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## U.S. Department of State

### Cambodia Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

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#### CAMBODIA

Cambodia's fourth year under democratic rule was disrupted by political violence that undermined the principles of the 1991 Paris peace agreements, led to over 100 deaths, and cast serious doubt on the representative nature of the Government. Following the signing of the agreements in 1991, United Nations-sponsored elections in 1993 produced a coalition government composed primarily of the royalist FUNCINPEC (National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia) party, which won the plurality of votes in the 1993 elections, and the Cambodian People's Party (CPP), which had ruled the country since the defeat of the Khmer Rouge by the Vietnamese army in 1979. On July 5 and 6, this coalition collapsed after months of escalating political tensions and partisan violence, when forces loyal to Second Prime Minister Hun Sen of the CPP defeated FUNCINPEC forces loyal to First Prime Minister Prince Norodom Prince Ranariddh in Phnom Penh. The CPP's decisive military victory ousted Ranariddh from power. The fighting was followed by a period in which CPP militants sought out additional FUNCINPEC security and political officials, some of whom they executed and others they detained. In a campaign of fear and intimidation throughout many parts of the country, CPP personnel searched many homes and offices and detained numerous FUNCINPEC members. This led to widespread flight by other FUNCINPEC personnel who feared further retaliation. Some leading FUNCINPEC politicians and other politicians allied with FUNCINPEC joined Prince Ranariddh, who had left the country just before the fighting began, in self-imposed exile abroad. In a process flawed by political intimidation, remaining National Assembly members in August approved the choice of Foreign Minister Ung Huot (FUNCINPEC) to replace Prince Ranariddh as First Prime Minister. King Norodom Sihanouk remains the constitutional monarch and Head of State. Most power lies within the executive branch; the National Assembly does not offer a significant check to executive power, and the judiciary is not independent.

Although seriously weakened following massive defections in 1996, the Khmer Rouge continued to wage a mostly low level guerrilla insurgency against the Government. FUNCINPEC-led negotiations nearly succeeded in securing the defection of the remaining Khmer Rouge forces to the FUNCINPEC side by June, exacerbating political tensions with the CPP. Since the July violence, Khmer Rouge troops have cooperated with resistance forces loyal to FUNCINPEC against government troops in the northwest. Internal Khmer Rouge dissent appeared to increase. In June top official Son Sen was killed during a internal Khmer Rouge purge and Khmer Rouge leader Pol Pot was purportedly subjected to a trial in July by a rival Khmer Rouge faction.

The police have primary responsibility for internal security, but the Royal Cambodian Armed Forces (RCAF), including the military police, also have domestic security responsibilities. Government efforts to improve police and RCAF performance were hampered by political factionalism within the forces and by budgetary limitations. Members of the security forces committed numerous human rights abuses.

Cambodia has a market economy in which approximately 80 percent of the population of 10 million engage in subsistence farming, with rice as the principal crop. Annual per capita gross domestic product is approximately \$300. Foreign aid is an important component of national income. Economic growth stalled following the July violence, with decreases in business and tourist activity.

The human rights situation deteriorated markedly during and after the July fighting. Military and police personnel were responsible for at least 55 extrajudicial killings in connection with the violence. In addition 16 persons were killed and more than 100 wounded in a grenade attack in March by unknown persons on an opposition political rally. No one was officially charged. There were credible reports that members of the security forces tortured, beat, and killed some detainees held after the events in July. The Government rarely prosecuted members of the security forces for human rights abuses. Prison conditions declined from already poor levels. Arbitrary arrest, prolonged detention, and infringement on citizens' privacy rights were serious problems, particularly during the July fighting and in the month that followed. Political factions engaged in violent attacks against journalists and intimidation of the opposition. An atmosphere of political intimidation prompted a number of the Government's opponents to flee the country, go into hiding, or exercise self-censorship. The Government lacked the political will and the resources to act effectively against persons, particularly members of the military services, suspected of being responsible for human rights abuses. Democratic institutions, especially the judiciary, remain weak. The judiciary is subject to influence by the executive branch, and is marred by inefficiency, a lack of training, a shortage of resources, and corruption related to low wages. Politically related crimes were rarely brought to court. Citizens were effectively denied the right to a fair trial. Some detainees underwent particularly egregious violations of the protections against arbitrary detention.

The Government sometimes limits press freedom and fear of Government-directed violence against the press created a climate that encouraged self-censorship by some journalists. The number of newspapers critical of the Government decreased immediately after the July violence, although the number later increased and at year's end exceeded the pre-July level. Some newspapers that continued to publish muted their editorial views. A prominent opposition party, the Khmer Nation Party (KNP), was subjected to a grenade attack in March. The Government limited freedom of assembly. Domestic violence against women and abuse of children are common. The ethnic Vietnamese minority faced widespread social discrimination and some acts of violence by the Khmer Rouge; people with disabilities also faced discrimination. The Government does not adequately enforce existing legal provisions against antiunion discrimination. Forced labor, including forced labor by children, is a problem.

Citizens living in areas controlled by the Khmer Rouge were denied virtually all political rights and

were subject to serious abuses by its leadership. Khmer Rouge forces committed numerous extrajudicial killings and were responsible for disappearances, forced labor, and restriction of freedom of speech, the press, assembly, association, religion, and movement.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom From:**

#### **a. Political and Other Extrajudicial Killing**

According to one human rights nongovernmental organization (NGO), during the first half of the year there were 25 reported killings. Military and police officials were implicated in approximately half these attacks. For example, in a June incident in Kompong Cham town, a soldier shot and killed a truck driver after sand from the driver's sand truck fell into his food. Another NGO investigated 3 cases involving 6 victims during the first half of the year, including a February incident involving five FUNCINPEC police officers who were arrested, then shot by troops loyal to the CPP in Rattanak Mondul district, Battambang province. The Rattanak Mondul incident took place during a period of general partisan political tension and violence in Battambang province.

During a March 30 grenade attack at a KNP rally protesting the legal system, 16 protesters were killed and over 100 were wounded. Approximately 200 demonstrators had gathered in front of the National Assembly in Phnom Penh to join the rally, which was approved by the Ministry of Interior. Unidentified attackers threw four grenades into the crowd before fleeing on foot; security personnel stationed near the site allegedly prevented bystanders from pursuing the attackers.

The U.N. Center for Human Rights (UNCHR) documented at least 55 cases of politically motivated extrajudicial killings countrywide between July 2 and year's end. The UNCHR also identified up to 19 other cases of probable, but unconfirmed, killings during the same period. Much of this information was corroborated by local human rights NGO's. Although these killings were associated with the July political violence, the figures cited exclude combat deaths.

There was no evidence to indicate a systematic countrywide government campaign to purge political or military officials. However, FUNCINPEC military officials loyal to Prince Ranariddh constituted the majority of the victims. In particular, military personnel associated with the pro-FUNCINPEC Moulinaka Resistance Force, which had operated from 1979 until 1993 on the border with Thailand, appeared to be singled out for attack during the July violence. Although the Moulinaka group was absorbed into the RCAF following the 1993 elections, the majority of its members remained loyal to FUNCINPEC.

Among the 41 confirmed FUNCINPEC officials killed during the July violence was Interior Ministry Secretary of State Ho Sok, who was arrested by government security forces in Phnom Penh on July 7. Sok died later that day, reportedly from two gunshot wounds while in government custody. Government officials have acknowledged that Sok's death took place while he was in government custody. Following the establishment of a government commission on the Sok case on July 14, three Interior Ministry officials were suspended for having providing inadequate security for Sok; they were later reinstated. No one has been arrested or prosecuted in connection with Sok's murder, although CPP Interior Minister Sar Kheng stated in late September that the identity of the murderer is known and that he intended to have him arrested.

On June 17, local militia killed ethnic Vietnamese Huynh Van Nui, Nguyen Thi Loi, and Huynh Van

Non. They had apprehended the three on their fishing boat on the Tonle Sap lake. No one was convicted in connection with the killings, due in part to historical associations linking Vietnam with the CPP.

On July 8, RCAF intelligence official General Chao Samboth, Defense Ministry Secretary of State General Krouch Yoeum and approximately 30 of their staff were captured by troops from the CPP-allied 911th paracommando regiment in Oudong district, Kompong Speu province. Samboth and Yoeum, both of FUNCINPEC, were separated from the group. Military sources informed human rights groups that two were shot and killed later that day by soldiers who acted on orders from the RCAF general staff. No one has been charged in the killings.

On July 15, human rights workers discovered a cremation site in Kompong Speu containing the remains of at least 6--and possibly up to 22--FUNCINPEC soldiers killed during and after the July fighting. Ashes and manacles found at the site were determined to be those of four FUNCINPEC soldiers whose bodies had been delivered to the area by soldiers from the RCAF 44th regiment on July 11. The bodies had been cremated on July 11. Later, human rights workers discovered the freshly buried corpses of two other men at the site. Both had been handcuffed, blindfolded, and had sustained bullet wounds to the head. According to human rights groups, the 6 bodies were part of a group of up to 22 captured FUNCINPEC soldiers executed and burned by Division 44 soldiers at the site on July 9.

In August provincial soldiers in Au district, Kompong Speu province, arrested four men, villagers Sok Vanthorn and Haim Bek and Khmer Rouge defectors Sou Si and Sou Sal. Only Sou Si was armed. Two days after the arrest, local residents saw Vanthorn and Sal near their village, bound and bearing marks of torture. The disemboweled and mutilated bodies of Vanthorn and Sal were located by relatives 5 days after their arrest; Bek and Si reportedly escaped and are in hiding. No one has been charged in connection with the killings.

In December near Phnom Penh, human rights NGO's found the bodies of Chea Chanthoeun and Var Savath. Both were officers in the border police patrol and FUNCINPEC members. They reportedly were beaten then strangled on December 24, after being summoned to their superior's office.

In December two men reportedly wearing military uniforms shot and killed police official Kong Vannak in his home in Kompong Cham province.

Security and police forces were implicated in many of the July killings; however, authorities made few arrests and prosecutions in connection with these extrajudicial killings, due to a combination of ineffective law enforcement, intimidation of civilian authorities by military personnel, political intimidation and pressure, and in some cases flawed legal proceedings.

Security forces also killed journalists (see Section 2.a.).

In September KNP official Srun Vong Vannak and two other persons were tried and convicted of the 1996 killing of Interior Ministry official Kov Samuth, the brother-in-law of Mrs. Hun Sen. Both the arrest and the trial were characterized by numerous violations of due process (see Section 1.e.).

The Khmer Rouge continued to kill civilians, including 11 of the 15 members of an official FUNCINPEC team sent to contact Khmer Rouge representatives in Siem Reap province in February.

#### b. Disappearance

There were at least 13 credible reports of politically motivated disappearances during and following the

July 5-6 fighting in Phnom Penh. This group included six Khmer Nation Party provincial activists and two student leaders. In cases of disappearance, some persons are believed to have been killed; others are believed to be in hiding or to have escaped to the FUNCINPEC stronghold of O'smach near the border with Thailand.

Those missing include General Chea Rithy Chhuth, a FUNCINPEC official who served as governor of Kep city. Rithy Chhuth was arrested with other FUNCINPEC officials on July 7 in Oudong district, Kompong Speu province, and has not been seen since (see Section 1.a.). The UNCHR considers Chhuth's disappearance a "presumed execution."

On July 7, FUNCINPEC Generals Ly Seng Hong and Maen Bun Thon and from 30 to 40 of their staff were captured by provincial army troops loyal to the CPP in Oudong district, Kompong Speu province. The generals were subsequently transferred to the provincial military subdivision headquarters in Kompong Speu and have not been seen since. The UNCHR classifies the two as victims of "presumed execution."

Six KNP officials, including provincial activists Put Som Ang and Sam Sophan, disappeared after being arrested by troops loyal to the CPP in Kandal Stoeng, Kandal province, on July 4.

In September the Government reported that a total of 105 FUNCINPEC police officials disappeared following the July violence. The Government's information was based on reports from approximately one-half the provinces. For example, 66 policemen were removed from police rolls in Kampot province after the July fighting; 50 of these were FUNCINPEC members, while 9 were from the Buddhist Liberal Democratic Party. The Government list includes officials previously identified as missing by the UNCHR and other human rights groups (see above). Human rights workers believe that some of the 105 may have either left the police force or fled the country following the fighting. Others may have been killed or remain in hiding. The UNCHR listed 199 persons as missing at year's end.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and physical abuse of prisoners; however, there were credible reports that military and police officials used torture and severely beat criminal detainees, particularly during interrogation. One human rights NGO received credible reports of 30 incidents of torture or beatings in Battambang province police stations during the first half of the year. Based on interviews with victims in Battambang province, one NGO identified 8 persons who had been tortured while in police custody in Battambang from June through December. The UNCHR investigated 32 cases of torture committed by security officials in Battambang province, 28 in late 1996 and 4 in 1997. Police interrogation of suspected criminals often included torture, beatings, blows with rifle butts, and whippings. Another NGO documented 10 cases of torture during the 6 months ending September 1. A human rights NGO said that 18 inmates of the Koh Kong provincial prison reported that they had been tortured by police or prison officials, either in police custody or in prison. The primary form of torture was beating.

In May police arrest and beat four residents of a dormitory at a Phnom Penh garment factory (see Section 6.a.).

After being arrested by local police for a traffic violation in Kompong Speu province, auto mechanic Leang Kephah was detained in a 1.5-meter square outdoor cage for over a month between March and May. He was subsequently released from the cage and reportedly set free.

In the aftermath of the July violence, 33 FUNCINPEC soldiers were captured by paratroopers aligned

with the CPP; they were from RCAF special forces 911th Regiment in Oudong district, Kompong Speu province (see Section 1.a.). The soldiers were taken to Regiment 911 headquarters, where they were confined in a 2-by-6 meter storage room for 10 days. The prisoners were allowed to leave the room twice a day to bathe and use the toilets. Because of their unsanitary confinement in close quarters, many of the prisoners contracted a skin disease. While imprisoned, individual soldiers were interrogated by Regiment 911 in an effort to extract signed confessions. Many of the soldiers reported various forms of torture inflicted by Regiment 911 soldiers during the interrogations, including beatings by belt, plank, and wooden table-leg, kicking with combat boots, punches, and an iron vice used on hands and fingers.

There were also credible reports that FUNCINPEC military personnel arrested during and after the July violence were tortured by royal gendarmerie forces at their Phnom Penh headquarters. One FUNCINPEC official was severely beaten to elicit a forced confession; he remains in military custody. One human rights NGO estimated that as of August 1 there were approximately 2,200 prisoners taken during or after the July fighting. This group was composed of soldiers, provincial officials and staff, party activists, and others.

Police used force to break up strikes in January and in March (see Section 6.a.). Already-poor prison conditions deteriorated during the year. Government efforts to improve prison conditions have been hampered by lack of funds. Human rights organizations cited a number of serious problems, including overcrowding, food and water shortages, malnutrition, and poor security. One human rights NGO reported that Phnom Penh's judicial police prison, built to accommodate 30 prisoners, normally houses approximately 100 inmates. Use of shackles and the practice of holding prisoners in small, dark, cells continued in some prisons. At the Stung Treng prison, some prisoners are held in 2-by-2 meter metal cages inside the prison building. Government ration allowances for purchasing prisoners' food are inadequate, exacerbating their malnutrition. One human rights group reported that at least four prisoners were killed by prison authorities in escape attempts during the first half of the year. Police shot and killed two inmates and wounded another following their escape from Kompong Thom prison in April.

Although the Government continued to allow human rights groups to visit military prisons on a selective basis, one NGO reported that access to some military prisons was denied after July. It is unclear if this was centrally directed; one NGO reported that access was denied for a short time because of the assignment of a new prison director. Some prisons did not allow guards to participate in human rights training provided by NGO's.

There was a reliable report that an illegal detention facility existed near Phnom Malai in the Khmer Rouge defector zone in the northwest.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, security forces continue to arrest and detain citizens arbitrarily. A penal code drafted by the U.N. Transitional Authority for Cambodia (UNTAC), and approved by the interim Supreme National Council, remains in effect, as does a criminal procedure law dating from the State of Cambodia period. The criminal procedure law in principle provides for adequate protection for criminal suspects; however, in practice the Government frequently ignored these provisions. One human rights NGO reported 17 cases of illegal detention and arrest committed by police, military, or local government authorities during the first half of the year.

While lengthy detention without charge is illegal, suspects are often held by authorities for long periods before being charged. Accused persons are legally entitled to a lawyer, although in practice they often have no access to legal representation. Many judges believe that lawyers must be appointed only in

criminal felony cases. In family cases, parties are frequently not informed about their legal rights by the courts. Prisoners are routinely held for several days before gaining access to a lawyer or family members. Although there is a bail system, many prisoners, particularly those without legal representation, often have no opportunity to seek release on bail. The introduction into the legal system of a corps of defenders who work without fee, and who are trained by NGO's, resulted in significant improvements for those defendants who were provided with counsel, including a reduction in their pretrial detention period and improved access to bail.

According to one human rights NGO, at least 200 provincial FUNCINPEC officials were arbitrarily arrested and detained by government authorities allied with the CPP during and after the July violence. The U.N. Center for Human Rights (UNCHR) confirmed the arrests of at least 100 persons, including 31 in Prey Veng, 20 in Kompong Speu, and up to 100 in Siem Reap. For example, FUNCINPEC Colonel Som Saroeun and his bodyguards Sim Sienh Vinh and Sotr Vuth were arrested by security forces loyal to the CPP in Kompong Chhnang province on July 8. The bodyguards were released on July 10, while Saroeun was set free on July 28. In Battambang province, FUNCINPEC police commissioner Vorn Chun Ly and 12 other policemen were arrested during the July violence, but were subsequently released. All the FUNCINPEC officials detained during and after the July violence were reportedly released within 2 weeks.

Over 600 troops loyal to FUNCINPEC were arrested and held in six locations in Kandal province following the fighting. Most were reportedly well treated, and all were subsequently released within 3 weeks.

The timing of at least one criminal imprisonment was politically motivated. On July 23, FUNCINPEC General Sok Chantoeun and his wife were arrested by Phnom Penh police and accused of having plotted the murder of CPP Interior Ministry official Mom Vuda in May. Chantoeun's wife was later released, but General Chantoeun remains in prison and had not been brought to trial at year's end.

Despite a Constitutional ban on exile, the atmosphere of political fear and intimidation fostered by the July violence prompted about 40 politicians either to flee the country or remain abroad in a state of self-imposed exile. These politicians include ousted first Prime Minister Prince Norodom Ranariddh (FUNCINPEC), KNP president Sam Rainsy, BLDP leader Son Sann, and a number of FUNCINPEC, BLDP, and KNP parliamentarians and officials. While some of those politicians who fled later returned and resumed their political activity, others find government assurances of their security unconvincing and remain abroad.

A total of 14 FUNCINPEC-allied parliamentarians, including Prince Norodom Ranariddh and Prince Norodom Sirivudh remained outside the country at year's end. At least 25 additional FUNCINPEC-allied political and military figures were in self-imposed exile at year's end. However, two groups of FUNCINPEC-allied politicians visited the country in December. They were assisted by U.N. monitors and did not encounter security problems. Most chose to leave the country following their stay.

Also in December, a group of 57 FUNCINPEC-allied party members and their families returned with the assistance of the UNHCR. All reportedly chose to remain in the country.

Khmer Nation party leader Sam Rainsy conducted political activities, including a peace march and other public demonstrations following his return in December.

Former foreign minister Prince Norodom Sirivudh left the country in 1995 rather than face a prison sentence for plotting to assassinate second Prime Minister Hun Sen. Prince Sirivudh's April attempt to

return to Cambodia ended when staff of a commercial airline denied him permission in Hong Kong to board his Phnom Penh-bound flight, based in part on concern for the security of Sirivudh and other passengers on the flight. The Government has stated that Sirivudh is free to return and face his prison sentence.

No legal system is known to exist in Khmer Rouge zones. Khmer Rouge forces often seize hostages in order to intimidate villagers to cooperate with them.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the Government does not respect this provision in practice. The courts are subject to influence by the executive, and there is widespread corruption among judges, virtually none of whom receives a living wage.

The court system consists of lower courts, an appeals court, and a supreme court. The Constitution also mandates a constitutional council, which is empowered to review the constitutionality of laws, and a supreme council of magistrates, which appoints and disciplines judges. Establishment of these two bodies has been delayed by protracted political wrangling between the two major parties over their composition.

The 1994 law on civil servants requires the courts to seek Ministry of Justice permission to prosecute a member of the civil service, which includes the police. The Ministry of Justice is required, in turn, to forward requests for prosecution to the relevant ministry. Although the military forces are not covered under this law, a 1995 letter from the Council of Ministers states that the civil servants' procedure may also be followed for members of the military forces.

Human rights groups indicate that, in practice, ministries often decline to respond to the courts, or refuse their requests for prosecution. Delays in responding to the courts' requests sometimes allow those accused of crimes to flee or otherwise escape prosecution, leading to de facto legal impunity for most government officials who commit crimes.

Although the Minister of Justice and other senior government officials have expressed an interest in reforming the law to make it easier for the courts to prosecute civil servants, the Government has not taken any action.

Trials are public. Defendants have the right to be present and to consult with an attorney, to confront and question witnesses against them, and to present witnesses and evidence on their own behalf. However, trials are typically perfunctory, and extensive cross-examination usually does not take place. The serious shortage of attorneys is somewhat alleviated by the provision of nonlawyer defenders trained by international human rights organizations.

Defendants are also legally entitled to the presumption of innocence and the right of appeal. Because of extensive corruption, however, defendants are often expected to bribe the judge for a favorable verdict and are therefore effectively denied the presumption of innocence.

A serious lack of resources and poor training contribute to inefficiency in the judicial branch, and in practice the Government does not ensure due process. For example, judges often lack copies of the laws on which they are expected to rule. As a result of these weaknesses, citizens were often effectively denied the right to a fair trial.

Ongoing cooperation between the Government, foreign donors, and NGO's to improve the legal system was hampered by the July violence and subsequent suspension of some assistance programs.

In September Khmer Nation Party official Srun Vong Vannak and two others were tried in Phnom Penh for the 1996 killing of Interior Ministry official Kov Samuth, the brother-in-law of Mrs. Hun Sen (see Section 1.g.). Although all suspects are required to be charged within 48 hours of arrest, Vannak was not charged in court until more than 2 weeks following his mid-February arrest by police. In a violation of the criminal code, Vannak's trial was held after he had already been detained for more than 6 months. In other legal violations, Vannak was arrested without a warrant, detained in hotels and other private locations, threatened and forced into making a confession, and denied access to a lawyer for over 20 days after his arrest. During the trial, the judge did not allow Vannak's lawyer to cross-examine a key witness. Vannak received a 13-year jail sentence.

The courts often pressure victims of crimes to accept small cash settlements from the accused. When a case does make its way to court, the verdict is often determined by a judge before the case is heard, sometimes on the basis of a bribe paid by the accuser or the defendant. Sworn, written statements from witnesses and the accused are usually the extent of evidence presented in trials. Often these statements result from beatings or threats by investigation officials, and illiterate defendants are often not informed of the content of written confessions that they are forced to sign. In cases involving military personnel, military officers often exert pressure on judges to have the defendant released.

The military court system suffers from deficiencies similar to those of the civilian court system.

There was at least one political prisoner. In a flawed September trial, Khmer Nation Party official Srun Vong Vannak and two others were sentenced to prison for their alleged roles in the November 1996 murder of Kov Samuth, the brother-in-law of Mrs. Hun Sen.

f. Arbitrary Interference with Privacy, Fami