rainsy received a letter from the two Ministers of Interior, which recognised that the party had fulfilled all the conditions laid down in the UNTAC electoral law. However, the letter said the party was still not recognised as a legal entity by the government, apparently because permission had not been obtained from the Ministry of Interior prior to the official launch ceremony. Sam Rainsy disputed the legality of the government's position, citing Article 42 of the Constitution. He argued that the only laws pertaining to such matters were the UNTAC electoral law and the Constitution.

On 7 December 1995, a letter was sent by the two Interior Ministers to Sam Rainsy on the subject of the symbol chosen by the KNP to represent the party and the opening of offices in the provinces. The letter, requesting that the KNP cease using the image of King Jayavarman the Seventh as its party symbol, stated:

“Also, the Ministry of Interior does not permit Your Excellency to open offices of the Khmer Nation Party in any location so long as it has not been officially recognised by the Royal Government of the Kingdom of Cambodia. Your Excellency is thus informed and requested to kindly implement the above in an appropriate time-scale.”

The letter was copied to the two Prime Ministers, the Council of Ministers, and Minister of Justice for information, and also to Governors and Police Commissioners of all provinces and municipalities, for implementation. In February 1996, the KNP office in Phnom Penh remained open, although it had received instructions to close and to remove the party sign from the building.

An ongoing war of words between senior members of the government and Sam Rainsy became increasingly vitriolic in the early part of 1996, with Sam Rainsy claiming that the two Prime Ministers and a prominent Cambodian businessman were likely to kill him, and Hun Sen replying that if Sam Rainsy “has concealed arms and ammunition, his life would be shortened.”³⁴

³⁴ See reports in *The Cambodia Daily*, 16 January and 19 January 1996.

The KNP political party has since split into two factions; the faction led by Sam Rainsy has merged with a small party which was registered during the UNTAC period. It has not yet been given legal status by the Cambodian Ministry of Interior.

Arbitrary detention

On 29 January, heavily armed police and military police surrounded the office of the KNP in Phnom Penh, and threatened to shoot anyone who tried to get out. At the time, KNP workers, a policeman and a military policeman, human rights workers and a number of Cambodian and foreign journalists were inside the building. That morning, KNP official Kuoy Bun Reoun was driving to work, in a car borrowed from a relative. He was stopped by a traffic policeman, who asked to see his licence. At this point three armed men in civilian clothes attacked Kuoy Bun Reoun, and tried to force him into the boot of the car. He resisted, and the men drove off in the vehicle, leaving him and his passengers with the traffic policeman and military policeman who had witnessed the apparent theft of the car. The two policemen accompanied Kuoy Bun Reoun to the KNP office, in order to take a statement about the incident. Speaking to journalists and human rights workers who had come to the KNP office to establish what had happened, the two policemen confirmed that they had come to the office voluntarily, and were not being detained there against their will. However, several truckloads of heavily armed police, some of whom were carrying rocket launchers arrived at the KNP office and surrounded the building, threatening to shoot anyone who tried to leave, apparently because they had been told that two policemen were being detained inside. Once this situation outside the building became clear, the two policemen inside the building apparently feared reprisals. According to witnesses reports made available to Amnesty International, the two policemen inside the KNP office retracted their assurance that they had not been detained, and said that they had. The two apparently felt pressurised by senior officers, and feared what might happen to them if they admitted having come to the KNP office voluntarily.

A three hour search of the KNP office premises took place. It is not clear why the search warrant was granted or what the authorities expected to find. One licensed AK-47 gun was removed, and one hand-held radio. The car Kuoy Bun Reoun had been driving was found in the Ministry of Interior compound. The authorities revealed that the apparent "theft" on the morning of 29 January was actually carried out by plainclothes security police, because, they claimed, the car had been stolen. According to information obtained by Amnesty International and reported in the Cambodian press, the car was a stolen vehicle, but it had not been stolen by Kuoy Bun Reoun, or by the relative who lent it to him. The car was in the

possession of the relative, as security for a loan made to an acquaintance. Kuoy Bun Reoun had simply borrowed the vehicle, apparently without knowledge of its ownership. Even if the plainclothes agents were authorised to recover the vehicle, their assault on Kuoy Bun Reoun cannot be justified.

Amnesty International is concerned at the arbitrary detention at gunpoint of KNP workers and others in the KNP office in Phnom Penh in January 1996, and the assault on Kuoy Bun Reoun by plainclothes security police. Ill-treatment by the police is a violation of Cambodian law; the surrounding of the KNP office and the orders to shoot to kill anyone who left the building constituted arbitrary detention of the individuals inside.

Political violence in Phnom Penh

On 30 September 1995, a large crowd of people gathered in Phnom Penh at the house of Son Sann, the founder of the BLDP. Factionalism within the BLDP led to a split in the party, and the faction led by Son Sann was not recognised by the two Prime Ministers. The government-recognised BLDP faction, led by Minister of Information Ieng Mouly, held a party congress in July 1995, at which Son Sann and his most prominent supporters were expelled. Son Sann and his followers requested permission from the Ministry of Interior to hold their BLDP party congress at the Phnom Penh Olympic Stadium on 1 October. However, this permission was apparently denied, unless the Son Sann faction could demonstrate reconciliation with the Ieng Mouly faction.³⁵ Son Sann and his supporters decided to hold their congress at Son Sann's house instead, which is also the headquarters of his faction and is situated close to the Olympic Stadium.

Grenade attack

Just after 6pm in the afternoon of Saturday 30 September, a crowd of Son Sann's supporters, most of whom had travelled to Phnom Penh from the provinces for the party congress, were gathered around his house. Witnesses reported that two people on a motorbike drove by the house, and apparently rolled a grenade into the crowd. The grenade exploded, and many people were injured, including some who were hurt in the panic as people tried to flee. Shortly after this explosion, a second grenade exploded in the grounds of a nearby Buddhist temple, Wat

³⁵ See *Phnom Penh Post* "Son Sann strives for the right to hold his congress" 22 September to 5 October 1995.

Moha Montrei, where many BLDP supporters were staying. At least 30 people were injured in the two explosions. Witnesses who spoke to Amnesty International reported that the police did not arrive on the scene of the explosions for about 30 minutes, and that people with cars were transporting victims to the hospital for emergency treatment. Talking to journalists at the scene, Son Sann (who is over 80-years-old), spoke of the threat to his party and to democracy in Cambodia, while people around him attempted to clear the blood and debris from the floor of his house.

Despite the grenade attacks on the 30 September, Son Sann and his BLDP supporters took the decision to proceed with their meeting on 1 October. More than one thousand people attended the meeting on Sunday morning, at which Son Sann was confirmed as BLDP President by his supporters. The then United States Ambassador to Cambodia, Charles Twining, called at the house and condemned the attack. Witnesses reported to Amnesty International that shortly after this visit, a large contingent of heavily armed military police, some of whom were carrying grenade launchers, moved into the vicinity of Son Sann's house, blocked off the road and forced people to leave the area. The meeting was quickly disbanded.

In a short report issued at the time, Amnesty International expressed its concern about the attack, and called on the Royal Government to ensure the safety of political party members and supporters, and to reconfirm its commitment to freedom of association, as guaranteed in the ICCPR.³⁶ The organization noted with particular concern remarks made by Ieng Mouly in an interview with the newspaper the *Phnom Penh Post* before the 1 October meeting took place, in which he is quoted as saying that even if his own supporters and Son Sann's supporters went peacefully to the same congress, there could be "bad elements from outside who want to...create some problems? They may throw three hand grenades and then they can accuse me, they can accuse the government."³⁷ Similar remarks were also reportedly made by Second Prime Minister Hun Sen in a speech shortly before the 30 September.

In its report, Amnesty International welcomed a statement made by Minister of Interior You Hok Kry that a thorough investigation would be carried out into the grenade attacks, and that those implicated in the investigation be brought to justice. The organization recommended that the results of this inquiry be made public.

³⁶ See Amnesty International *Kingdom of Cambodia: Political Violence in Phnom Penh* (AI Index: ASA 23/16/95, 3 October 1995).

See *Phnom Penh Post* "Son Sann strives for the right to hold his congress" 22 September to 5 October 1995.

In November, supporters of the Son Sann faction complained about the lack of progress being made by the authorities in their investigation.³⁸ There was no indication that the investigation had moved forward by February 1996. Amnesty International is concerned that those responsible for attacking a crowd exercising their right to peaceful assembly have not been identified or brought to justice.

Responsibilities of the Royal Government

In March 1995, Amnesty International reminded the Royal Government that it has a duty to ensure that journalists, editors, human rights workers and members of political parties are able to carry out their legitimate activities and express their peaceful opinions without risk. The organization greatly regrets that in the past 12 months, people working in the media, and those involved in political opposition have continued to experience harassment, prosecution for the expression of peaceful political views, and intimidation. Amnesty International renews its appeal to the Royal Government to uphold its obligations as defined in the ICCPR to which Cambodia is a state party, including the rights to freedom of association, expression and assembly.

The situation of ethnic Vietnamese Cambodians

Amnesty International has raised concerns about the treatment of ethnic Vietnamese Cambodians since the UNTAC period, when there were massacres in small fishing communities, attacked by NADK troops. Since the Royal Government came to power, the organization has called for the rights of all minorities - including the ethnic Vietnamese - to be protected, and in

³⁸ See *The Cambodia Daily* "Sann Group Protests Pace of Inquiry Into Attacks" 3-5 November 1995.

particular that ethnic minorities should be afforded equal protection of the laws.³⁹ Of particular concern to Amnesty International were the group of ethnic Vietnamese Cambodians stranded at the Chrey Thom border crossing with Viet Nam since April 1993, having fled in the wake of NADK massacres. The Royal Government refused to allow these people permission to return to their homes in Cambodia, claiming they were Vietnamese citizens. Amnesty International's investigations concluded that the majority of the 4,000 people stranded at the border crossing were families with long-term ties to Cambodia, rather than recent migrants from Viet Nam, and that the Royal Government's refusal to allow them to return home appeared to be an attempt to forcibly exile them from their own country. The United Nations High Commission for Refugees, the United Nations Special Representative of the Secretary-General for Human Rights and Amnesty International raised the situation of the people at Chrey Thom with the Royal Government.

In January 1995, a joint communique issued by the Cambodians and the Vietnamese, at the end of a visit to Viet Nam by Cambodia's First Prime Minister Prince Norodom Ranariddh, stated:

“The two sides agreed to resolve as soon as possible the issue of Vietnamese nationals in Chrey Thom and to find a prompt solution to the issue of Cambodian refugees in Viet Nam.”⁴⁰

Amnesty International welcomed this undertaking, and notes with satisfaction that at the time of writing almost all of the families who had been at the Chrey Thom border crossing have been permitted to return to their home provinces in Cambodia. Cambodian radio reported in October 1995:

“Ethnic Vietnamese staying temporarily at Chrey Thom in Kandal Province are now being sent back to their provinces. Kompong Chhnang Province is receiving 455 families. So far, two contingents of the families have already arrived in the province; others will follow later. According to Kompong Chhnang district's police, between 14th and 21st October, over 100 Vietnamese families had arrived in the district. They

³⁹ See for example Amnesty International reports: *Cambodia: Arbitrary killings of ethnic Vietnamese* (AI Index: ASA 23/05/93, September 1993), *Kingdom of Cambodia: Human rights and the new constitution* (AI Index: ASA 23/01/94, January 1994) and *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995) pp24-37.

⁴⁰ “Communique issued on Ranariddh's visit to Viet Nam” (*Voice of Viet Nam*, Hanoi 17 January 1995), as reported in *BBC Summary of World Broadcasts* FE/2205 B/2 19 January 1995.

were being assisted by the UN High Commissioner for Refugees.”⁴¹

In January 1996, there were only 14 families left at Chrey Thom. These were people who did not have any documents proving their history of residence in Cambodia. However, written statements from ethnic Khmer families in their home provinces have been obtained for at least 13 of these families, vouching for their long history of residence, and Amnesty International expects a complete and satisfactory resolution to the plight of these people. The organization warmly welcomes the action by the Cambodian authorities in allowing these people to return to their homes, and notes that there have been no reports of any ill-treatment or discrimination since their return.

The cases of Ly Chandara, Ly Thara and Nguyen Phong Seun

On 9 March 1996, three men were arrested in the early morning by Cambodian police and were immediately sent to Viet Nam. At least two of the three were born in Cambodia, and would appear to have a right to remain in Cambodia. The Cambodian authorities claimed that all three men, Ly Chandara, Ly Thara and Nguyen Phong Seun are linked to an illegal organization, the Free Viet Nam Movement, which, the Cambodian Ministry of Interior claims, aims to overthrow the Vietnamese Government.

Ly Chandara (also known as Ly Ngoc) is the editor of a Vietnamese language magazine, *Viet Nam Tu Do* (“Free Viet Nam”), which is published in Phnom Penh. On Saturday 9 March 1996, early in the morning, eight police officers came to his house and entered forcibly, without an arrest warrant. They took Ly Chandara away, claiming that “he had borrowed money from the State,” and was being arrested to get him to pay the money back. Ly Chandara’s wife, and his daughter (who is pregnant) tried to prevent the arrest, and were kicked by the policemen. The police did not tell the family where they were taking Ly Chandara, and several of them stayed in the house to prevent his wife from following in their car.

Born in Phnom Penh, Ly Chandara is 37 years’ old, is married and has four children. His mother, who is ethnic Vietnamese was also born in Cambodia. Ly Chandara claims that he has always lived in Cambodia, apart from the period 1974 to 1981, when he went to Viet Nam, taking refuge from state-sanctioned anti-Vietnamese discrimination, including acts of violence.⁴²

⁴¹ “Ethnic Vietnamese being sent back to provinces” (*National Voice of Cambodia*, Phnom Penh 28 October 1995), as reported in *BBC Summary of World Broadcasts* FE/2447 B/4 30 October 1995.

⁴² The vast majority of Cambodia’s ethnic Vietnamese population were in any case forcibly exiled to Viet Nam in 1975, a few months after the Khmer Rouge took power in Cambodia and formed the

On his return, Ly Chandara worked as a translator, eventually spending six years with the Communist Party newspaper *Pracheachon* ("People"), from 1987 to 1992. He received a Cambodian identity card in 1989, and an UNTAC voter registration card, to participate in the 1993 elections. One of his brothers is a serving officer in the Royal Cambodian Armed Forces.

Ly Thara (also known as Nguyen Minh Mung) claims to have been born in Kandal province, Cambodia in 1960. In the early 1980s he fled as a refugee to the USA, but he returned in 1987 and established a construction company, which carried out contract work for the government. In December 1995, both he and Ly Chandara were among 38 people arrested by the Cambodian Government because of alleged involvement in the "Free Viet Nam Movement". Six out of the 38 had US citizenship, and were deported to the USA; the remaining 32 were released, including Ly Thara and Ly Chandara. Ly Thara was rearrested at his house - which is also his office - early in the morning of 9 March, by 14 or 15 uniformed policemen, who burst in to the office, pointing their guns at company employees. The office was searched, although no search warrant was produced, and Ly Thara was arrested from an upstairs room. Large quantities of office equipment were confiscated.

Amnesty International does not know the personal history of a third man, Nguyen Phong Seun, who was also arrested on 9 March, or the circumstances of the arrest. A Ministry of Interior spokesman confirmed that the arrests and deportations had occurred and alleged that the men were foreign nationals. Amnesty International is concerned that the three men might have been forcibly exiled from Cambodia on account of their ethnic origin and political views. The available evidence in at least two of the three cases suggests that even though they are ethnic Vietnamese, they have a right to remain in Cambodia. Even if, as the Royal Government alleges, it was entitled to deport them as "foreign nationals", it is a violation of international law to forcibly send people to countries where they are at risk of serious human rights violations. The men have been sent to a country where they are likely to face unfair trials and long prison sentences, and denied access to proper legal representation. In the last 12 months, prominent dissidents in Viet Nam have been sentenced to prison terms of up to 15 years because of their peaceful opposition to the Vietnamese Government. Amnesty International has adopted them as prisoners of conscience, and is concerned that several are ill and have been denied adequate medical treatment in detention.

Legal concern

Government of Democratic Kampuchea. Anti-Vietnamese violence instigated by agents of the state had also occurred during the previous regime, between 1970 and 1975. The exiled ethnic Vietnamese began returning to their homeland in the early 1980s.

Under Cambodian law, arrest without a warrant can only occur under certain circumstances, as specified in Articles 18 and 19 of the UNTAC Penal code. According to the information obtained by Amnesty International, at least two of the three men were not engaged in any of the activities specified as those which would authorize their arrest without a warrant, and therefore their arrests were unlawful. Their status as defined by the government, ie “foreign nationals,” is in doubt, and it would seem that at least one of them, Ly Chandara would qualify for Cambodian citizenship under a law on Nationality dating back to 1954. International law prohibits the forcible and arbitrary exile of individuals from their own country. While it is open to the Cambodian Government to make its own laws as to who is entitled to Cambodian citizenship, it may not use the citizenship law to arbitrarily deprive individuals, including ethnic Vietnamese, of their right to remain in Cambodia, when for all intents and purposes it is their own country.

Amnesty International believes that this case shows very clearly why all Cambodians, including those from ethnic minorities, require equal protection of the laws, and why it is incumbent upon the Cambodian authorities to ensure that the relevant domestic legislation is drafted and put before the National Assembly, and that such legislation complies with international human rights standards. Minority groups tend to be vulnerable, which is precisely why legislation must specify that they qualify for the same rights as the majority. Cambodia’s constitution states that the Kingdom recognizes and respects human rights, as defined in the United Nations Charter, the Universal Declaration of Human Rights and all treaties and conventions concerning human rights. Amnesty International calls upon the Royal Government of Cambodia to uphold the terms of Cambodia’s constitution, and ensure that the human rights of all its people - from whatever ethnic background - are protected.

New legislation with implications for the human rights of ethnic minority groups

In the light of the experiences of the ethnic Vietnamese minority in Cambodia, and in particular the forced exile of those stranded at the Chrey Thom border crossing point for more than two years, Amnesty International is particularly concerned that new legislation relating to nationality and immigration should not allow for the possibility of forcible exile. An Immigration law and draft Nationality law both raise serious human rights concerns in this regard, not just in relation to the ethnic Vietnamese minority, but for all minority groups in the country.

An Immigration law was approved in August 1994 which falls short of international human rights standards. The law allows for the possibility of detention and expulsion of non-nationals who may have a legitimate claim to residency within Cambodia. To date, it remains impossible to implement this law, because Cambodia still does not have a Nationality Act. In the absence of any legal definition of what constitutes Cambodian nationality, it is not possible to determine with any certainty who is a Cambodian national and who is an alien. Amnesty

International expressed its concern about this in March 1995, stating that the current situation could allow for arbitrary application of the Immigration Law, and potential discrimination against groups of people who are long-term residents of Cambodia, but whose ethnic origin is not Khmer.

Amnesty International is particularly concerned that the Immigration law should not discriminate against ethnic minority groups whose country of origin is Cambodia, and that any retroactive implementation of the law would be in contravention of international law.⁴³ During 1994 and 1995, Amnesty International delegates found that police officers and members of the armed forces did not understand the new legislation relating to immigration, and that individuals from certain ethnic minorities were being threatened with forced expulsion on the grounds that they were “illegal immigrants”.

A draft Nationality law was passed by the Council of Ministers in December 1995. It has yet to be debated in the National Assembly. Amnesty International has obtained a copy of the draft and believes that a number of amendments are necessary in order to bring it in line with international human rights standards, and to uphold the rights of ethnic minority populations in the country. The organization’s concerns relate to the possibility of forced expulsions of people from certain ethnic minorities, who may be excluded from nationality rights, and thus be regarded as illegal aliens. Throughout the draft Nationality law, the word “Khmer” is used, which is ethnically specific. Amnesty International believes that the word “Cambodian” should be used to replace “Khmer” throughout the draft, in order not to exclude ethnic minorities, such as the Chinese, Chams, Vietnamese and various small groups of indigenous people, including for example the Jarai. The organization also believes that the specifications for obtaining nationality by birth are too restrictive, and could lead to ethnic groups, especially the minority indigenous people, most of whom do not speak Khmer, and who are physically different in appearance from the majority population, being excluded from the automatic right to Cambodian nationality.

The situation in contested areas

In some provinces in Cambodia, civil war continues between the Royal Cambodian Armed Forces, and the National Army of Democratic Kampuchea (NADK). The NADK is the military wing of the group which formerly called itself the Partie of Democratic Kampuchea

⁴³ See Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995 pp28-29).

(PDK), but more recently adopted the name Cambodian National Union Party (CNUP). The group are commonly referred to as the Khmer Rouge. The Government of Democratic Kampuchea (whose officials were members of the then PDK), took power in Cambodia in April 1975 and between then and the end of 1978, was responsible for serious human rights violations. Following the invasion of the Vietnamese army in December 1978, the Government of Democratic Kampuchea was overthrown, and its armed forces retreated to the Thai-Cambodian border, taking some of the civilian population with them. Camps were established, from which the NADK rebuilt its strength, and launched attacks against the Vietnamese army and the People's Republic of Kampuchea (later State of Cambodia) Government forces.

The then PDK were signatories to the 1991 Paris Peace Agreements, but later withdrew from the peace process, refused to participate in the elections and resumed fighting. Since the May 1993 elections, NADK forces have been engaged in civil war against RCAF troops. In July 1994 the Cambodian National Assembly passed a law which outlawed the "Democratic Kampuchea" group (Khmer Rouge) and its military forces. An amnesty period for "members of the political body or belonging to the military forces of the Democratic Kampuchea group" during which they could defect to the Royal Government side without being charged with criminal offenses, expired in January 1995. However, in practice some NADK soldiers are still able to defect to the Royal Government side and be integrated into the RCAF, without prosecution.

Throughout the period since the elections, NADK forces have been responsible for serious human rights abuses in Cambodia, in the provinces where they were relatively strong. These abuses included deliberate and arbitrary killings and hostage-taking. Amnesty International has documented such abuses and condemned them.⁴⁴ During 1995, there were large-scale defections of NADK troops to the Royal Government side, and the diminishing numbers of NADK soldiers meant that some provinces which had experienced high levels of NADK human rights abuses in the past no longer have such severe problems - for example, the provinces of Kampot and Siem Reap, where NADK activity is greatly reduced following large-scale defections. However, in the provinces where the NADK maintained a presence, their tactics throughout 1995 became increasingly brutal.

In 1994, Amnesty International noted cases where village elders and teachers were captured by NADK forces and imprisoned for short periods of "re-education". Individuals were targeted by the NADK because of their perceived political connections with the Royal Government, on account of their leadership positions in villages. In 1995, the organization noted a reduction in such cases, but there were more reports of deliberate and arbitrary killings of village elders and headmen, usually in night attacks by NADK troops.

⁴⁴ See Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95 14 March 1995) pp52-59.

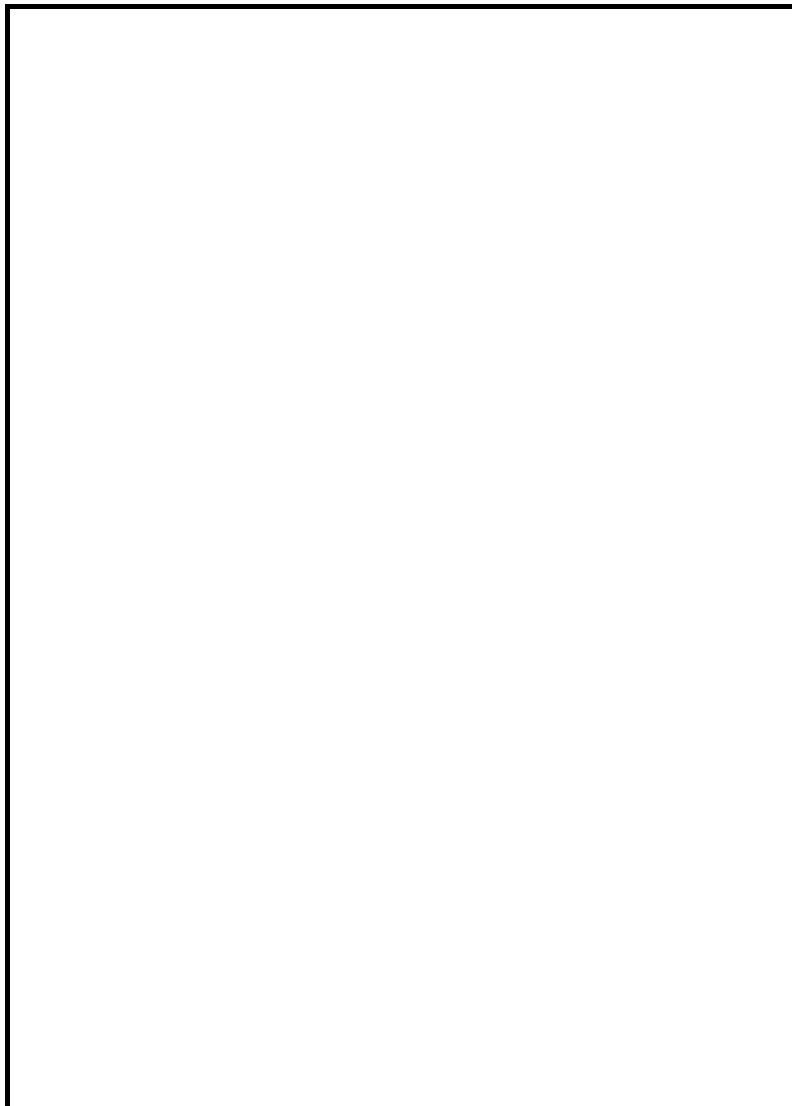
Research into human rights abuses committed by the NADK is often difficult to conduct. Very little information is available about what happens to people who are taken by NADK soldiers to areas of the country which they control. However, Amnesty International found evidence of continuing human rights abuses by the NADK in Battambang province in 1995.

Deliberate and arbitrary killings

Throughout 1995, NADK soldiers targeted village elders, former soldiers and militia members, and community leaders in a series of attacks, notably in Battambang province. In a typical attack at the end of October 1995, a squad of NADK soldiers entered Bung Bey village, Mong Russei district at 1.30am and entered the house of Keh Ong, an elderly primary school teacher and village elder, who was sleeping in his house under his mosquito net. In spite of his pleas for mercy the troops pulled him from his bed, took him to the back of the school building and shot him dead. They took from his house a list of all the local militia members, stole his belongings, including a set of tableware used for village festivals, set fire to his property, and threatened his seven-year-old daughter. Keh Ong was a respected member of the community, who had worked as a teacher before 1975, and following the overthrow of the Government of Democratic Kampuchea, resumed his teaching career in 1979. One of the villagers said: "If it wasn't for him, no one out here would have had any education." He leaves a widow and two children.

In another incident earlier in the year, at a remote site about two kilometres west of O'Krabao village, Mong Russei district, an old man was murdered by NADK soldiers, apparently because one of his relatives works as a driver for Second Prime Minister Hun Sen. The old man was a native of Kampong Cham Province, and often talked of his relative's connection with Hun Sen. When NADK soldiers from Division 36, which is active in the area heard of this they killed him.

On 8 November, in an attack near Bung Bey village, a young girl was shot and killed by NADK soldiers. They were looking for her father, who had been a soldier, but she was hit by a bullet and killed.



⁷ The remains of Keh Ong's house, which was torched by NADK soldiers, after they killed him.

Implementation of legislation to outlaw the "Democratic Kampuchea" group

In July 1994, Cambodia's National Assembly passed a law which rendered the then PDK and its armed forces an illegal organization. The law, which is broadly phrased, allowed for a six month amnesty period during which individuals who were members of the PDK or NADK could defect to the government side without fear of prosecution. (The top leaders were excluded from

this amnesty). Following the end of the amnesty period, in January 1995, anyone suspected of being a member of the PDK or NADK would face prosecution in the courts. Towards the end of the amnesty period, leading government officials suggested in speeches that the amnesty would not be extended beyond the January 1995 deadline. However, they later contradicted this, and in practise defectors have been accepted in many areas after the deadline expired. In 1995 the first prosecutions brought under this legislation came to court.

Amnesty International wrote to the government about the law before it was passed, expressing concern that it could be applied against anyone who was an opponent of the government. The implementation of the law has proved arbitrary, dependent upon the discretion of the authorities in individual provinces, and the whim of individuals within the judicial system. It is particularly noteworthy that while large groups of NADK soldiers defecting *en masse* to the government side are still, in 1996, accepted into the Royal Cambodian Armed Forces, individuals in other areas, with apparently minimal connections to the NADK have been charged under the anti-NADK legislation. Accusing an individual of links with the Khmer Rouge is a very serious political statement in Cambodia.⁴⁵ Amnesty International is concerned that people who are charged with membership of the NADK or the CNUP (as the PDK now calls itself), may not receive a fair trial. In November 1995, Amnesty International investigated a number of such cases in Battambang province.

Chaing Pol Ly and **Chaom Chhiya** were arrested in Banan village, Kanteu 2 subdistrict, Banan district on 2 October 1995 and formally detained on 5 October, for allegedly joining the NADK and destroying public property. In November 1995 they were detained in Battambang Provincial Prison. Chaing Pol Ly was a soldier in the district military in order to avoid further conscription. At the end of September 1995, he and three others went absent without leave from their base and spent one night in an NADK-controlled zone. They returned the next day and went to turn themselves in to their District Commander. Two of the four gave up their weapons straight away, but Chaing Pol Ly and Chaom Chhiya registered that they were back, then went out drinking. They were later summoned back to the district military headquarters and told to hand over their weapons. Chaing Pol Ly allegedly refused to do so, as he was “afraid of what might happen to him”. Eventually he was persuaded to surrender his gun, whereupon he was immediately arrested. The two men were held at the district military post for two days, and relatives believed that this was a measure of military discipline. However, they were then transferred to the provincial prison and their relatives heard that they were being charged with joining the NADK. In November 1995, the men were held in Battambang provincial prison. They had access to a defender. Amnesty International is concerned that the rights of the two men to a fair trial should be upheld. No evidence was

⁴⁵ Amnesty International knows of several instances where people accused of links with the NADK have been extra judicially executed. See pages 26-30 for details of such cases.

available as to why they had been charged with membership of the NADK when two others who were with them in the NADK-controlled zone were not charged with any offence.

Hun Ly also known as **Hun Vanna**, aged 17, and a resident of Au Andaung village, Mongkul Borey district was arrested on 13 April 1995, and moved to Banteay Meanchey provincial prison on 17 April. The suspect claimed that he had come from his home in Takeo province to visit an uncle for Khmer New Year (which falls in April). He said he was seized by local militia and accused of being a member of the Khmer Rouge. Under questioning by the investigative magistrate of the provincial court, Hun Ly said that he had been making a living in a Khmer Rouge area during 1993, and had been forced to join the NADK, Division 450. He said he had participated in five NADK military operations, and later transferred to Division 519. Hun Ly said that he had wanted to defect, and so in 1995 he asked his superior for permission to visit his home, which was granted with the understanding he would use his visit to gather intelligence. He claimed that he went to turn himself in wearing his NADK uniform, so that he could prove he was a genuine member, but was arrested by the militia before he had a chance to defect. Hun Ly said he was not armed at the time of his arrest.

The police report of 19 April concludes that Hun Ly was an NADK member, and on 25 April, the case file was sent by the provincial police commissariat to the provincial prosecutor, with the accusation that Hun Ly fired at and robbed the people of Au Prasat subdistrict, Banteay Meanchey province. In a court document dated 28 April 1995, the investigative magistrate issued a detention order, citing “four points” of the anti-Khmer Rouge law. However, later in the year, the charges against Hun Ly were dropped on the condition that his mother from Takeo could be found to come to the prison in Banteay Meanchey and take him home. In November 1995, no one had been able to find the mother, in spite of efforts made by his defenders to do so, and thus the conditions for his release could not be met. It appears that the court accepted that Hun Ly had been forced into the NADK and that he had intended to defect at the time of the arrest. Large-scale defections have been accepted by the Royal Cambodian Armed Forces throughout 1995 and 1996, and yet individuals attempting to defect such as Hun Vanna have been arrested, charged and tried.

In November 1995, there were six people in Battambang provincial prison awaiting trial on charges of membership of the NADK. There were also others detained in the prison who had been convicted of membership and sentenced, including **Koeng Sara** and **Seth Peth**, who were convicted in February 1995 under Article Four of the law outlawing the “Democratic Kampuchea” group. They were convicted of involvement in NADK activity in Battambang in July 1994, including laying mines in Battambang town that killed one person, and injured several others. Observers expressed concern that trial procedures fell short of minimum international standards for a fair trial. In particular, there was concern that the confessions obtained from the two men appeared to have been extracted under torture, and yet were presented as evidence in the court. Both men were sentenced to 25 years’ imprisonment.

In July 1995, a former NADK member, Chuon Mean was convicted and sentenced to 15 years imprisonment by the Sihanoukville court for his part in the murders in 1994 of Dominic Chappell, Kellie Wilkinson and Tina Dominy.⁴⁶ Four others were convicted *in absentia* and sentenced to between 16 and 20 years' imprisonment.

Amnesty International recognises the problems caused to Cambodia's stability and prosperity by the ongoing war with the NADK. The organization also recognises the duty the Royal Cambodian Government has to protect its citizens from attacks. However, continuing concerns about the conduct of trials in Cambodia's courts and the very broad wording of the law outlawing the "Democratic Kampuchea" group give rise to fears about upholding the rights of defendants in cases brought under this law.

Villagers living in contested areas who are detained by the NADK to perform forced labour, or act as guides fear that, when they are released, they are likely to face prosecution under the law which outlaws the "Democratic Kampuchea" group. In the last two years, Amnesty International has noted an increase in the number of people taken by NADK soldiers, to work for them making primitive weapons or to act as guides on sabotage operations.⁴⁷ This practice continues, although in more restricted areas as the strength of the NADK has declined, notably in the last 12 months.

In Battambang, villagers living in areas of conflict often have contact with NADK soldiers, who enter the villages at night when government forces retreat. In one district in Battambang, where local residents frequently have contact with NADK soldiers who control certain areas during the night, villagers expressed their concern to Amnesty International that they might be charged under the NADK legislation. Young men are frequently taken and forced by NADK soldiers to act as guides; they usually report to their district offices the following day to explain what had happened. In one district, such people have been detained by the local authorities for four or five days of compulsory "re-education" because of their contacts with NADK soldiers. Some of these people are worried that if they are forced to act as guides again by the NADK, they will then be charged with membership of the NADK and imprisoned; they did not expect their geographical location to count as a defence against such charges.

⁴⁶ For more details on these killings, see Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995) p59.

⁴⁷ See Amnesty International *Kingdom of Cambodia: Human rights and the new government* (AI Index: ASA 23/02/95, 14 March 1995) pp56-59. See also various news reports on this issue, such as *AFP* "Khmer Rouge poised for more hit-and-run attacks: government" Phnom Penh, 7 February 1995, and *The Nation* "KR rebels abduct 31 villagers" Bangkok, 16 March 1995.

All political prisoners should be given a fair and prompt trial, but in many courts in Cambodia, trial procedures still fall short of international fair trial standards, particularly when individuals are charged with membership of the NADK. The concerns Amnesty International expressed in 1994 and 1995 about the wording of the law to outlaw the “Democratic Kampuchea” group remain. Examples of charges brought under this legislation serve only to underline the organization’s concerns. They are in the main dependent on the whim of local officials; justice and equality before the law is not seen to be upheld when charges are brought against some individuals when other large groups of NADK can defect to the government without fear of prosecution.

Recommendations to the Royal Government

In a major report on human rights in Cambodia, published in March 1995, Amnesty International made a series of recommendations to the Royal Cambodian Government which the organization believed would, if implemented, bring about an improvement in the human rights situation in the country. Amnesty International said:

“Failure to act now to stop violations and to change laws and practices which allow them to occur, will lead to more violence and may further compromise the fragile restoration of normality in Cambodia.”

Amnesty International welcomes the fact that improvements have been made in the area of training in human rights standards for military and law enforcement personnel. It also welcomes the positive resolution of the situation of the ethnic Vietnamese who had been prevented from returning to Cambodia for more than two years. However, Amnesty International notes that the majority of recommendations to the Royal Government of Cambodia in March 1995 have not been implemented, including measures designed to bring an end to impunity for human rights violators, and others aimed at upholding the rights to freedom of expression, assembly and association.

Attached to this report is an appendix detailing all the human rights issues brought to the attention of the Royal Government of Cambodia by Amnesty International since September 1993, and the status of each of the individual cases. The majority of these cases remain unresolved. Amnesty International hopes that the Royal Government will take note again of these cases, and renew its efforts to bring the perpetrators of human rights violations to justice. The organization also draws the attention of the Royal Government to the cases detailed in this report, in the hope that the Royal Government will take all necessary steps to ensure that human rights violators are brought to justice, and that improvements are made to domestic legislation, so that it complies with international human rights standards to which Cambodia is a state party.

Recommendations to the Cambodian National Union Party

Amnesty International condemns human rights abuses committed by non-governmental entities and seeks opportunities to bring pressure to bear on the groups which commit them. In the case of abuses committed by the CNUP and its military wing, the NADK, the organization can only do this through publicising the abuses which the group commits and through humanitarian appeals.

Amnesty International condemns the human rights violations committed by the NADK in Cambodia and recommends that the NADK observe and uphold the minimum standards laid down to protect the individual under international humanitarian law, the law that regulates armed conflict, and to immediately cease its practice of arbitrary killings of civilians.

Amnesty International's appeals carry no connotation of recognition and are purely humanitarian in nature. The organization's opposition to abuses by armed opposition groups stems from the same respect for human life, security and liberty which compels its work to oppose human rights violations by governments. Its work to hold such groups to minimum humane standards is intended to complement, not detract from its primary focus on human rights violations committed by governments, and is pursued with the same objectivity and independence with which Amnesty International acts in its work with governments.