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SUBJECT TITLE: RECENT HUMAN RIGHTS DEVELOPMENTS

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SUMMARY

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In June 1987, Amnesty International published a report, Kampuchea: Political Imprisonment and Torture, describing the organization's concerns at that time about human rights violations in the then People's Republic of Kampuchea, now renamed the State of Cambodia. Its concerns included arbitrary detention of political prisoners or their detention without charge or trial or after unfair trials; torture and other ill-treatment of political prisoners during interrogation; and prison conditions constituting cruel, inhuman or degrading treatment. Since the publication of its 1987 report, Amnesty International has been unable to obtain comprehensive data on developments in human rights protection in what is now the State of Cambodia. The Government's continual refusal to grant the organization's request to visit the country has been one factor impeding its efforts to clarify the situation there.

However, Amnesty International has been pleased to note that starting in 1987 the Cambodian Government in Phnom Penh has demonstrated an increased commitment to the protection of human rights of prisoners, including political prisoners. In late 1987 the central authorities initiated a review of political prisoner cases. According to a report presented to the National Assembly on 20 June 1989 by Chan Min, the Public Prosecutor General, local authorities had by that time released some 534 political prisoners in provinces throughout the country and in the municipality of Kampung Saom, and other political prisoners held in the capital of Phnom Penh had also been released.

Amnesty International has welcomed the adoption on 30 April 1989 of Article 35 of the State of Cambodia's amended constitution, which abolished the death penalty. The organization was also pleased that the amended constitution's Article 35 strengthens previous declarations against torture.

In his 20 June 1989 report to the National Assembly, Public Prosecutor General Chan Min frankly admitted that despite the authorities' efforts at reform, abuses of Cambodian law and international human rights standards relating to the treatment of political prisoners had continued. He revealed that local authorities were still arresting and detaining political suspects arbitrarily, without following procedures and

safeguards set forth in existing law. Amnesty International is encouraged that the authorities have so candidly recognized that problems exist with regard to bringing political prisoners to trial. The organization is, however, concerned that these problems may continue to exist.

Amnesty International's concern about the possibility that political prisoners continue to be detained for prolonged periods without charge or trial arises in part from information it has recently received about some 33 political prisoners arrested between 1979, when the People's Republic of Kampuchea was established, and 1986, when Decree-Law 27 D-L was promulgated, who reportedly remain imprisoned without charge or trial. Amnesty International is also concerned at reports that three other political prisoners imprisoned as the result of unfair political trials in July and November 1980 also are still held.

Amnesty International is also concerned at allegations it recently received that despite the authorities' increased commitment to prevention of torture and other cruel, inhuman or degrading treatment or punishment of prisoners, security personnel in one district of Cambodia have continued to severely beat and otherwise ill-treat political suspects during interrogation and to subject them to shackling or deliberate denial of food and water. Three former political prisoners allege that local security authorities in Sisophon district of Banteay Meanchey province ill-treated them after they were arrested in 1989 for suspected involvement in armed opposition to the State of Cambodia.

Meanwhile, Amnesty International also remains concerned that the six government officials and possibly other people reportedly arrested between 16 and 25 May 1990 apparently remain under some form of detention, and that none of them have been charged with a recognizably criminal offence or brought to trial. As the organization explained in the document on these political prisoners it published in September 1990 (Cambodia: Arrest and Detention of Government Officials), it believes some or all of them may be detained solely for peacefully exercising their right to freedom of expression and association by trying to publish the manifesto of a new political party to be known as the Democratic Freedom Party or Liberal Social Democracy Party.

Finally, Amnesty International is concerned that some of the 775 other political suspects whose arrests have been mentioned in official State of Cambodia news media reports broadcast between January and August 1990 may also still be held without charge or trial.

This summarises an 11-page document, Cambodia: Recent Human Rights Developments, (AI Index: ASA 23/07/90)), issued by Amnesty International in December 1990. Anyone wanting further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ,  
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Amnesty International  
International Secretariat  
1 Easton Street  
London WC1X 8DJ  
United Kingdom

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CAMBODIA:

RECENT HUMAN RIGHTS DEVELOPMENTS

Amnesty International's Previous Concerns

In June 1987, Amnesty International published a report, Kampuchea: Political Imprisonment and Torture, describing the organization's concerns at that time about human rights violations in the then People's Republic of Kampuchea, now renamed the State of Cambodia. Its concerns included arbitrary detention of political prisoners or their detention without charge or trial or after unfair trials; torture and other ill-treatment of political prisoners during interrogation; and prison conditions constituting cruel, inhuman or degrading treatment. The report indicated that such human rights violations contrary to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights were routine and widespread. It said the most common form of ill-treatment during interrogation was severe beating. It said that among the harsh prison conditions imposed on political prisoners were constant shackling and intentional limitations on food and water, contrary to the United Nations Standard Minimum Rules for the Treatment of Prisoners. The report also expressed concern about the use of the death penalty in the People's Republic of Kampuchea, which was a violation of the right to life.

Since the publication of its 1987 report, Amnesty International has been unable to obtain comprehensive data on developments in human rights protection in what is now the State of Cambodia. The Government's continual refusal to grant the organization's request to visit the country has been one factor impeding its efforts to clarify the situation there.

Positive Developments Since 1987

However, Amnesty International has been pleased to note that starting in 1987 the Cambodian Government in Phnom Penh has demonstrated an increased commitment to the protection of human rights of prisoners, including political prisoners. In late 1987 the central authorities initiated a review of political prisoner cases. On 21 December 1987 the Council of Ministers issued Decision Number 175 Dc calling on provinces and municipalities throughout the country to review the cases of political prisoners arrested before 12 March 1986, the date of the promulgation of Decree-Law Number 27 D-L. This act was the government's first legislation defining which authorities have the legal power to arrest and detain. Although it placed limits on the powers of arrest and detention, the act continued to authorize up to two years' detention without charge or trial of political suspects under certain conditions. According to a report presented to the National Assembly on 20 June 1989 by Chan Min, the Public Prosecutor General, local authorities had by that time released some 534 political prisoners in provinces throughout the country and in the municipality of Kampung Saom, and other political prisoners held in the capital of Phnom Penh had also been released.

Amnesty International was also pleased to have learned from the Public Prosecutor General's report about an official interpretation of the provisions of Decree-Law Number 27 D-L, issued on 1 September 1988 by the Cambodian Council of State. The interpretation stipulated that: "There is no instance whatever in which investigating organs are authorized not to send the file of an offender to the court so that there may be a trial, or not to request an extension of his or her detention in accordance with the law." Amnesty International also notes that in his report, the Public Prosecutor General stressed that "temporary detention" without charge under the provisions of Decree-Law Number 27 D-L should be "carried out in order to ensure that someone is presented to a tribunal for trial". Amnesty International considers that these clarifications from the Council of State and the Public Prosecutor General demonstrate a desire to prevent local security authorities from abusing Decree-Law Number 27 D-L to detain political prisoners indefinitely without charge or trial.

With regard to protection of the right to a fair trial of political prisoners charged with recognizably criminal offenses, Amnesty International has also appreciated that the Government has initiated passage of Cambodia's first Criminal Procedure Code since 1975. The organization notes that the code, which was approved by the National Assembly on 16 July 1989, specifies that an accused political offender enjoys the internationally-recognized rights "to receive knowledge of the charges" against him or her together with copies of them, "to rely upon a lawyer or defender to assist in his or her defence" and to meet such counsel "without the presence of other persons", and to file a "suit of contest" against the verdicts of lower courts to the Chairman of

the People's Supreme Court if he or she is "unwilling to accept the verdict" of the former.

Amnesty International has welcomed the adoption on 30 April 1989 of Article 35 of the State of Cambodia's amended constitution, which abolished the death penalty. The organization believes this was a major step demonstrating the government's intention to protect the right to life, grossly violated along with almost all other fundamental human rights by the previous Government of Democratic Kampuchea during its time in power from 1975 to 1978. The organization was also pleased that the amended constitution's Article 35 strengthens previous declarations against torture. It does this by specifying that "confessions resulting from brutal physical or mental coercion cannot be regarded as proof of guilt", and that "perpetrators, collaborators and conspirators" in "coercion" or "physical abuse" or other activities that "go beyond" the punishments normally "meted out to detainees or prison inmates" will "be punished in accordance with the law".

Amnesty International was encouraged by Article 35's declaration that: "All suspects are considered innocent until decided otherwise by the court", which reintroduces this cardinal principle into Cambodian law for the first time since 1975. The organization was also pleased at Article 35's reiteration of other human rights safeguards the current State of Cambodia authorities had already incorporated into the previous People's Republic of Kampuchea constitution or other legislation.

More recently, a press report on 27 September 1990 quoted the president of the International Committee of the Red Cross as saying that the State of Cambodia would in "several weeks" for the first time allow it access to political prisoners and other persons in detention covered by its humanitarian mandate. Amnesty International welcomes this indication of willingness on the part of the State of Cambodia to allow greater scrutiny of its protection of prisoners' human rights by appropriate international and non-governmental humanitarian and human rights bodies.

#### Reasons for Continuing Concern

In his 20 June 1989 report to the National Assembly, Public Prosecutor General Chan Min frankly admitted that despite the authorities' efforts at reform, abuses of Cambodian law and international human rights standards relating to the treatment of political prisoners had continued. He revealed that local authorities were still arresting and detaining political suspects arbitrarily, without following procedures and safeguards set forth in existing law. He said that local authorities had continued to arrest, detain and extend the detention of suspected political offenders without first obtaining the legal authorizations required by the provisions of Decree-Law Number 27 D-L. He noted that "permission is not sought from the Council of Ministers to

continue the detention of someone in those special instances in which the detention must be extended beyond twelve months as the offence was detrimental to political security, as is specified in Section 28" of the legislation. The Public Prosecutor General further stated that "temporary detention takes place in excess of the period stipulated in the Decree-Law", and that there was also "an incapacity to build up files for presentation to the courts for trial". As a result, "in a number of provinces and municipalities, large numbers of people with criminal liability are piling up, while ... at the public prosecutors' and in the courts there are virtually no cases to be settled." Moreover, "in every province and municipality people with criminal liability are mostly held without being sent for trial." Amnesty International is encouraged that the authorities have so candidly recognized that problems exist with regard to bringing political prisoners to trial. The organization is, however, concerned that these problems may continue to exist. Amnesty International hopes the Government will implement specific and systematic measures to ensure the right of political prisoners to be promptly charged and fairly tried within a reasonable time or released is fully respected. These could include the establishment of a special independent commission to oversee the implementation of Decree-Law Number 27 D-L and receive complaints from prisoners held contrary to its provisions. Such a commission should be empowered to inform the courts about the cases of any prisoners illegally held, and the courts should be empowered to order such prisoners' release.

Amnesty International's concern about the possibility that political prisoners continue to be detained for prolonged periods without charge or trial arises in part from information it has recently received about some 33 political prisoners arrested between 1979, when the People's Republic of Kampuchea was established, and 1986, when Decree-Law 27 D-L was promulgated, who reportedly remain imprisoned without charge or trial. Their reported detention in apparent contradiction to international human rights standards reportedly continues despite the review initiated by the central authorities in late 1987. Amnesty International is also concerned at reports that three other political prisoners imprisoned as the result of unfair political trials in July and November 1980 also are still held. These 36 prisoners include people reportedly held in T3 prison in Phnom Penh, T5 prison in Kampong Cham province, TK1 prison in Batdambang province, and T6 prison, the exact location of which is unclear. (An appendix to this document lists the names, sex, approximate date of arrest, and last known place of detention of these prisoners.)

Amnesty International is also concerned at allegations it recently received that despite the authorities' increased commitment to prevention of torture and other cruel, inhuman or degrading treatment or punishment of prisoners, security personnel in one district of Cambodia have continued to severely beat and otherwise ill-treat political suspects during interrogation and to subject them to shackling or deliberate denial of food and water.

Three former political prisoners allege that local security authorities in Sisophon district of Banteay Meanchey province ill-treated them after they were arrested in 1989 for suspected involvement in armed opposition to the State of Cambodia. Their arrests took place in the context of the intensified fighting in northwest Cambodia that has taken place in the run-up to and in the wake of the withdrawal of most Vietnamese combat forces from Cambodia in September 1989. There was fighting between troops of the State of Cambodia, which controls most of the country from the capital in Phnom Penh, against the forces of the coalition National Government of Cambodia. The three former political prisoners who allege ill-treatment by State of Cambodia interrogators were all accused of working with the armed forces of the Khmer People's National Liberation Front (KPNLF), one of the three parties to the opposition coalition. Their names are being withheld by Amnesty International to protect them from any possible retaliation.

Two of the former prisoners were rice farmers from Thmar Puok district of Banteay Meanchey province. They say they were arrested in early 1989 after a round of heavy fighting in the district, which borders on Thailand and has long been an area of KPNLF activity. They say they were seized by regular army troops, and then turned over to the custody of the civilian police authorities of Sisophon district, in which the capital of Banteay Meanchey is located. They say they were held without charge or trial for more than a year.

Both men allege that they were severely beaten and ill-treated during three rounds of questioning, during which they were interrogated separately. According to their testimonies, the first two rounds occurred shortly after they were brought to the Sisophon district police detention centre, and the third several months later. Both said that during their first interrogation session, the police accused them of planting mines and acting as guides for KPNLF troops attacking State of Cambodia military garrisons. One went on, "I responded that I hadn't done any such thing," following which the police "used compulsion to get me to respond, but I still didn't answer, so they began beating me and pouring fish sauce down my nose while I was hung upside down by my feet and being smothered with a plastic bag, to the point where I passed out..." He says his second interrogation session took place three days later, but that when he again denied the accusations against him, the police shackled him by his hands and feet and beat him "harder than ever", which caused him "to pass out entirely". The police, he alleges "then dragged me back to the cell, shackling me there by my feet until I regained consciousness." He says his third round of interrogation took place four months after his arrest:

"This time my hands and feet were shackled from the start, but the questions were again on the same subject

as the last time. As I still refused to respond, they intensified the compulsion, but I didn't give them any answers at all, so they began beating me with a wooden club until my scalp was split and my face was bleeding."

He alleges that a month later he was "still traumatized as a result" of his ill-treatment.

The second former prisoner from Thmar Puok alleges that after he denied the accusations against him during his first interrogation session, the police "handcuffed me and hung me up and beat me as much as they liked, to the point where I was senseless...." After "they revived me by pouring water over me," the police allegedly "resumed the interrogation and used compulsion to get me to reply" - that is, to admit for fear of further ill-treatment that he had planted mines and acted as a guide for KPNLF troops. "Only when I said it was true did they stop hitting me. The interrogation went on for an hour and a half before the questions stopped and I was sent back to my cell." In his next interrogation session, however, he says he again began by denying the accusations against him, but the police "handcuffed me and then beat me with a bamboo stick and kicked me to force me to answer. This went on until I passed out...." After water was again poured on him to revive him, "the interrogation resumed, but even then I did not answer, so they sent me back to my cell." He says he was interrogated for a third time three months later, and alleges that when he once more denied working with the KPNLF, the police "began by shackling my hands and my feet and stuffing me into a bag which they hung up. They kicked me to their hearts' content. I was beaten for an hour before they lowered the bag and untied it, at which time I was unconscious." He says that when he finally regained consciousness, he was bleeding from his nose and mouth. He alleges also that he was not given sufficient food because he would not admit to the accusations against him:

"They started denying me food. I got half a small bowl of rice a meal. They allowed only one small milk tin of water a day. It was four and a half months before they gave me reasonable amounts of food and water."

The third former political prisoner was a native of a province in eastern Cambodia. Before 1979 he had been a member of the armed forces of Democratic Kampuchea, otherwise known as the "Khmer Rouge". At the time of his arrest in late 1989, however, he was a member of the armed forces of the State of Cambodia in Banteay Meanchey province, and he was arrested by the State of Cambodia military police apparently because he was suspected of working with the KPNLF. He says he was held without charge or trial for three months in the "Corrections Office" of the State of Cambodia Military Region 4, which covers Banteay Meanchey and Siem Reap-Utdar Meanchey provinces. He alleges that throughout his detention he "was shackled by both feet and both hands".

Meanwhile, Amnesty International also remains concerned that the six government officials and possibly other people reportedly arrested between 16 and 25 May 1990 apparently remain under some form of detention, and that none of them have been charged with a recognizably criminal offence or brought to trial. As the organization explained in the document on these political prisoners it published in September 1990 (Cambodia: Arrest and Detention of Government Officials), it believes some or all of them may be detained solely for peacefully exercising their right to freedom of expression and association by trying to publish the manifesto of a new political party to be known as the Democratic Freedom Party or Liberal Social Democracy Party. (A second appendix to this document gives the names and other details about the six who have been identified in reports.)

Finally, Amnesty International is concerned that some of the 775 other political suspects whose arrests have been mentioned in official State of Cambodia news media reports broadcast between January and August 1990 may also still be held without charge or trial. These detainees, whom the official media did not name, are apparently alleged to have been involved in the intensified activities that the National Government of Cambodia, a coalition of opposition groups including the "Khmer Rouge", the KPNLF and a third group associated with Prince Norodom Sihanouk, has launched since the Vietnamese withdrawal. This has included military offensives in several provinces. Amnesty International is unaware of any indications from the official media that any of the 775 prisoners have been charged or brought to trial. They included people seized by military or police forces in Kampong Thom, Siem Reap-Utdar Meanchey, Banteay Meanchey, Batdambang, Kampot and Kampong Cham provinces.

With regard to such prisoners, Amnesty International recognizes that governments may bring criminal charges against political opponents when there is reasonable evidence that they have engaged in violent attacks on security forces, state authorities or the civilian population or committed other recognizably criminal acts. However, basing itself on international human rights standards, the organization is concerned that they not be held indefinitely without charge or trial.

#### Amnesty International's Recommendations

Amnesty International hopes that the Government of the State of Cambodia will continue to build on previous efforts to ensure better protection of human rights of political prisoners.

In particular, Amnesty International hopes that the Government will act to ensure that existing legislation against torture and arbitrary imprisonment of political prisoners is not being flouted by local security authorities. In particular, it urges the establishment of a special independent commission to

oversee the implementation of Decree-Law No 27 DL and receive complaints from political prisoners held contrary to its provisions. Such a commission should be empowered to inform the courts about the cases of any prisoners illegally held, and the courts should be empowered to order such prisoners' release.

Amnesty International therefore urges that any political prisoners arrested between 1979 and 1986 listed in the appendix to this report and currently held without charge either be promptly charged with a recognizable criminal offence and fairly tried, or otherwise released.

Amnesty International reiterates its appeal that any of the six government officials arrested in May 1990 about whom Amnesty International raised concern in its September 1990 document who are held for the peaceful exercise of their right to freedom of expression and association be immediately and unconditionally released.

It urges that any political prisoners listed in the appendix to this report who were tried without the minimum safeguards laid down in the International Covenant on Civil and Political Rights should have recourse to new trials held in accordance with such internationally recognized standards for a fair and open trial.

It urges that the Government conduct an independent and impartial inquiry into allegations of continuing ill-treatment of political prisoners held in Sisophon district of Banteay Meanchey province, and bring to justice any local security personnel against whom there is reasonable evidence of responsibility for such ill-treatment.

Finally, it urges that the Government make available publicly details of the cases of the 775 people who the official media have reported were arrested in the provinces. This should include their names, dates of and reasons for their arrest and information about whether they are still held or date of release, whether they have been charged and tried and by what court, and what convictions and sentences have been laid down. The Government should also allow appropriate international or non-governmental humanitarian or human rights organizations access to any among them and the eight people detained in Phnom Penh in May 1990 who are still detained.

**APPENDIX I****A. POLITICAL PRISONERS ARRESTED BETWEEN 1979 AND 1986 REPORTEDLY STILL HELD WITHOUT CHARGE OR TRIAL**

	<u>Name</u>	<u>Sex</u>	<u>Date of Arrest</u>	<u>Place of Detention</u>
1	Mak Pengkhi	M	1980	T6
2	Sin Song	M	1980	T3
3	Keum Kannara	M	1980	T3
4	Keum Huo	M	1980	T3
5	Keum Treuang	M	1980	T3
6	Uch Heng	M	1984	T3
7	Heng Sophat	M	1984	T3
8	Heng Seiha	M	1984	T3
9	Chea Vanlon	M	1980	T3
10	Chhun Chheuan	M	1980	T3
11	Eun Sothea	M	1980	T3
12	You Man	M	1980	T3
13	Chay Hin	M	1982	T3
14	Van Than	M	1981	T3
15	Bun Sae	M	1981	T3
16	Chan Hieng	F	1982	T3
17	Kung Bunthan	M	1984	T3
18	Tau Thol	M	1984	T3
19	Yin Samnang	M	1985	T3
20	Suy Sokha	M	1986	T3
21	Chum Nhoeng	M	1983	TK1
22	Prum Samnang	M	1985	TK1
23	Muon Diep	M	1983	TK1
24	Mav Man	M	1983	TK1
25	Be Sa	M	1983	TK1
26	Tea Sinat	F	1984	TK1
27	Mam Chheuan	M	1983	TK1
28	Lay Savan	F	1985	TK1

29	Sam Samai	M	1983	TK1
30	Chan Saveuan	M	1983	TK1
31	Lonh Iech	M	1981	T3
32	Yan Sothea	M	1984	T3
33	Chheum Sok- ret	M	1980	T5

B. POLITICAL PRISONERS ARRESTED BETWEEN 1979 AND 1986 REPORTEDLY STILL HELD AFTER UNFAIR TRIALS

	<u>Name</u>	<u>Sex</u>	<u>Date of Arrest</u>	<u>Place of Detention</u>
1	Haem Kreuhšana	M	1979	T3
2	Nov Long	M	1979	T5
3	Ou Savat	M	1979	T5

## APPENDIX II

### PEOPLE REPORTEDLY ARRESTED IN MAY 1990 IN CONNECTION WITH ATTEMPTS TO FORM AN OPPOSITION POLITICAL PARTY WHO MAY STILL BE DETAINED

1. Ung Phan, former Minister of Transport and Communications
2. Kan Man, former Deputy Director of the Americas and Europe Department of the Ministry of Foreign Affairs
3. Thun Saray, former Acting Director of the Institute of Sociology
4. Nou Saing Khan, former Chief of the Planning Department at the Ministry of Transport and Communications
5. Colonel On Sum, former official at the Research Department of the Ministry of National Defence
6. Khay Mathury, an architect formerly working at the Ministry of Foreign Affairs