

EXTERNAL (for general distribution)

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AI Index ASA 23/05/90
Distr: SC/CC/CO

14 November 1990

TEXT OF AMNESTY INTERNATIONAL OPEN LETTER TO CAMBODIAN
FIGURES AND FOREIGN GOVERNMENTS
INVOLVED IN THE CAMBODIA PEACE NEGOTIATIONS,
URGING STRONG HUMAN RIGHTS PROVISIONS IN A SETTLEMENT

Amnesty International is writing this open letter to you and others involved in efforts to bring about a settlement of the Cambodia conflict to put forward our views about a number of human rights issues which we believe should be more fully and specifically addressed. We are writing out of a concern to ensure that current human rights violations committed against Cambodians do not continue and past violations are not repeated.

We welcome the inclusion of provisions related to human rights in the Framework For a Comprehensive Settlement of the Cambodia Conflict adopted by the Permanent Five Members of the United Nations Security Council, and their endorsement by other States and by all Cambodian parties. Nevertheless, we believe that in the course of further talks and the implementation of a settlement, these provisions will need to be elaborated and effected in such a way as to ensure that specific human rights issues are addressed, as set out below.

Review of the cases of political prisoners

We urge that the settlement include agreement on a review of the cases of all political prisoners. The review should cover all Cambodians imprisoned or otherwise physically restricted in connection with their political activities or beliefs, whether inside or outside Cambodia, by the Cambodian parties, or by the authorities of other States interested in the conflict. We urge agreement that all Cambodians held on account of their non-violent political activities or beliefs or otherwise on account of their peaceful exercise of fundamental human rights be immediately and unconditionally released. The cases of Cambodians held without charge or trial in connection with other political activities should be reviewed to ascertain whether there is credible evidence that they may have been involved in a recognisably criminal offence. The review should lead to them either being released if there is no such evidence, or promptly charged and fairly tried if there is. We further urge prompt review of all cases of Cambodians imprisoned in connection with their political activities or beliefs who have been charged with recognisably criminal offences, but convicted and sentenced in trials not conducted in accordance with international standards for fairness. The review should lead either to their release if there were no grounds for the original charges, or to a new and fair trial in those cases where the original criminal charges are considered warranted.

Making public information about and granting access to political prisoners

In order that these above recommendations may be effectively carried out, we urge that all Cambodian or other authorities who are holding Cambodians on political grounds immediately make public information about each prisoner and afford access to them. Such information should be regularly updated and access should be guaranteed for the future. The information should include the prisoners' names and current place of detention. It should also include official documentary details about when, where and for what alleged offence they were arrested, whether they have been charged and with what offence, and whether they have been tried and with what result. At the same time, regular access to all Cambodian political prisoners detained by Cambodian or other authorities should immediately be afforded by those authorities in order to ensure that no political prisoners are secretly held and that all can enjoy full protection of their internationally-recognised human rights. We suggest that access to places of detention be afforded to all appropriate international and non-governmental organisations, and that access to the prisoners themselves be given to relatives and family members, as well as to legal counsel and medical officers. We believe it is important that information about political prisoners and access to places where they may be detained and to the prisoners themselves be afforded immediately, so that those whose appropriate concerns include the protection of the human rights of Cambodian political prisoners can act without delay to afford them all proper assistance to ensure their rights are not being violated.

Legal reform

We urge the Cambodian parties to agree to legal reforms guaranteeing that in future Cambodians will not be held for their non-violent activities or beliefs; that they will not be detained as political prisoners indefinitely without charge or trial; and that any political prisoners charged with recognisably criminal offences will receive a fair trial. These reforms should include prompt abrogation of all legal provisions or other measures that permit the detention of people for the peaceful exercise of such fundamental human rights as freedom of opinion, association and assembly, facilitate the indefinite detention of political prisoners without charge or trial, or establish judicial procedures which fall short of international standards for fairness. Legal provisions should be introduced to safeguard the rights to freedom of opinion, assembly and expression with no restrictions other than those provided for in international human rights standards; to include all the safeguards laid down in these standards against arbitrary or unlawful arrest of political prisoners and against abuse of preventive or administrative detention in political cases; and to guarantee the impartiality and independence of the judiciary in accordance with international standards.

Safeguards against torture

Another main area of Amnesty International concern relates to past and present reports of the torture of Cambodian political detainees during interrogation and reports of other cruel, inhuman or degrading treatment or punishment of those held in prison. We believe that implementation of our recommendations on providing information about and granting access to Cambodian political detainees will help to ensure that they are not

subjected to such torture or ill-treatment. Other measures we would recommend include a specific public reiteration by all Cambodian parties of their total opposition to torture, and that torture is now, and forever will remain, a criminal act, the perpetrators of which shall always be punishable under Cambodian law. Other States interested in the conflict should specifically undertake in the settlement to use all available channels to intercede against torture by any Cambodian authorities, including through the establishment of inter-governmental mechanisms to investigate reports of torture urgently and take effective action against it.

Abolition of the death penalty

Another area of concern to us is the possible use of the death penalty in Cambodia. Although several of the Cambodian parties have either abolished the death penalty or expressed their opposition to it, we believe the settlement should include a proclamation that the death penalty is perpetually abolished in law and in practice, such that executions will never be carried out in Cambodia again. We hope that other States will encourage the Cambodian parties to take this step and endorse their agreement to it.

Accountability for gross human rights violations

Amnesty International believes the settlement of the Cambodian conflict should reflect the obligations that the Cambodian parties and all States have under international law with regard to accountability for the particularly serious human rights violations that have taken place in the country. Under international standards, it is the responsibility of the governmental authorities of a country where past human rights violations have occurred to bring to justice according to international standards for fairness those against whom there is credible evidence that they perpetrated political killings or torture. The governments of other countries also have obligations under international standards to cooperate with the authorities of the country where such crimes took place and with each other to ensure that the perpetrators are brought fairly to justice. We believe that bringing the perpetrators of gross human rights violations in Cambodia to justice in a manner that also safeguards their human rights will contribute greatly to preventing future human rights violations in the country. While recognising and appreciating the need for national reconciliation in Cambodia, we are sadly aware from our experience elsewhere in the world that whenever new political authorities ignore the need for accountability for past serious human rights violations, the problem does not disappear: victims or their relatives continue to raise their grievances, or the same violations sooner or later recur because inadequate deterrent action was taken. In Amnesty International's experience, if people reasonably suspected of committing gross human rights violations are allowed to escape criminal responsibility, human rights violations are likely to continue to be committed. The perpetrators are given a sense of impunity, as are others who may subsequently be involved in formulating government policy or in law-enforcement. Post-conviction amnesties, indemnities, or pardons for people suspected of extrajudicial execution and torture may contribute to national reconciliation and are not inconsistent with international human rights standards. However, when such conciliatory steps are taken without any effort to hold those responsible

accountable under the law and bring them to justice, the future of human rights protection may be seriously jeopardised.

Accession to international human rights instruments

Amnesty International also urges that the settlement should include provision for the immediate Cambodian accession to, or ratification of, the International Covenant on Civil and Political Rights and its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Accession or ratification of these international human rights standards will help establish effective human rights mechanisms in Cambodia with a strong foundation in international law. A provision to this effect in the settlement should incorporate Cambodian agreement to recognise fully the various recourse provisions and monitoring bodies established under these international instruments. We believe this additional step is crucial to ensuring the effective implementation of such instruments.