

**CAMBODIA: HUMAN RIGHTS BEFORE AND AFTER THE ELECTIONS****I. INTRODUCTION**

**Cambodians will go to the polls on May 23 in an atmosphere of political and ethnic violence and renewed civil war. The elections are the culmination of a 17-month United Nations presence, the largest, most ambitious and most expensive peace-keeping effort ever, which was supposed to bring about an end to the conflict.**

**Instead, Cambodia is faced with as much fighting as when the United Nations Transitional Authority in Cambodia (UNTAC) entered the country in March 1992, and a spiralling level of serious human rights abuses. The "neutral political environment" that was supposed to be the precondition for elections is entirely absent.**

**The five permanent members of the Security Council and other drafters of the 1991 Paris peace accords, formally known as the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict, are determined to go ahead with the elections regardless. But what happens on May 23 is almost less important than what happens in the days after the results are announced. Asia Watch believes that an analysis of the missteps that led to the current human rights situation is critically important to determining how, or perhaps whether, human rights of Cambodians can be protected under whatever government comes to power then.**

**The reasons for the deterioration in the human rights situation in late 1992 and early 1993 are complex. None of the parties to the conflict has a history of respect for human rights and one, Democratic Kampuchea, better known as the Khmer Rouge, has one of the worst human rights records in modern history. It would have been unrealistic to expect that a brief international presence would turn authoritarian abusers into well-behaved civic leaders. The absence of a functioning legal system or the basic institutions of civil society -- both destroyed by the Khmer Rouge and largely neglected or repressed by its successors -- meant that there were no effective checks on abuse from within Cambodian society. It is also true, paradoxically, that UNTAC's efforts to create an atmosphere of political openness, by assisting political parties to open offices throughout the country and by registering Cambodians to vote, created new opportunities for repression and intimidation. Those abuses could have been punished, but with rare exceptions, they were not.**

**Some responsibility for the human rights situation that UNTAC will leave as a legacy to the government elected in May thus lies directly with the international community and UNTAC itself, and their failure to hold the different parties to the conflict accountable for serious human rights abuses. Members of the Khmer Rouge slaughtered ethnic Vietnamese and still were encouraged to take part in elections.**

**State of Cambodia authorities tolerated the bombing of opposition party offices and faced no punishment. The Khmer People's National Liberation Front summarily executed prisoners; both FUNCINPEC and the KPNLF resisted building a jail to lodge prisoners and stymied UN efforts to put a legal system in place in the territories they controlled.**

**Despite all the money that the UN poured into human rights education, the lesson best learned after 17 months of UN administration is that there is no punishment for gross abuses. That lesson could fuel a rash of reprisals by the victorious party against its opponents, or by the loser against individuals whom it feels contributed to its defeat. It could lead to further attacks on vulnerable groups such as the ethnic Vietnamese, Cambodians who have worked for UNTAC, and Cambodian human rights monitors.**

**It is thus critically important to try and determine what the UN and the international community might have done differently in response to human rights violations; what can be done now, while the UN is still in the country, to hold individuals accountable; and what safeguards the international community can put in place to prevent the abuses that will otherwise almost certainly follow elections.**

**This report addresses these issues as it examines in detail the human rights violations committed by the parties to the Cambodian conflict and UNTAC's response to them. It is based in part on a visit to Cambodia by an Asia Watch delegation in February 1993 and interviews conducted in the provinces of Battambang, Banteay Meanchey, Svay Rieng, Prey Veng and Phnom Penh.**

**It concludes that UNTAC too often subordinated human rights protection to keeping the peace process on track. Fear of alienating the main Cambodian parties made UNTAC officials reluctant to take concrete action against abusers. Had UNTAC been willing to be more confrontational early on, the escalation of violence in early 1993 might have been forestalled. For the future, Asia Watch calls on the new government to abide by and actively enforce the international human rights agreements to which it is a party; it also calls on the international community to recognize its obligations to Cambodia and not merely abandon it to its post-election fate. The report outlines a series of measures that should be undertaken to hold past abusers accountable for their actions and protect Cambodians after a new government takes office.**

## **II. POLITICAL BACKGROUND**

**Few societies have been as devastated by war and state abuse as Cambodia. The period 1975-78 when the Khmer Rouge presided over the deaths of a million of Cambodia's approximately eight million people, was by far the bloodiest. But the destruction began in the early 1970s with the US bombing of Cambodia during the Vietnam War, and continued after the 1979 Vietnamese invasion and subsequent war between resistance forces led by the Khmer Rouge and the combined forces of Vietnam and the People's Republic of Kampuchea (PRK), the government Vietnam installed.**

**The 1979 invasion set the stage for many of the political developments that followed. China, worried about Vietnamese expansionism and encouraged by the U.S., threw its support behind the Khmer Rouge as the best available buffer against Vietnam, thereby giving the decimated and dispersed forces of Pol Pot a new lease on life.**

**Hundreds of thousands of refugees fled to Thailand after the invasion, in part because for many it was their first opportunity to flee since the Khmer Rouge had come to power. They settled in refugee camps along the Thai-Cambodian border where they came under the control of various Cambodian**

political and military factions opposed to the PRK. These included an organization which came into being in 1981 called the Khmer People's National Liberation Front (KPNLF), headed by former prime minister Son Sann; the United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), formed by followers of Prince Sihanouk; and the Khmer Rouge.

In 1982, under pressure from the United States, China and the Association of Southeast Asian Nations (ASEAN),<sup>1</sup> the three resistance groups signed an agreement establishing the Coalition Government of Democratic Kampuchea (CGDK). A diplomatic fiction created to punish or oppose Vietnam and its client, the CGDK controlled only a sliver of territory in Cambodia along the Thai border. Nevertheless, with the help of its backers, it took over Cambodia's seat at the UN and prevented international recognition of the Phnom Penh government.

The Vietnamese presence in Cambodia, the revival of the Khmer Rouge, Western support for the CGDK, and the use of the Thai camps for recruitment and training of a guerrilla resistance had fuelled an unwinnable civil war. By 1986, it was clear that continuation of the war was in no one's interest, and international moves toward a settlement began.

The first major breakthrough took place in December 1987 when Prince Sihanouk met PRK Prime Minister, Hun Sen. In July 1988 in the so-called Jakarta Informal Meeting, face-to-face talks took place between the Phnom Penh government and the three resistance factions, with representatives of Vietnam, Laos and the ASEAN countries also present. A second round of these talks was held in Jakarta in February 1989. In July 1989, 18 countries including the five permanent members of the Security Council (Perm-5) met in Paris with the four Cambodian factions to discuss a comprehensive peace settlement. While the meeting ended in a stalemate, the four factions continued to meet over the next two years with representatives of the UN, the Perm-5 and other interested parties in the region. In September 1989, Vietnamese forces withdrew from Cambodia, in a move that significantly advanced the peace process. When, in February 1990, Australian Foreign Minister Gareth Evans proposed a settlement plan that would have at its core a temporary UN administration of Cambodia, the elements were in place for an agreement. On October 23, 1991, Agreements on a Comprehensive Political Settlement of the Cambodia Conflict were signed in Paris by the participants of the 1989 conference.

A debate raged among participants in the peace process and outside observers as to how to deal with the Khmer Rouge -- was it better to include the party of Pol Pot, despite its murderous history, in order to obtain China's cooperation and end the civil war, or exclude it entirely, to prevent it from gaining international legitimacy? While the drafters of the Paris accords opted for inclusion, that decision was to have far-reaching consequences for the peace process and for human rights.

### ***The Accords***

The Paris accords<sup>2</sup> recognized as the sole legitimate embodiment of Cambodia's sovereignty a newly created Supreme National Council (SNC), which comprised representatives of all factions and was

---

<sup>1</sup> ASEAN was then composed of Thailand, Malaysia, Singapore, Indonesia and the Philippines. They were later joined by Brunei.

<sup>2</sup> *Agreements on a Comprehensive Political Settlement of the Cambodian Conflict*, United Nations, DPI/1180-92077-January 1992-10M, (New York: 1992), hereinafter "Comprehensive Settlement."

headed by Prince Norodom Sihanouk.<sup>3</sup> The SNC, in turn, delegated all power necessary to implement the accords to UNTAC. The SNC was to advise UNTAC on matters of implementation, but the head of UNTAC, a Special Representative of the Secretary General, was responsible for determining whether such advice was consistent with the objectives of the accords, and for complying only if it was. The Cambodian parties retained responsibility for the administration of the territories under their control, subject to UNTAC "supervision and control"<sup>4</sup> where necessary to accomplish the ends of the settlement. Of the parties, the most important in this regard was clearly the State of Cambodia (SOC), which would remain responsible for basic services in the four-fifths of the country under its control.

The accords authorized UNTAC to verify withdrawal of foreign forces, supervise and monitor the cease-fire, canton and disarm the forces of the four parties, and supervise mine marking and demining. UNTAC was also mandated to organize and conduct elections. "In order to ensure a neutral political environment conducive to free and fair elections,"<sup>5</sup> UNTAC was authorized to exercise "direct control"<sup>6</sup> of key ministries of the SOC government, including foreign affairs, national defense, finance, public security, information, and any other agency that could directly influence the outcome of elections.

UNTAC was also made responsible for coordinating the repatriation of refugees such that they might return "to live in safety, security and dignity, free from intimidation or coercion of any kind,"<sup>7</sup> a task it delegated to the UN High Commissioner for Refugees (UNHCR).

With regard to human rights, the accords contained a recognition that Cambodia's tragic past "requires special measures to assure protection of human rights"<sup>8</sup> and responsibility for that protection was to be shared among Cambodia, the other signatories to the Paris agreements, and UNTAC. Cambodia was to ensure respect for and observance of human rights and fundamental freedoms; support the right of all Cambodian citizens to undertake activities that would promote and protect those rights and freedoms; take effective measures to ensure that past policies did not return; and adhere to relevant international human rights instruments.<sup>9</sup>

The other signatories were to encourage respect for and observance of human rights to prevent a recurrence of past practices, and UNTAC was responsible for "fostering an

---

<sup>3</sup> The SNC, formed in September 1990, has six representatives from the State of Cambodia and two from each of the three resistance factions: the Party of Democratic Kampuchea (Khmer Rouge); the Sihanoukist party Front Uni National pour un Cambodge Independent, Neutre, Paicifique, et Cooperatif (FUNCINPEC); and the Khmer People's National Liberation Front (KPNLF).

<sup>4</sup> Comprehensive Settlement, Section III, Article 6.

<sup>5</sup> Comprehensive Settlement, Section III, Article 6.

<sup>6</sup> Comprehensive Settlement, Annex I, Section B(1).

<sup>7</sup> Comprehensive Settlement, Part V, Article 20.

<sup>8</sup> *Final Act of the Paris Conference on Cambodia*, in *Comprehensive Settlement*, *op. cit.* p.5.

<sup>9</sup> *Agreements on a Comprehensive Political Settlement of the Cambodia Conflict*, DPI/1180-92077-January 1992-10M, United Nations (New York:1992), pp.12-13.

environment in which respect for human rights shall be ensured." In Annex 1, Section E of the Agreements, UNTAC was mandated to develop and implement a program of human rights education and exercise "general human rights oversight." It was also to investigate human rights complaints, "and, where appropriate, take corrective action."<sup>10</sup> The scope of such action was not defined.

Structurally, UNTAC was headed by a Special Representative appointed by and directly responsible to the UN Secretary General. Under him were five components: Civil Administration, Electoral, Information, Finance and Human Rights. In addition, the Special Representative was responsible for 3,600 civilian police and for a military component consisting of 12 battalions of peace-keeping forces (some 16,000 troops) under one overall commander.

### ***UN Deployment: The Rush to Elections***

In February 1992, the Secretary General reported on plans for implementation of the Paris accords. It became clear that not only had the UN undertaken a project of unprecedented scope, but also that its timetable would require almost perfect efficiency to succeed. Aspects of the process like political control of the SOC's key ministries, human rights education, the establishment and staffing of civil institutions such as courts, the training of independent and professional police -- by definition efforts that demand sensitivity and substantial knowledge of the host culture -- would have to be accomplished by personnel rushed to the scene and in barely a year. With elections scheduled for late April or early May 1993, more than 320,000 people would have to be repatriated within nine months in order to register to vote.<sup>11</sup> Cantonment and disarmament of 70 percent of the existing armies, as required by the Accords, would have to be accomplished by the end of September 1992, with the three-month election registration period beginning the following month.

Even had the deployment of UNTAC's personnel in Cambodia begun on the day the Paris accords were signed, such a schedule would have been optimistic for a country with minimal communications and electricity, whose roads are barely passable for motor vehicles in dry season, and impassable for the five months of monsoon rains each year. The schedule was further restricted by the fact that the Secretary General's Special Representative and head of UNTAC, Yasushi Akashi, did not arrive in Cambodia until almost five months after the signing of the accords, and most UNTAC departments were not fully staffed for another three to six months. UNTAC's initial delays cut into an already very short operational timetable -- quite apart from the fact that, in the interim period, Cambodia was left to wait in conditions of political uncertainty and rising tension.

### ***Failure of Demobilization and Cantonment***

The accords assumed that the first stage of demobilization and cantonment would take about two months from the time the cantonment plan was finalized, and that the process would be completed "prior to the end of the process of registration for the elections." Full demobilization of the remaining soldiers

---

<sup>10</sup> Ibid., p.22.

<sup>11</sup> This figure was based on a population of 360,000 refugees, of whom ninety percent were expected to return with UNHCR assistance. Report of the Secretary-General on Cambodia, United Nations Security Council, February 19, 1992, Section F.136, UN Document S/23613.

would take place prior to or shortly after the elections themselves.

**Much hinged on the success of the demobilization, the foundation on which the rest of the peace process rested. It was the reason for having such a large contingent of peace-keeping troops, and some programs, such as that of land mines clearance, were premised on the availability of demobilized soldiers to be trained for de-mining. No provisions were made for non-compliance.**

**But the Khmer Rouge from the beginning violated the cease-fire and refused to permit its fighters to be cantoned and disarmed, a process that had been scheduled to begin in May 1992. Once the accords were flouted by one party, it was impossible to enforce them with the others.<sup>12</sup> Nor was peace sustainable, once the Khmer Rouge refused disarmament: full-scale fighting between the SOC and the Khmer Rouge intensified in Kampong Thom province throughout the 1992 dry season, while cease-fires brokered by UNTAC were continually violated by both sides.**

**The initial cooperation of the Khmer Rouge with some aspects of the peace process may have convinced UNTAC officials that diplomacy rather than pressure would bring it back into the fold. The Khmer Rouge had not opposed the UNHCR-directed repatriation of refugees from camps under its control. It had participated in the SNC's accession to several international human rights agreements; and, for a time, it had tolerated a small number of UN military observers in its territory, while circumscribing their movements so closely that at times they seemed to be more hostages than monitors. By April 1993, even this marginal cooperation had dissipated, and the Khmer Rouge had adopted an open policy of disrupting the electoral process and attacking UNTAC and ethnic Vietnamese.**

**The Khmer Rouge justified its non-cooperation on two counts. First, it maintained that UNTAC had not dismantled SOC government structures and thus the administrative agencies, bodies and offices over which the UN had control were in fact not neutral. It agreed to cooperate with cantonment if the Supreme National Council -- on which, it may be recalled, it had two representatives -- were given a direct role in supervising the day-to-day administration of the country. Second, it said that UNTAC had not verified the departure of all Vietnamese "forces," interpreting "forces" to include any ethnic Vietnamese civilians, whom, it claimed, were soldiers in disguise. Its demands for dismantling the SOC government and verification of Vietnamese withdrawal were perceived by many as delaying tactics, and an indication that the party had no interest in the peace process.**

**In July 1992, after the Khmer Rouge added yet another demand, the redrawing of the border between Cambodia and Vietnam, which it said must be met before cantonment could take place, the UN Security Council took its first action. In a response perhaps too measured to have any real effect, the Security Council passed a unanimous resolution to cut off any promised development aid to the Khmer Rouge territories if the party persisted in its failure to cooperate with cantonment and disarmament. By November, when the Khmer Rouge had missed every deadline for compliance, the Security Council voted an embargo on gem and logging exports, a primary and highly lucrative source of revenue for the party. It also, however, gave the Khmer Rouge an extra two months' extension on the opportunity to participate in the elections.<sup>13</sup>**

---

<sup>12</sup> The three other parties engaged in only token cantonment and hand-over of weaponry, and many of their soldiers left ranks on their own to rejoin their families, often taking their weapons with them.

<sup>13</sup> The embargo has had little effect. There is no UN monitoring presence at the Cambodia-Thailand border in the Khmer Rouge areas, and the Thai military has such a large financial stake in the cross-

**The results of the decision to give the Khmer Rouge more time are discussed in an unusually candid February 1993 report<sup>14</sup> by the Secretary General: continued Khmer Rouge non-cooperation; continuing military clashes between the Khmer Rouge and SOC; setbacks in the area of sanctions enforcement; absence of a "neutral political atmosphere" for elections; and possible further war after the elections. Nevertheless, the Secretary General concluded that "the imperative need for UNTAC now is to maintain the momentum" toward the elections, and to maintain the Khmer Rouge in the SNC.**

**But failure to move against Khmer Rouge non-compliance had several consequences, all of them negative. It encouraged the Khmer Rouge to believe that it could get away with any abuse, no matter how blatant; it gave the Khmer Rouge the opportunity to strengthen its forces politically as well as militarily; it gave the other Cambodian parties an incentive to violate provisions of the accords and in some areas, to resume full-scale fighting; and it weakened the credibility of UNTAC as a whole.**

**The Khmer Rouge intention to repudiate the peace process and the accords it had signed could hardly have been plainer. Beginning in the last days of March 1993, the Khmer Rouge began a series of direct attacks on UNTAC positions, and more than half a dozen peace-keepers were killed in the process. Khieu Samphan, the Khmer Rouge's delegate to the SNC, reiterated that the party would not participate in the elections. On April 4, he told a reporter that while the party had ordered its units not to harm UNTAC personnel, "The Cambodian people are in a very angry mood. If the Western powers do not change their position, there is no other choice for the Cambodian people but to show their anger at the Western powers."<sup>15</sup>**

**Yet UN Secretary General Boutros Boutros-Ghali in his April 1993 visit to Cambodia continued to stress the importance of maintaining a "dialogue" and "keeping the door open" to renewed Khmer Rouge participation. Soon afterwards, the Khmer Rouge officially closed its compound in Phnom Penh, and on April 30 the party directed the last UNTAC military observers to leave Pailin, the party's stronghold in western Cambodia. In addition to its diatribes against ethnic Vietnamese, Khmer Rouge radio broadcast reports of outraged Cambodian citizens slashing and beheading "white skinned, pointed-nosed UNTAC" officials.<sup>16</sup>**

**UNTAC began making preparations to hold the elections in a virtual state of war. Plans were set to substitute UNTAC military personnel for civilian election officers in troubled areas. All UNTAC personnel**

---

border trade that enforcement by the Thai government is erratic at best. Some military analysts say that Thailand has, contrary to expectations, limited the border trade to some extent. But observers near the Khmer Rouge border report daily shipments of logs, and sawmills have sprouted almost overnight, as processed timber is exempted from the embargo. It is estimated that Cambodia may already have lost one-fifth of its hardwood stock.

<sup>14</sup> "Report of the Secretary-General on the Implementation of Security Council Resolution 792 (1992), UN Document S/25289, February 13, 1993.

<sup>15</sup> "KR Vows to Foil UNTAC Election," by Nate Thayer, *Phnom Penh Post*, p. 1, April 9 - 22, 1993. By "western powers" Khieu Samphan said he meant to include Japan also.

<sup>16</sup> See "Official Killed After Raping Girl" and "Soldier Beheaded in Kampong Cham," (*Clandestine*) *Voice of the Great National Union Front of Cambodia*, April 24, 1993 in FBIS-EAS-93-078 (April 26, 1993).

**using the two major highways in the country were to travel in groups with an armed escort. Australia sent helicopters and a hundred more troops; Japan asked the UN to relocate its personnel to safer areas; and the United States shipped of thousands of bullet-proof jackets and helmets. The other Cambodian parties had their own ideas about preparations. On May 8, UNTAC reported that the parties formally requested return of the more than 50,000 weapons they surrendered during the abortive cantonment exercise.<sup>17</sup>**

**The atmosphere prevailing in Cambodia in the run-up to the elections was not the neutral political environment optimistically envisioned by the drafters of the Paris accords. Each party to the conflict contributed its share to the violence, the State of Cambodia and the Khmer Rouge as the two largest factions were the most obvious offenders. In the following sections, Asia Watch examines the abuses committed by each of the parties and the response of UNTAC to them. The inability of UNTAC to curb those abuses or hold those responsible accountable leaves an unfortunate legacy for the government which will take over following the May elections.**

---

<sup>17</sup> "Cambodia Factions Seek Arms Back for Protection," by David Brunnstrom, *Reuter*, May 8, 1993.



### **III. HUMAN RIGHTS ABUSES BY THE STATE OF CAMBODIA (SOC)**

The SOC, which controls more than 80 percent of Cambodia's territory, is a one-party regime with no history of tolerating political dissent. Its cooperation, more than that of any other Cambodian faction, was essential for the peace plan to succeed. The Paris accords held both risks and rewards for the SOC. On the one hand, the agreement required the Phnom Penh government to submit to UN supervision and disarmament, with the potential loss of political control over the population. On the other, it gave the government the opportunity, if it took part in and won the election, to gain international legitimacy and end the 12 years of economic and diplomatic isolation.

Although nominally led by Prime Minister Hun Sen, the government is dominated by the Cambodian People's Party, headed by Chea Sim, and the military, the Cambodian People's Armed Forces (CPAF). In anticipation of the Paris accords, the party, which controls all state institutions in the country, renounced Marxism as its official ideology, endorsed a multi-party democratic political system and a market economy, and changed its name from the Kampuchean People's Revolutionary Party. Despite those changes, there continues to be no practical separation between the party and the state.

#### **EXAMPLES OF SOC VIOLENCE**

— On December 10, 1992, the police chief of Kampong Roh, a district in Svay Rieng province, appeared at the new district office FUNCINPEC had just opened. Ten other policemen accompanied him. They ordered FUNCINPEC members to close the office; otherwise, they warned, "people would get hurt." The officials ripped up documents in the office and destroyed a picture of Prince Sihanouk and Prince Ranariddh, his son and the head of FUNCINPEC. The UNTAC provincial electoral supervisor had the same morning visited the district and specifically told the district governor and the district police chief that UNTAC had authorized the opening of the office. The officials had agreed at the time not to obstruct the opening.

In its efforts to hold on to political power and prevent the possibility of a victory at the polls by the stronger opposition parties, the SOC engaged in a campaign of political violence and intimidation. It has tried to thwart UNTAC efforts to monitor prisons by establishing secret detention centers and refusing to end abusive practices in prisons. It has also engaged in abusive methods of forced conscription. These violations are particularly visible because the SOC is also the Cambodian party that has granted the fullest access to UNTAC personnel, even while trying to resist UNTAC's efforts at monitoring and control.

#### ***Political Violence***

Since UNTAC arrived, dozens of opposition party members have been murdered and dozens of opposition party offices bombed or fired upon throughout Cambodia. FUNCINPEC has been the primary target, but the Buddhist Liberal Democratic Party (BLDP), the main party to emerge from the KPNLF, has also been hard hit. Observers, both Cambodian and foreign, believe SOC

authorities are responsible for most of the violence, and in many cases attacks were preceded by threats from SOC officials or CPAF soldiers.

The frequency of these assaults diminished somewhat in mid-January and February 1993 after UNTAC stationed its police (accompanied by SOC police) in front of offices deemed particularly at risk. However, attacks on party activists continued at their homes or in public spaces, and according to UNTAC officials, the level of violence reached new heights in March and April.

On the night of December 12, a FUNCINPEC election registration observer was assaulted at a celebration at the Traneng Trones pagoda in Kaset commune, Kampong Roh district, Svay Rieng. The FUNCINPEC agent, Sous Sarith, was approached from behind, and when he turned one person struck him in the mouth and another hit his right eye, which he lost. Three other men, all in civilian clothes, also appeared to be in a group with his assailants. UNTAC police at the celebration brought him to the hospital. Duong Saran, the commander of the provincial military police, had the same day been observed driving by the FUNCINPEC office in Traneng Chohn village, eight kilometers from the pagoda, in a military jeep with a mounted machine gun, at about 4:00 p.m. Later that night, about 11:10 p.m., he drove by in the jeep again, and someone threw a rock from the vehicle, striking a person at the gate of the FUNCINPEC office. UNTAC police did observe a military jeep with a machine gun and mount at the pagoda celebration, which was easily identifiable because local CPAF vehicles do not have such mounts. In response to the attack, a joint UN police and military task-force from Phnom Penh visited the province for a day to investigate the matter, but was unable to conclude whether Duong Saran was responsible for the attack on Sous Sarith. As of Asia Watch's February visit, two months after the attack, UNTAC had issued preliminary findings, but had yet to make them public.

Whether the violence was centrally directed or initiated at the local level was not clear. Although UNTAC officials had received numerous reports of secret police units continuing to function within the country, none of the senior administrators Asia Watch spoke with were able to verify whether such units existed or how they were commanded. Many provincial UNTAC officials felt that attacks were either coordinated or condoned by the provincial government, and UNTAC military leaders suspected that regional army units were acting on political directives from the provincial government.<sup>18</sup>

For example, between August and December, many Cambodian sources reported to UNTAC that Ung Samy, the current governor of Battambang and nephew of CPP leader Chea Sim, had organized secret police units to monitor and kill political opponents. As UNTAC officials debated in late 1992 whether to press for Ung Samy's dismissal, the allegations leaked to the press, causing Prime Minister Hun Sen to declare that UNTAC would have to dismiss him first. In early 1993, UNTAC finally sent a letter saying that if political violence continued in the province, it would have to consider dismissing the governor. In February 1993, Hun Sen formally visited Battambang to deplore political violence and pledge cooperation with UNTAC. Violence against opposition party members persisted in March and April, however, and the central, provincial and local governments continued to be unresponsive to UNTAC's efforts to investigate and apprehend perpetrators. As of May 1993, Ung Samy continued to hold his position, and UNTAC had taken no further steps to hold him accountable.

### *Surveillance and Intimidation*

---

<sup>18</sup> UNTAC military leaders believed that regional CPAF units were placed at the disposal of provincial authorities for "political" activities. On the other hand, CPAF often appeared to act independently of any civil authority, and ill-paid soldiers frequently pillage villages and attack villagers for non-political reasons.

On December 20, in Rattanak Mondol district of Battambang province, a CPAF unit arrested 52 persons. All but four were subsequently released: two men suspected of being allied with the Khmer Rouge were found dead by relatives, their hands tied behind their backs. The unit and commander were identified, and the UNTAC Human Rights Component recommended that the matter be taken up by the Special Prosecutor's Office for prosecution and arrest.

On December 28, 1992, at 1:45 a.m. a mine and a rocket-propelled grenade device detonated next to the Rattanak Mondol district office of FUNCINPEC in Battambang province. A FUNCINPEC member and a 12-year-old boy were killed. The attack followed a string of threats, beginning December 1, when four drunk CPAF soldiers came to the office brandishing a handgrenade that they said they would use to blow up the office and kill the members. One of these soldiers was identified as San Sa Moeun, a deminer with the 16th Infantry Battalion based in Treng. On December 24, a man who covered his face partly with a cloth came to the office at around 8:00 p.m. and said someone offered to pay two *dumlung* of gold (about US \$900) to kill one of the occupants of the house. FUNCINPEC members tried to report this incident to UNTAC, but found the UNTAC police office closed. They did report the incident to the local SOC commune police in S'dau, who took no statement and conducted no investigation. On December 27, two men, one dressed as a civilian, the other in a CPAF uniform, approached the office around 4:30 p.m. and made threatening statements. Although the UNTAC police had suspects, none had been apprehended by May.

Apart from direct physical assaults, SOC systematically threatened and intimidated citizens who might join opposition parties. They said that persons who do not support the CPP risk losing any right or benefit guaranteed by the state. Throughout the country, villagers were told they might lose their land or property, or "have accidents" if they did not vote for the CPP. Civil servants were told they would lose their jobs if they support any other party, and indeed, some have.

Provincial party members told Asia Watch in February they were unable to hold public gatherings or discuss politics openly; their activities were limited to often surreptitious face-to-face encounters with people in villages. Many party officials told us in February that they waited for people to come to their offices, rather than venture outside and expose themselves to attack.

The chill on freedom of expression and association was profound, and few party activists had any faith that UNTAC could protect them. Due to concern for the security of their office and members, FUNCINPEC officials in Battambang no longer kept membership lists, but sent them to Phnom Penh for safekeeping. The FUNCINPEC leadership in Prey Veng reported that members were under severe psychological strain. In Kamchay Meas district, home to CPP chairman Chea Sim and former president Heng Samrin, there was a high concentration of heavily armed soldiers, and members would often receive death threats or have shots fired over their homes. BLDP officials in Sisophon told Asia Watch that while they appreciated the efforts of the UNTAC Human Rights staff, "We know about our rights, but we can't use them. What we want is for UNTAC to address our security problems." Some representative incidents follow.

- On December 2, 1992, SOC police arrested a Democratic Party member, Ong Sophat, at 4:00 p.m. in Chhan Trea district, Svay Rieng province. He was held in the district prison for three days until another party member informed UNTAC police, who asked for a report on the reason for the arrest, whereupon he was freed.

On January 2, 1993, several bursts of automatic rifle fire rained into the Bavel district FUNCINPEC office in Battambang province, and a grenade exploded at the house next door. Oun Pak, a man who was sleeping in the office, was shot in the stomach and died two days later. A woman in the house next door was injured. On the night of the attack, UNTAC police and military ignored the shootings, as non-political shootings by CPAF soldiers occurred every night in Bavel town and the surrounding area. The FUNCINPEC office, however, had been the subject of repeated threats by CPAF soldiers, including on December 24, when three soldiers entered the office and harassed the director verbally. The deputy chief of the SOC police in Bavel put forward the theory that Oun Pak was murdered in revenge for the death of one of his associates, who was trading in gems and cattle in the Pailin area. Oun Pak, however, was not a FUNCINPEC member, and just happened to be staying in the office that one night. The FUNCINPEC sign in front of the office was riddled with bullet holes, and four or five armed CPAF soldiers were seen on the road in front of the office right after the shooting. Before he died, Oun Pak said two CPAF soldiers were among the attackers.

Provincial headquarters for FUNCINPEC, however, told Asia Watch that there were local witnesses near the scene who identified the assailants as local SOC police officers, even though the three were wearing civilian-style jackets, dark glasses and scarves wrapped around their heads. He had heard no result of the UNTAC investigation at the time Asia Watch interviewed him in late February.

■ On December 4, at a video parlor in Battambang district, the leaders of Chroy S'dau village and Chroy S'dau commune, a CPAF commander and several other officials threatened FUNCINPEC member Khiev Khoeun, warning him in front of the audience that whoever joins a party other than the CPP should come to the local authorities and make a confession. Those who do join another party should not complain to SOC if they are murdered or robbed, but to their party, as SOC will not

take responsibility for their safety.

- On February 1, at 3:30 p.m. in Pea Raing district, Prey Veng province, three motorcycles each carrying two men armed with pistols and grenades drove up to the district FUNCINPEC party office and called out the name of the local party leader, Ros Meng. The visitors were led by Colonel Chea Sareth, the provincial political-military commander. Chea Sareth ordered Ros Meng to tell him the registration number of his motorcycle. When Ros Meng went to look up the number, Chea Sareth kicked him, and then kicked Ou Sophea, another FUNCINPEC member in the office. He then took off his shoe, and hit the picture of Prince Sihanouk in the office. Everyone in the office became frightened and left the premises. FUNCINPEC officials told Asia Watch they had reported this incident to UNTAC with no result.

On January 3, 1993, at 1:30 a.m., armed men on a motorbike attacked the FUNCINPEC headquarters in Sisonhon, Banteay Meanchey province. According to party officials, they threw a grenade onto the roof of the office, and the men fired AK-47 rifles. In the process, Roen Sopheap, a 21-year-old security guard, was shot to death in the yard outside the office, just inside the fence. UNTAC police arrived at the scene at 6:30 a.m., five hours after the attack, on a routine patrol. A witness interviewed by UNTAC said two men drove up from the direction of the market on motorcycles. One walked to the mango trees on the left side of the building, the other stayed on the road. FUNCINPEC officials told Asia Watch that six people were involved in the attack on the office. No one was able to identify the attackers. The FUNCINPEC office had been the subject of a previous attack on November 23, 1992, when a grenade was thrown under it, injuring three persons. No further attacks occurred after UNTAC stationed police in front at night. Asia Watch was told in mid-February.

**opening of human rights association offices, demanding unnecessary authorizations from central authorities or UNTAC.**

On January 4, 1993 at 2:15 a.m., two grenades were thrown at a house in Mouny Russei district, Battambang province, injuring one woman. The house was owned by an official of the Buddhist Liberal Democratic Party (BLDP), who lived there. The incident took place against a backdrop of repeated harassment of BLDP members by the local SOC commune head, Pinu Mou. The owner of the house, along with other BLDP members, had been twice before summoned by Pinu Mou. The first time was November 30, when Pinu Mou harangued them for two hours straight, threatening to destroy their party signboard and confiscate their house, land and property. On December 8, Pinu Mou accused the BLDP members of betraying the CPP (these members had all denied to him that they had joined the BLDP). UNTAC had warned Pinu Mou after these incidents to cease harassing and intimidating people.

In addition to political parties, several human rights organizations became the target of SOC harassment, further discouraging efforts of Cambodians to exercise freedom of association. ADHOC (the Cambodia Human Rights Association), founded in January 1992, was the first to apply for recognition by the SNC under new rules drafted by UNTAC for the registration of independent associations and political parties. Other human rights groups to emerge were LICADHO (Cambodian League for Human and Citizens' Rights); Outreach; LCDHC (Cambodian League for Human and Citizens Rights); and Human Rights Vigilance of Cambodia. These groups focused primarily on recruiting members -- ADHOC claimed 15,000 members by December 1992, LICADHO 69,000 by early 1993 -- and conducting courses in human rights education, although some undertook investigations as well.

Despite SNC authorization for the groups, SOC authorities viewed the human rights organizations as political opponents in another guise. Human rights activists reported they were often followed by government agents, and when provincial offices held classes in human rights they were often attended by police and other officials. Provincial authorities frequently obstructed the

Some human rights organizers were arrested on suspicion that they were carrying out "political" activities. On September 20, 1992, the director of the provincial office of LICADHO in Kompong Cham was detained overnight in the district administrative headquarters of Srey Santhor and accused of working for a political party. At the time, she was also a leader of the government-sponsored Khmer Women's Association in the district. The Association stopped paying her salary, on the excuse that she had to make up time for her weekend activities for the human rights group. Although UNTAC and LICADHO personnel had protested her detention to the provincial authorities, on September 28 the district leader again summoned her to write a confession that she was working for a political party. She refused, telling him that working for human rights was not the same as politics. In this district high school students were also told by authorities that if they joined LICADHO, they would be expelled from school.

On January 11, 1993 at around 8:00 p.m., five drunk men in civilian clothes entered the FUNCINPEC office in Chhen Kanch village, Ba Phnom district, Prey Veng province. The men threatened four party members inside and began to destroy party records, equipment, furniture and the signboard with two axes they had brought with them. One FUNCINPEC member ran to get UNTAC police at their station 50 meters away, who arrived on the scene in time to apprehend one of the men, Va Ven, an active CPP member. UNTAC police turned Va Ven over to the local SOC police in Ba Phnom, but they discovered the next day he was no longer in jail. Captain Soc Bum Soeum said that a deputy lieutenant released him, without taking a statement or making an investigation, because there was no substantial evidence against him. Another police officer said he was released "for breakfast." UNTAC officials told Asia Watch the local police had difficulty understanding why Va Ven had been arrested, given that he was drunk. UNTAC wrote a letter to the provincial police chief, Brigadier General Pech Chivan, calling his attention to the incident. FUNCINPEC officials interviewed by Asia Watch said that Va Ven had left his home in Tro Pieng Savla village, Chur Kach commune, and was living in another village, where people have seen him living with local police. They complained that UNTAC had not taken effective action, and told Asia Watch they would like UNTAC police to go to his new home and arrest him.

taken into custody, and as they were leaving armed, no further action was taken against them. UNTAC personnel later pointed out the four -- Captain Heng Chev, Captain Keo Sopheat, Mom Chanlick and Chan Chok -- to a CPAF commander as they were eating at a local restaurant. The soldiers eventually returned to their base, but the CPAF commander said the next day he could not pursue the matter further as these men were not in his regiment.

**Provincial SOC authorities forced the closing of an ADHOC office in Svay Rieng on December 10, International Human Rights Day. The acting provincial director of ADHOC had submitted a request for permission to open an office to the UNTAC provincial administrator on August 15, 1992, who then forwarded the request to the governor's office. The governor of Svay Rieng did not accept the list of ADHOC office holders, characterizing them as "local criminals." ADHOC submitted a revised list of office holders, but no**

**action was forthcoming, as the provincial governor claimed he was waiting for instructions from superiors in Phnom Penh before proceeding.**

**On the morning of December 10, International Human Rights Day, an opening ceremony was held at a temple called Wat Prey Chhlak, attended by the UNTAC deputy provincial civil administrator, the UNTAC provincial chief of police, and the UNTAC provincial human rights officer. At 11:15, after the UNTAC officials had left, a large group of SOC provincial police and military came on the scene, dispersed the crowd, took down the office sign, confiscated documents and personal property, and took the ADHOC director and a senior monk to the police station for questioning. Following the incident, the UNTAC provincial administrator, who characterized the ADHOC leadership to Asia Watch as "a bunch of clowns," "alcoholics," and "low caliber," protested the closing of the office. Monks at Wat Prey Chhlak remained intimidated by the authorities, and ADHOC was forced to open an office at another location.**

Between January 31 and February 1, soldiers from the Fifth Division of CPAF detained six persons in the villages of Balad and Noreah II village, in Noreah commune, Sante district, Battambang province. Two were released shortly after they were detained, but four, who were FUNCINPEC members and recently returned refugees from the border, were never seen again. Toch Sopheak, one of the missing, was arrested on January 31, at 9:00 p.m. outside the video theatre near Wat Noreah. Three other men named Chhom Charoeun, Chhav, and Vol Chhen (also known as Chouen) were arrested at 7:30 p.m. at the home of one Roun Theang in Balad village. The arrest was carried out by Captain Youm, commander of Takok military camp and two lieutenants while seven other soldiers surrounded the house. Dozens of witnesses saw the detainees as they were brought to Takok camp. One of the men later released told a UN military observer that he was taken to Takok military camp and interrogated by Captain Youm, who asked him for the whereabouts of another man and accused him of being Khmer Rouge. UNTAC investigators searched Takok camp briefly, and spoke to Captain Youm, the camp commander. During the search, Captain Youm hid, appearing later and saying it was very rude for UNTAC to enter without his permission. He denied any knowledge of the missing men. SOC police and provincial authorities were completely uncooperative in UNTAC's investigation of the case. At one point, the local police chief denied that anyone was missing from the two villages. Witnesses to the incident have been threatened by CPAF soldiers for sneaking to UNTAC. A month after the FUNCINPEC members were abducted, the case was referred to the Special Prosecutor for action, on the assumption that the missing men were probably dead.

SOC authorities told UNTAC investigators that they took these actions because monks had complained about the opening of a human rights office in the pagoda grounds, and wanted the ceremony cancelled and the sign removed. Monks, including the head of the pagoda, have denied this. In fact, a weekly report of the CPP provincial committee of Svay Rieng, dated December 5 - 12, 1992, states that on December 10, "a group of approximately 25 persons claiming that they were from a human rights association held a meeting and inaugurated their office in a temple with the participation of UNTAC, and on that occasion we have taken measures to stop the activity, and they moved away."

This last incident illustrates the pressures upon the state-supervised Buddhist church or *sangha* to support the CPP or at the least to not associate with other groups. Human rights organizations initially sought to open offices on pagoda grounds, because pagodas are a forum for public activity and because the organizations were allowed to use the premises without charge. The organizations also perceived a harmony between traditional Buddhist values and human rights standards. SOC officials, alarmed at the growing popularity of the human rights groups, pressured monks not to permit offices within pagoda grounds, and by late 1992, the human rights groups were forced to use alternative locations.

The Buddhist *sangha* in Cambodia is controlled through a political front organization, headed by two clerics who are members of the CPP and the SOC National Assembly. At religious conventions, it is not unusual for these figures to directly exhort monks that they have a duty to support the CPP. In some pagodas, patriarchs have forbidden monks to attend human rights classes sponsored by the independent groups. One well-known monk from the border, the Venerable Yos Hout, applied to work with the UNTAC Human Rights Component on educational materials, after having

served in Thailand as a consultant on culture for the UN operations in the border camps. Prime Minister Hun Sen, however, stated officially that monks should not participate in UNTAC human rights activities because it would involve them in politics. UNTAC never challenged this, and Venerable Yos Hout did not take the job and went on to work with ADHOC.

### ***Unlawful Detention, Secret Prisons and Prison Conditions***

According to the Paris accords, all Cambodian parties were to release their "prisoners of war" and political prisoners under the direction of the International Committee for the Red Cross (ICRC).<sup>19</sup> SOC began releasing prisoners even prior to the signing of the Paris accords, and claimed it released over a thousand prisoners by October 1991. It resisted ICRC supervision, however, until January 1992.

<sup>19</sup> Comprehensive Settlement, Articles 21, 22. In the settlement, "prisoners of war" is not used in the technical sense of the Geneva Conventions but appears to refer instead to enemy soldiers captured in

**Between January 1992 and February 1993, another 673 prisoners were released under ICRC supervision. UNTAC and other officials interviewed by Asia Watch expressed deep concern that despite the intensifying war, the SOC government was not reporting having taken Khmer Rouge soldiers captive, raising concerns that they might be executing them instead. Although the Khmer Rouge originally denied having such prisoners, Asia Watch sources said a party press communique in 1993 claimed the party had captured more than 100 CPAF soldiers. Their exact number, condition and location were unknown. Only a handful of detainees remained in KPNLF and FUNCINPEC detention sites in February 1993, and the parties claimed to have released all captured enemy soldiers.**

**The UNTAC Human Rights Component began monitoring prisons in June 1992, although was initially only able to gain access to SOC prisons. In September 1992, at UNTAC's suggestion, the SNC adopted provisions on criminal procedure to apply as law in all parts of Cambodia during the transitional period.<sup>20</sup> Among the provisions were the requirements that prisoners must be treated in conformity with the UN's *Standard Minimum Rules for the Treatment of Prisoners*, that any authority which arrests or detains anyone must maintain a prison registry signed by a prosecutor and judge in the area, and that no detainee be subjected to cruel, inhuman or degrading treatment or punishment, including beatings or torture. Shackling and detention in isolation cells were explicitly prohibited as well. These requirements were framed with the SOC's record of abusive prison conditions in mind, but even with UNTAC monitoring, compliance was spotty.**

**In 1992, UNTAC conducted a review of SOC prisons, registering prisoners and reviewing their cases. The vast majority of prisoners had never received a trial. For these persons, UNTAC recommended release where there were compelling humanitarian reasons, insufficient evidence, or where any possible sentence would be less than time already served. The Ministry of National Security established a prisons review commission, which adopted UNTAC's proposals, and hundreds more prisoners were released.**

**The review in some ways created a false distinction between those tried and those not tried, as those convicted after trials were sentenced without the benefit of an independent tribunal, defense counsel, or minimum procedural rights. Since some genuine criminals were among those detained and subsequently freed after UNTAC review, the SOC media complained that UNTAC was releasing violent offenders (not mentioning the government's review and agreement to the releases). The negative publicity, and the need to find other mechanisms to review the legality of detention persuaded UNTAC human rights officers to slow down on direct intervention. Within weeks, prison populations reached pre-UNTAC levels. A new effort to get SOC courts to accept bail applications, habeas corpus actions and challenges under the new UNTAC criminal provisions (see below, Section VI) was underway in early 1993 but had not yet produced significant results.**

**In August 1992, it became clear that one response to UNTAC monitoring of SOC prisons was to hide the existence of some prisons and lock-ups. UNTAC discovered secret prisons in Battambang, Siem Riep and Kompong Cham provinces, and found smaller lock-ups in other areas. Prisoners in these facilities were subjected to abuse, and some were extrajudicially executed. The discoveries confirmed that SOC**

combat.

---

<sup>20</sup> *Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period*, September 10, 1992 (hereinafter "Criminal Provisions").



authorities continued to hold and torture political prisoners, even when they were claiming to be complying with UN standards.

On August 23, 1992, UNTAC investigators entered the T-6 prison in Battambang provincial town. According to some informants, the prison had been set up by the Ministry of Defense in 1979, with the principal purpose of detaining members of opposition factions. The prison was responsible for supervising special undercover police unit established to monitor civilians suspected of belonging to these factions. UNTAC officials received reports on August 22 that prisoners were being transferred or killed. When they entered the facility, it was empty. Hours before the arrival of UNTAC, three prisoners (a common criminal, a FUNCINPEC member and a Khmer Rouge soldier) and one prison guard had been taken to Tipodei mountain in Moug Russei district and executed.

UNTAC investigators also entered a military detention center known as Taseng in Battambang provincial town the same day. Former inmates claimed that hundreds of prisoners had been executed over the years. Amnesty International reported that on June 30, 1992, one inmate accused of robbery was removed from the prison and killed by prison guards who had been paid to do so by a robbery victim.<sup>21</sup> When UNTAC arrived, Taseng held 21 prisoners, nine of them CPAF soldiers, three Khmer Rouge soldiers, one KPNLF soldier, four civilians associated with opposition parties, and four other civilians. UNTAC military supervised the release of all except the CPAF soldiers. No certificate of release was issued to the prisoners, and UNTAC failed to monitor those released during the absence of the provincial human rights officer, but all except one were eventually located.

Abusive conditions of detention, long reported by Amnesty International, were discovered by UNTAC monitors throughout the country. Beatings and shackling were commonplace, prisons overcrowded and unsanitary, and food inadequate. UNTAC made significant progress in improving conditions, in some areas instituting regular medical examinations, upgrading physical quarters, and removing abusive prison officials. These improvements, however, were not uniformly implemented throughout the country, and some abuses such as shackling reappeared in the absence of constant monitoring.

UNTAC officers reported incidents of torture, suspected rape and degrading treatment in many areas. Prisoners have been beaten with sticks, blades, axes, bamboo rods, AK-47s, brass knuckles, and fists, and in some jails guards admitted freely to beating prisoners, unaware that anything was wrong with such behavior. In February 1992, in Battambang provincial prison, a guard named Ten Seng ordered that one prisoner be tied to a tree and a fire lit around him because he tried to escape. The prisoner sustained severe burns on his arms and legs before this torture came to an end. This same guard was observed by UNTAC personnel attempting to burn another prisoner later in the year. Other prisoners in this facility had been hung upside down for half an hour. In April 1993, UNTAC police surrounded the prison and attempted to serve an arrest warrant on Ten Seng, who managed to escape.

UNTAC civil administrators had more success in arranging the removal of the warden of Svay Rieng's provincial prison at the end of 1992. When UNTAC officials first visited the jail it held 79 prisoners, hardly any of whom had been tried. Ten people were chained together in a cell measuring approximately one meter by three meters, and some prisoners showed signs of physical abuse. As of mid-1993, the

---

<sup>21</sup> Amnesty International, *Cambodia: Human Rights Concerns July to December 1992*, p. 12, AI Index ASA 23/1/93 (February 1993).

inmate population had been reduced by half, men and women separated, regular medical checks instituted, and prisoners permitted exercise and gardening.

#### **IV. ABUSES BY THE KHMER ROUGE (PARTY OF DEMOCRATIC KAMPUCHEA)**

Another major faction that a post-election government in Phnom Penh will have to contend with is the party of Democratic Kampuchea, otherwise known as the Khmer Rouge. From 1975 to 1979, the Khmer Rouge presided over the systematic destruction of Cambodian society, and the death of approximately an eighth of the population through starvation, overwork, disease, torture and executions. As part of its campaign to purge Cambodia of "corrupt" influences, the party condoned the systematic execution of ethnic minorities such as the Vietnamese, intellectuals, monks, and any who appeared politically disloyal, including ultimately many of its own members. There is no convincing evidence that the party's leadership or ideology have changed since 1979, and the deliberate killing of civilians, especially ethnic Vietnamese, continued to be an important component of the party's struggle for political power.

The Khmer Rouge took full advantage of the peace process to consolidate its military and political position. The lull in fighting, greater freedom to move around the country, and spontaneous demobilization of many SOC troops helped the Khmer Rouge make military gains under cover of the peace plan. Its fighters expanded control over villages in areas aligned with the non-communist resistance forces (FUNCINPEC and the KPNLF), and the Khmer Rouge is now the predominant military force in the "non-communist" areas. In SOC-controlled territory, Khmer Rouge infiltration has led to pockets of control and influence, where villagers are squeezed by the demands of both the guerrillas and SOC authorities.

Politically too, the Khmer Rouge utilized the accords to its advantage, enjoying the legitimacy conferred by SNC membership. Those who argued for the inclusion of the Khmer Rouge in the peace process had hoped that whatever legitimacy it gained would be offset by the party's military neutralization, and predicted that the Cambodian people would ultimately reject it at the polls. The Khmer Rouge sidestepped these considerations by abandoning the peace process once that process ceased to work to its advantage. The ironic result is that the Khmer Rouge may have more influence and control today than it had before the peace accords were signed.

Little is known about human rights conditions in most enclaves controlled by the Khmer Rouge, because there is virtually no access by outsiders, including UNTAC officials. Access is also difficult even where Khmer Rouge settlements are scattered in SOC-controlled territory, or in areas under nominal control of the non-communist factions. As the elections approached, the Khmer Rouge was increasingly consolidating its economic and political control in these areas and managed to exclude UNTAC election registration teams from villages, communes and districts in many of Cambodia's provinces.

An integral part of the party's strategy was to bend the civilian population to its will through threats reinforced by intimidation, violence, and placement of landmines. By early 1993, the threats centered on intimidating Cambodians into not participating in the elections.

##### ***The Pattern of Infiltration, Intimidation and Control***

There are no distinct borders to Khmer Rouge areas of control in SOC territory. Rather, centers of control fade into ill-defined areas of influence and intimidation. The party's strategy in 1992-93, as it was in 1973-74, is to gain access to villages and either gradually convert villagers into adherents or insert cadre into villages to solidify control. To do this, the guerrillas work to establish economic control over the life of villagers, by taxing access to farmland or places where timber or thatch can be gathered. The Khmer

**Rouge also attempts to discredit local civil authorities through threats, kidnapping, or simple visits that would make them suspect in the eyes of the SOC establishment.<sup>22</sup>**

**Asia Watch visited several areas of Khmer Rouge influence in February 1993. One was a village in the southwest corner of Battambang, not far from the border with Pursat province. The Khmer Rouge base for the area was only 15 kilometers away, and Khmer Rouge soldiers were observed at one end of this village trading turtles. Local residents told Asia Watch that the Khmer Rouge made visits every ten days or so, in groups of about five soldiers. On their most recent visits, the guerrillas had warned residents not to vote if they pitied their wives and children.**

**The leader of this village exemplified the dilemma of people caught between opposing political forces. He had served as village chief for six years, always unwillingly. Each time he had tried to resign, however, the SOC commune and district heads had pressured him, threatening him with conscription, forced labor, jail, or worse. The Khmer Rouge came to his house at least three times each year. Over the last few years, they had kidnapped the heads of several neighboring hamlets, held them hostage, and eventually released them for five sacks of rice. Because of this, he had not slept at home for those six years, and recently he has also made his family sleep elsewhere. People in the village had radios, but they only listened to music, too afraid to even turn on the endless CPP propaganda. "People here only want peace," he said, "they don't care about politics or who wins the elections."**

**The Khmer Rouge in this area used landmines to expropriate land from local villages for their own enrichment. In 1992, the Khmer Rouge claimed control of about 180 hectares of rice paddy belonging to several villages, by planting landmines around it. The guerrillas then planted rice in the fields, or selectively allowed villagers access to their own land, demanding two sacks of rice per hectare farmed (a hectare generally yields about 10 sacks of rice). At plowing season, the Khmer Rouge forced villagers to plow four hectares of land for them before working their own land, a day's work. If the villager plowed more than four hectares, the Khmer Rouge would pay for the labor, but if the villager refused to plow for the Khmer Rouge, they would demand 2,000 Thai baht (US\$80). No one ever refused, out of fear. The Khmer Rouge also hired locals to harvest the crop. At the time of the Asia Watch visit, the party was continuing to lay mines to expand control of territory in the surrounding villages; it was also charging villagers for safe access through the mines to forests and fields.<sup>23</sup>**

### ***Slaughter of Ethnic Vietnamese***

**Three centuries of political subjugation and loss of territory to Vietnam lie behind the almost pathological fear and hatred that many Cambodians feel toward their dominant neighbor. Under the Lon Nol Government (1970-74), long-established communities of ethnic Vietnamese in Cambodia were rounded up into concentration camps. Thousands were massacred wholesale, their bodies dumped into the Mekong River; thousands more fled. The Khmer Rouge continued the slaughter of ethnic Vietnamese and**

---

<sup>22</sup> See Christophe Peschoux, *Les "Nouveaux" Khmers Rouges, Reconstruction du mouvement et reconquête des villages*, Chapter V, (Editions l'Harmattan, Paris, 1992).

<sup>23</sup> At the edge of this village, next to the road and near a school and a municipal building, there is another minefield dating from 1987. UNTAC came to remove the mines, but SOC officials would not permit demining for strategic reasons. The area is now marked by a yellow rope. At the time of the Asia Watch visit, there were 13 amputees among the 380 families in the village.

other minorities during their reign (1974-1978). Following Vietnam's invasion of Cambodia in 1979, ethnic Vietnamese began returning to their homes in Cambodia. The UNTAC mission spurred the recent immigration of tens of thousands more seeking to profit from the economic boom in Phnom Penh.

Publicly, the Khmer Rouge justified their refusal to cooperate with the peace plan by pointing to UNTAC's failure to ensure that no "foreign forces" remain in Cambodia, as stipulated by the Paris accords.<sup>24</sup> The party interprets this phrase as signifying all ethnic Vietnamese, on the theory that ordinary civilians are merely soldiers in disguise. Khmer Rouge deserters have told UNTAC that the party's policy towards ethnic Vietnamese in Cambodia is to consider them all occupying forces that must be eliminated. Even women and children must be killed, because the women bear children and the children can grow up to be soldiers.

An attitude of extreme racism is not exclusive to the Khmer Rouge -- indeed, propaganda by the BLDP and FUNCINPEC has been almost as virulent -- but the coordinated massacres of ethnic Vietnamese communities appear so far to be the work of the Khmer Rouge.

#### **Attacks on Ethnic Vietnamese (D)**

- On July 29, 1992, Khmer Rouge troops reportedly attacked the village of Tuk Meas, located near the Vietnamese border in Manteav Meas district, Kamnot province. Eight ethnic Vietnamese were killed, including a week-old baby, and a three-year-old boy was injured.
- On October 3, 1992, Khmer Rouge soldiers abducted 14 fishermen and killed at least 11 of them in Chamkaleu village, Koh Kong province. The Khmer Rouge had visited the village four days earlier to ask locals for their cooperation in fighting the Vietnamese before the abduction. Twelve of those taken were ethnic Vietnamese, and the Khmer Rouge soldiers were later heard boasting they had killed all 14.
- After setting out on September 26, 1993 from their village of Chhnok Trou, Kompong Chhnang province, eight Vietnamese were abducted by Khmer Rouge troops on the Tonle Sap Lake at Prek Kloh, about 40 kilometers away. The local Khmer Rouge commander initially admitted he had custody of the men and was awaiting instructions from headquarters in Pailin. He later denied the kidnapping, and claimed to know nothing about the men, whose whereabouts remain unknown.
- On December 17, the bodies of three ethnic Vietnamese were found bound together in the Mekong River near Stung Treng. Their throats had been cut. There is no further information on who killed the men, but it is possible they were the subject of a racially motivated attack.
- On December 27, two dozen Khmer Rouge troops attacked Phum Taches, a fishing village in Kompong Tralach district of Kompong Chhnang province. The soldiers fired B-40 rocket-propelled grenades into houses and opened fire with AK 47's on people escaping to the river bank. Thirteen ethnic Vietnamese were killed, four of them children, as well as two ethnic Khmer. Approximately 13 others were injured. According to a UNTAC spokesman, the soldiers asked villagers to point out ethnic Vietnamese. Crude leaflets left behind at the scene said: "Akashi, do not cooperate with the Yuon [a pejorative epithet for Vietnamese] to kill the Cambodian people!...All the punnets must stop serving the Vietnamese political invasion. Stop serving with the Yuon. Be careful or you will be killed!"

**UNTAC has investigated at least six major massacres, and the Khmer Rouge radio approvingly**

<sup>24</sup> Comprehensive Settlement, Article 8.

**reports these and other instances of "the people" killing Vietnamese, while denying responsibility on its part. Few are disposed to believe such disclaimers, given that the Khmer Rouge also deny responsibility for the deaths of over a million Cambodians during their rule, admitting only to unspecified "mistakes."**

**UNTAC completely undercut its own ability to address the issue of the Vietnamese by the way in which it sought to "resolve" the matter of the Vietnamese "forces" which, according to the Khmer Rouge, remained in Cambodia. Under the Paris Accords, all "foreign forces" were to leave Cambodia, and the Khmer Rouge was insisting that UNTAC undertake to find and evict such forces. According to the Khmer Rouge, they numbered in the millions but were living as civilians, awaiting the moment when the SOC or Vietnam might call upon them.**

**In an effort to keep the Khmer Rouge participating in the elections, or at least to limit its non-cooperation, UNTAC hunted for these alleged Vietnamese forces for several months. It increased the number of military posts on the Vietnamese border and created mobile investigation units that concluded no foreign military forces remained. The Khmer Rouge rebuffed these efforts, continuing to broadcast reports on purported Vietnamese military units' movements, yet refused to produce any concrete evidence for UN investigators to pursue. On March 2, 1993, under heavy pressure from the Khmer Rouge, UNTAC suddenly announced that it had discovered three individuals who fit the definition of "foreign forces" in the Paris Accords; they would be expelled from the country.**

**The three men had all served with the Vietnamese army in Cambodia at one time, married Cambodian women, and received Cambodian citizenship cards from the SOC government. One, a 35-year-old ethnic Khmer from Vietnam with a pregnant Cambodian wife and four small children, had been recruited in Cambodia by the Vietnamese army as an interpreter, later interpreted for the SOC military, and now made his living as a motorcycle taxi driver. Once his neighbors discovered he had served in the Vietnamese army, he began to receive death threats. UNTAC admitted that no extra security precautions were being taken to protect the men it had identified.**

### **Attacks on Ethnic Vietnamese (II)**

- **On March 10, 1993, approximately 40 gunmen slaughtered at least 35 persons, including eight children, in an attack on Chong Kneas, a floating fishing village in Siem Reap province. At least 25 others were injured. Villagers accused the Khmer Rouge of the attack. Many persons had apparently died as they were trying to swim to safety, and peacekeepers found children who had their hands blown off or who had been shot in the head. Three attackers were killed. The villagers had moved their floating houses the month before after being warned they would be killed if they remained in Cambodia. SOC authorities had been handing out AK-47s to residents of the 1,200 person community each night and collecting them the next morning.**
- **On March 25, 1993 eight persons were killed in an attack on a fishing village in Kampong Chhnang province. Three children were shot at very close range: one woman was speared to death, and a man clubbed to death with an axe.**
- **On March 29, two persons were killed and 23 injured in a coordinated series of four grenade attacks on businesses run by ethnic Vietnamese in Phnom Penh. A Bangladeshi peacekeeper was shot dead by SOC police when he failed to stop at a checkpoint set up after the blasts.**
- **On March 31, 1993, as Vietnamese fled on their houseboats down the Tonle Sap, a little girl was shot in the abdomen by an unknown attacker in Kampong Chhnang province, on the same side of the shore as the March 25 attack that killed eight.**
- **Khmer Rouge radio broadcast a report that on April 17, inhabitants of Chrov Takeo village in Chrov Takeo commune in Kaoh Thom district, Kandal province killed six ethnic Vietnamese at a pond near the village. The killings were unconfirmed by other sources. The broadcast went on to say that "the people's revolt against the Yuon is now widespread and occurs in the form of small or large scale movements or gatherings of 200 to many thousands of people attacking Yuon villagers, or Yuon floating houses. Grenade attacks, shootings and slashings of the Yuon are now increasing."**

**A week later, UNTAC announced that it had found five more men who had served in the Vietnamese army and were to be expelled. Vietnam refused to accept back any of these individuals, claiming they had become Cambodian citizens. Just as abruptly as it had began, UNTAC ceased to identify "foreign forces."**

**While UNTAC may have wished to prove that it took the Vietnamese-forces issue seriously, its actions had exactly the opposite effect. By identifying a small handful of men, UNTAC both confirmed popular suspicion that demobilized Vietnamese soldiers remained in Cambodia, and undermined its credibility by finding so few. As for mollifying the Khmer Rouge, the futility of such a purpose was underscored emphatically by the March 10 massacre. The day the massacre was announced a Khmer Rouge spokesman claimed that Vietnamese fishermen were organized into Vietnamese Communist Party cells and combat units.<sup>25</sup> Vietnam's government strongly condemned the Khmer Rouge but also laid some responsibility for the massacre at the UN's doorstep, blaming the international community for the mixed signals it had sent to the Khmer Rouge.**

### **V. HUMAN RIGHTS ABUSES IN THE NON-COMMUNIST ZONES**

**The non-communist parties also have a poor record of human rights protection, although their small size make their abuses far less visible. Both are strongest in the northwest area of Banteay Meanchey province known as the "zones", an area demarcated by belts of mined land and numerous**

<sup>25</sup> "KR Claim Fisherman Controlled by SRV," Agence France Presse (Hong Kong), March 11, 1993, reprinted in Foreign Broadcast Information Service/Southeast Asia: FBIS-SEA-93-046, March 11, 1993.

checkpoints that mark the division between the forces of the SOC and the non-communist factions. The area has a population of about 80,000. Four armed forces shared control of the region in May 1993. The Khmer People's Liberation Armed Forces, locally controlled by General Dien Del, occupied the Thmar Pouk area; forces loyal to the Son Sann wing of the KPNLF (the same wing as the Buddhist Liberal Democratic Party), inhabited Banteay Chhmar, and the remnants of FUNCINPEC's army were present in the Ampil region. The Khmer Rouge military was increasingly dominant in these areas, as the non-communist armies devolved into armed gangs. UNTAC has access to villages under administration of the non-communist groups, but election registration teams, UNTAC police and military observers have been barred from some Khmer Rouge-controlled base villages and mixed villages within the "non-communist" region.

For years, the United States poured millions of dollars of aid into this region, funding hospitals for wounded resistance fighters, training soldiers, and building roads. The result was a level of infrastructure superior to that of any other area of rural Cambodia, and a separateness that made some observers despair of ever integrating the "zones" into the rest of the country. At the same time, however, the "zones" were plagued by lawlessness and violence, with military strongmen dispensing "justice" with weapons and earning large sums of money through control of the lucrative border trade with Thailand. Banditry and cattle rustling were rampant, but the zones lacked even the most basic institutions such as courts or prisons to cope with the crime and violence; summary executions of suspected criminals were frequent. Despite UNTAC's efforts to train judges and police for the area, the warlords have stalled attempts to bring the area under rule of law. Expulsion of Vietnamese has also taken place in the zones.

### ***Violence, Executions, and Resistance to Rule of Law***

UNTAC officers confirmed at least three cases of summary execution, and told Asia Watch of finding suspects that had been apprehended by the military tied to trees. The UNTAC police logged over 242 incidents of serious crime between June 16 and November 5, 1992, and estimated that not more than a third of all crime is reported to them. One UNTAC official told Asia Watch it was not unusual for four or five dead bodies a week to turn up in the area. Indeed, a week after Asia Watch's visit in mid-February, an unidentified corpse was found buried just under the UNTAC human rights office, located in a compound guarded by the Dutch battalion.

There were no jails in the region other than a thatched hut with stocks in Thmar Pouk, once used for prisoners of war. After solicitation by the local UNTAC human rights officer, the Dutch government gave funds for construction of a prison. The project was delayed by mid-May, however, and local civil administrators were reluctant to be involved for fear of conflict with the military. Although UNTAC trained judges for the factions in late 1992, none were practicing in the territories as of May 1993.

As elsewhere in Cambodia, the security situation had deteriorated by May 1993. On May 4, 1993, an UNTAC convoy of military, police and electoral workers was ambushed by soldiers, believed by survivors to have been Khmer Rouge. One Japanese police officer was killed, and seven others were wounded by the gunmen. Subsequently, fighting broke out between local Khmer Rouge fighters and FUNCINPEC forces who opposed the Khmer Rouge effort to disrupt the elections.

In Ampil, a FUNCINPEC-controlled enclave, political intimidation was widespread. Inhabitants interviewed in February said that they were told by their village headman that they had to join FUNCINPEC, otherwise they might be killed by "bandits." They were to use their FUNCINPEC card, they continued, "to vote for the picture on the card" -- the party logo. When asked what would happen if they did not vote for FUNCINPEC, one responded, "My hands would be tied behind my back and they would take me out and kill

me." As of February, there was only one competing political party office in Ampil, an office of the Liberal Democratic Party, another offshoot of the KPNLF.

In an effort to control the crime in the zones, UNTAC tried to create a multi-party police force in Thmar Pouk. In February, the force consisted of 20 KPNLAF, 10 BLDP, 5 FUNCINPEC and 10 Khmer Rouge police, most of these former soldiers. It was the only UNTAC training program in which Khmer Rouge fighters took part. The Australian UNTAC police contingent had established a three-week course in investigation, laws, and human rights, and succeeded in getting police rice rations from the stores originally set aside for canted soldiers. The Dutch government supplied the force with uniforms, a barracks, and helped construct two holding cells for suspects from materials used in the border camps. UNTAC officials conceded the going was slow; the Khmer Rouge had not agreed to allow SOC police into the force, and each faction continued to have its own commanding officer in the force rather than submit to unified control. Although the force was beginning to investigate crime, real independence from the factional militaries, it was felt, would have to wait until the police were independently paid.

### ***Expulsion of Vietnamese***

Expulsion of Vietnamese also took place within this region. On December 22, 1992 at 9:30 a.m. UNTAC Civpol was told by Colonel Thach Thy, the First Deputy Commander of the KPNLAF police force, that KPNLAF General Dien Del had issued a verbal order to remove all Vietnamese from the zone. Thach Ty then issued an order, endorsed by the Khmer Rouge and KPNLF commanders, to gather all the Vietnamese in the zone to remove them from the area. While the police brought local Vietnamese to the police station, the UNTAC human rights officer prevailed upon all factions to delay any deportation to the next day, so that he would have an opportunity to interview these persons and determine whether their rights were being violated.

Among the 21 persons were half a dozen women believed to be recently-arrived prostitutes, a number of Vietnamese tradespeople who had arrived within the last year, and several Vietnamese mechanics, one of whom worked for the Khmer Rouge. Only three persons claimed a right to live in the area, and only one, a Cambodian woman of Chinese descent who had spent the Pol Pot years in Vietnam, was able to show she was a Cambodian citizen. She, however, felt unsafe staying behind when the others had been expelled, and agreed to leave. After staying overnight at the police station where they were fed and allowed to wash, these persons were given an opportunity to collect belongings and were escorted to the border with SOC-controlled area by the local police without incident.

## **VI. UNTAC'S RESPONSE TO ABUSES**

Although charged by the Paris accords with "fostering an environment in which respect for human rights shall be ensured,"<sup>26</sup> UNTAC proved unable to respond effectively to the vast majority of these abuses. Peace-keepers never gained access to Khmer Rouge zones, and were progressively barred from areas which the party had infiltrated. The failure of the cease-fire and cantonment part of the peace plan changed the premise on which the rest of the plan was based, and forced UNTAC to operate in an environment in which troops were not demobilized and cease-fires were frequently broken. UNTAC was not prepared for continuing hostilities and the abuses associated with them, and the international community was not prepared to alter or terminate the UN mission.

<sup>26</sup> Comprehensive Settlement, Article 16.



**Other problems fell more squarely within UNTAC's ability to rectify. Civil administrators, few in number and often poorly equipped for the task, failed to gain genuine control over the political authorities and bureaucracies they were to monitor. UNTAC pursued investigations of abuses, but approached corrective action gingerly, unwilling to offend key participants in the peace process. Well-intentioned attempts to secure basic human rights through law foundered on the lack of independent courts, police and defenders. All of this meant that the steps which might have prevented or deterred further human rights violations were not taken and that the environment for the election was thus anything but neutral.**

### ***"Direct Control"***

**The Paris accords mandated that "administrative agencies, bodies and offices which could directly influence the outcome of the elections will be placed under *direct United Nations supervision or control*."<sup>27</sup> The idea of exercising "direct control" was probably unrealistic -- UNTAC officials interviewed by Asia Watch pointed to the inherent impossibility of a handful of foreigners, in the space of less than a year, monitoring and imposing neutral behavior upon an authoritarian bureaucracy determined to resist control. That argument, however, avoids the issue of UNTAC's own responsibility for the failure of supervision and control.**

**One contributing factor was inadequate or inappropriate staffing. Many civil administration positions were left unfilled, with only one or two professionals monitoring a ministry. Posts were often occupied by personnel with no direct experience in their area of supervision, in Asia, or in socialist government institutions, much less familiarity with Cambodia or the Khmer language.**

**UNTAC officials also had widely varying interpretations of what constituted "direct control or supervision." The Civil Administration component and UNTAC legal advisers took a narrow view that UNTAC's mandate limited it to advising, consulting and observing the administration, suggesting policy directives, and occasionally requesting the transfer or dismissal of officials. One official described his work as negotiation and patient persuasion, with limited intervention -- not "sitting at the telephone and firing people." None of the UNTAC administrators interviewed by Asia Watch had offices at the location of the ministries or administrations they supervised, and most relied on briefings by their Cambodian counterparts to follow their activities. As another administrator put it, "I don't go around reading over people's shoulders and opening drawers." It was commonly believed by UNTAC officials that SOC authorities used back channels of communication to evade their supervision.**

**At the time of the Asia Watch visit, the Ministry of National Security (formerly the Ministry of the Interior), was supervised by two UNTAC administrators, who could not describe the activities of various departments of the Ministry such as Counter-Terrorism or Foreigner Surveillance, or confirm whether or not secret police units continued to operate. They said, however, that the ministry had given them free access to all documents, and the attitude of civil servants was generally cooperative. The UNTAC officials had succeeded in having a handful of lower-level officials dismissed or transferred for abuses, had gotten the ministry to issue a directive against extortion and misconduct by police, and had investigated reports**

---

<sup>27</sup> Comprehensive Settlement, Article 6 (emphasis added). According to one observer at the peace talks, China, pursuing the interests of its client, the Khmer Rouge vis a vis the SOC government, proposed the term "direct control." The USSR, on behalf of the SOC, preferred "supervision." This gap could not be bridged, so a third country suggested that both be included as a compromise.

**of secret police training camps and found them without basis.**

**The administrator in charge of the Ministry of Defense had the daily correspondence of the ministry pass through his office, with the result that there was less and less official communication. He had also negotiated a directive enjoining military personnel from using their position to promote political activities or to threaten or harm civilians. The directive, which also holds officers responsible for the conduct of subordinates, was prepared in late October; it was not signed by SOC and the non-communist armed forces until late January. As of February 19, 1993, a special military investigations committee was instituted to examine cases of abuse by CPAF personnel. Two CPAF military officers had also been transferred or demoted for misconduct.**

**When Asia Watch visited in February, the UNTAC supervisor for the Ministry of Justice was primarily occupied with training judges and procurators in the new UNTAC criminal provisions and advising the ministry on new legislation. She was aware of large backlogs in most courts but not the specifics of their operation, and had designed a questionnaire to learn more. Although civil administrators and human rights officers visited provincial courts from time to time, there was no system of regular, coordinated supervision.**

**Although many administrators worked conscientiously to exert influence over their Cambodian counterparts, others did not, and initiatives were often undermined by lack of support at the top of the UNTAC hierarchy. When requests for dismissal of low-level officials stalled, administrators were left without recourse, given UNTAC's unwillingness to replace the heads of the ministries involved. While UN personnel received huge per diem salary supplements, the administrators running legal training seminars could not get UNTAC to provide coffee for the Cambodians who had travelled at their own expense to attend.**

**Clear standards of conduct were never set out at the beginning, for either Cambodian administrators or UNTAC supervisors. In the case of the Cambodian officials, this made holding them to account for the delinquencies of their subordinates difficult later on. In the case of UNTAC personnel, the failure to set clear guidelines for behavior caused them to lose respect and their aura of neutrality in the eyes of Cambodians.**

**In the provinces it was common for UNTAC administrators and other personnel to fraternize with SOC authorities, accepting invitations to weddings and banquets without consideration of how this compromised their reputation for political neutrality. A similar problem applied to UNTAC military and police, who quickly degraded themselves in the eyes of Cambodians by frequenting prostitutes and taking in local women as temporary wives.<sup>28</sup> One provincial administrator whose home had recently been robbed told Asia Watch he now placed landmines around his residence every night. While this is a common practice among Cambodians, it should not be for UN officials in an operation that conducts landmine education and eradication. This same official thought it would be effective to show a human rights video to the public at the home of a local general, and was unaware that public video parlors operated in the local market. Lapses of judgement such as these amounted to more than inappropriate behavior; they compromised UNTAC's authority to set standards for the Cambodian administration.**

---

<sup>28</sup> Mr. Akashi drew criticism in September 1992 when in response to complaints about UNTAC men patronizing prostitutes he expressed indulgence and merely prohibited UN vehicles from being parked outside brothels. In February, UNTAC Civpol issued the latest in a series of directives banning "romantic relationships" and "relations with local women and prostitutes from neighboring countries." Asia Watch interviewed at least one UNTAC acting provincial police commander who did not believe that using prostitutes was forbidden, only making marriage promises that could not be fulfilled.

### ***Human Rights Investigation and "Corrective Action"***

**UNTAC deliberately restricted itself at the outset to investigating and reporting on abuses that occurred on its watch. Killings that had taken place between the signing of the Paris Accords and the arrival of Special Representative Akashi, or for that matter the myriad killings that had occurred even earlier, were deemed too difficult to research. The international community also signalled that these issues were diplomatically off-limits, as evidenced by the various euphemisms, in the Paris accords, for the holocaust directed by the Khmer Rouge.<sup>29</sup>**

**Yet even within its own limits, UNTAC set a bad precedent for human rights investigations in Cambodia early on. The week that Akashi arrived in Cambodia, Yang Horn, a former political prisoner who had participated in an attempt to create an opposition party, was fatally wounded. He had been struck by a mysterious blow to the head just after leaving a restaurant, where his former jailors had summoned him to warn him not to engage in further political activity. The few UNTAC officials present in Phnom Penh at the time conducted a summary and inconclusive investigation, and Akashi decried political violence generally, but no further attempt to delve into what most believed was a political murder was attempted. The incident set a precedent for inconclusive investigations leading to no corrective action.**

**The initial approach of UNTAC police was to prod their Cambodian counterparts to conduct investigations. In cases involving political violence, or misconduct by Cambodian military personnel, this proved singularly ineffective. Police often appeared to be complicit in political abuses, and the military did not recognize civil authority over its personnel, even when they were accused of common crimes against civilians. It was not uncommon for local police to conduct no investigation at all, even when under pressure from UNTAC police.**

**UNTAC police regularly conducted their own inquiries, often in conjunction with human rights officers. Many UNTAC police, however, lacked training in investigation, or other appropriate qualifications. For example, over a third of the personnel provided to the UN were unable to drive, hampering patrols in the countryside. A significant number of civilian police spoke neither French nor English, limiting radio communications, and some countries sent civil servants with no police experience at all.**

**The UNTAC Human Rights component was originally conceived as primarily an education unit, and allotted only 10 professional staff. It was eventually expanded to include field officers in each of Cambodia's 21 provinces and municipalities who devoted most of their time to documenting abuses, and a half-dozen full time investigators in the Phnom Penh headquarters. At the time of the Asia Watch visit, there were no vehicles for the field staff, who had to rely on cooperation from other UNTAC personnel in order to undertake monitoring or investigations. The component's field and investigations staff were overwhelmed with major incidents of serious abuse, which were taking place virtually every day.**

---

<sup>29</sup> **This approach, while pragmatic, has limited the information available to Cambodians as they prepare to vote for new leaders. While the atrocities of the Khmer Rouge and the repressive acts of the SOC are generally known, the same cannot be said of the systematic abuses of the smaller factions, whose conduct is known mainly to those in localities and refugee camps they controlled. For example, only those who have lived in the Site 2 camp are likely to recognize a leader of one small, new party as a former KPNLF chief judge who was convicted of rape in one instance, was believed responsible for other rapes and acts of coercion, and who subsequently escaped from jail to become a candidate in the elections.**

Investigations were also plagued by problems such as lack of coordination, confidentiality or procedures for witness protection. Other UNTAC components complained that the Human Rights component was unwilling to share its files, but human rights investigators related instances where confidential information or the names of witnesses or complainants were leaked to SOC authorities, usually through contacts in civil administration or the police.

Cambodians who brought complaints to UNTAC told Asia Watch they were frustrated by UNTAC's lack of response or inability to correct abuses it had investigated. Many who discussed human rights problems with the Asia Watch delegation said that they were reluctant to complain to UNTAC, because UNTAC was unable to protect them from reprisal.

The Paris accords specifically mandate UNTAC to not only investigate human rights complaints, but also to take "corrective action."<sup>30</sup> UNTAC initially interpreted this phrase as mandating a limited range of actions: denunciations and requests for dismissal or transfer. Only when these proved ineffective did UNTAC broaden its interpretation of "corrective action" to include other initiatives, such as prosecution.

Denunciation was used to some effect by Special Representative Akashi, who issued strong public criticism of SNC members for violations of the accords on a number of occasions and who did not hesitate to deplore the lack of a neutral political atmosphere. But in general, the Special Representative's office took a conciliatory approach when discussing serious human rights abuses with the parties, rather than do anything that would derail the inexorable move toward elections. At the provincial level, UNTAC officers often followed up complaints and investigations with local officials. Only occasionally was this enough to abate harassment and intimidation. At headquarters in Phnom Penh, the Special Representative's office asked for cooperation and condemned abuses, but did not insist on the accountability of high officials for serious violations.

The Civil Administration component requested dismissals and transfers of abusive officials sparingly, and few occurred. Asia Watch was told in early February that fewer than a dozen dismissals or transfers were recorded by the Civil Administration component, with another half-dozen requests still pending. Most of the dismissals did not involve high-level officials or serious human rights abuses. Although UNTAC did gain the transfer of the governor of Kampong Chhnang for corruption to a new post (Vice-Minister of Religious Sects), it had not, by May 1993, ordered the dismissal of governors in provinces racked by political killings.

SOC action on dismissals stalled after the Human Rights component brought its first request, for the dismissal of a policeman named Iem Sy Pheng. A large crowd witnessed Iem Sy Pheng beat a suspect he was apprehending, and a number of persons went to the Human Rights component demanding intervention. In addition to the testimony of numerous witnesses, Iem Sy Pheng himself admitted he joined other police in beating and kicking the suspect after he fell off a motorcycle on the way to the station, because he was "angry" with him. Although an UNTAC human rights officer got SOC prison officials to promise that they would not question or touch the suspect, that same afternoon the suspect was forced to sign a statement that the beating occurred while he was attempting to escape.

SOC officials opposed dismissal in this case, as the victim was a well-known criminal and armed at

---

<sup>30</sup> Comprehensive Settlement, Annex I(E)(c).

the time of his arrest. Witnesses, however, testified that the suspect was handcuffed before the police drew his own pistol from his waist and beat him with it. UNTAC administrators wrote a letter detailing the allegations against Iem Sy Pheng and requested a response – rather than ordering a dismissal. When SOC authorities balked, a joint SOC-UNTAC commission was established to review the evidence. The commission was ultimately dissolved without resolution of the case, Iem Sy Pheng retained his job, and the suspect escaped from jail. Since the case, few other dismissals took place.

Given UNTAC's unwillingness to insist on even the removal of a policeman, more sweeping measures became unthinkable, such as replacing the heads of ministries, governors, police chiefs or military bosses who stalled investigations or failed to punish abusive officials. The result was an atmosphere of impunity, where officials felt free to openly lie to and mock UNTAC representatives, and carry on business as usual.

### ***Law-Making and Enforcement***

During its 17-month tenure, UNTAC formulated several laws designed to protect human rights, but it did not, and perhaps could not, undertake the kind of far-ranging institutional reforms that would ensure those laws would be enforced.

Opinions were divided within UNTAC as to how to approach the SOC judicial system. Fewer than a dozen professionally educated lawyers survived the Khmer Rouge years, and their numbers had further diminished through deaths and departures. Although the SOC had instituted training programs for judicial cadre and prosecutors, these brief programs were heavy on political indoctrination and short on law.<sup>31</sup> UNTAC officers reported that it was not uncommon to find judges who were functionally illiterate.

Courts were barely operating, with massive case backlogs in each province. In Prey Veng, approximately four trials had taken place in the past decade; in Stung Treng, about two trials in the past four years. As of February 1993, there was no independent bar nor appellate court review. Judges were completely unable to enforce orders against the police or any other government official. The Ministry of Justice and the Supreme Court were able to interfere in trials and direct judgments.

Given this state of affairs, some UNTAC officials believed the best approach was to start as if from a blank slate, instituting legal procedures that would guarantee a minimum standard of procedural and substantive justice. Others looked to Cambodia's French-influenced legal history, and advocated allowing the Ministry of Justice to formulate its own rules, with guidance from the past and from foreign legal professionals and UNTAC administrators. Both approaches were followed to some extent, with mixed results.

On September 10, 1992, the SNC ratified an UNTAC-drafted set of provisions on criminal law, procedure and the judiciary. These provisions were intended to be enforced as law in the domestic courts of all parties during the transitional period, although only the SOC had courts at the time. The provisions were hastily drafted, and in some respects defective. Although substantive crimes were enumerated, normal criminal defenses (such as incapacity, mistake of fact, or extreme youth) were absent. Libel was

---

<sup>31</sup> See "The Cambodian Legal System: An Overview" by Dolores A. Donovan, in *Rebuilding Cambodia: Human resources, Human Rights, and Law*, Frederick Z. Brown, ed., (Foreign Policy Institute, The Paul H. Nitze School of Advanced International Studies, Johns Hopkins University: 1993).

**punishable, but truth not a defense.<sup>32</sup>**

**Despite these flaws, the provisions did lay out important procedural guarantees, such as the right of a suspect to be brought before a judge and have access to a lawyer or personal representative no more than 48 hours after detention; the abolition of administrative detention and prohibition of torture or mistreatment; the requirement that a file be compiled for each detainee; the right of counsel for each suspect to have access to that file; the requirement that detainees be listed on a roster of each prison and that they be held no longer than six months without judgement; and the stipulation that detainees whose defense had been seriously compromised by official violations of such procedures be released. The provisions abolished the death penalty also nullified any contrary "text provision, or written or unwritten rule."<sup>33</sup>**

**Although UNTAC had still not produced an authoritative Khmer language version of the law by the time of Asia Watch's February visit, it held several two-week training sessions for judges in the new code. Various components of UNTAC also held training sessions for police and other officials in basic human rights standards, and the Human Rights component held two training sessions to teach persons how to act as criminal defenders under the provisions.**

**No SOC court, however, enforced the UNTAC provisions until after January 28, 1993, when the National Assembly passed its own law on criminal procedure, designed to supplement the UNTAC code.<sup>34</sup> The SOC law was in some respects in conflict with the UNTAC code, as, for example, in not requiring suspects to be brought before a judge within 48 hours or freed.<sup>35</sup> Cambodian judges felt this requirement to be contrary to the established procedure whereby procurators authorized temporary detention, and also were unwilling to order suspects released should the police fail to produce them in time.**

**But the single most controversial feature of the UNTAC provisions was the first article, which stipulated that the judiciary was to be independent. Judges in Svay Rieng, who appeared to well understand the concept, told Asia Watch that this was completely impracticable. Their position and salaries, which at less than US\$30 per month fell far short of the cost of living, came to them from the SOC; if UNTAC wished them to be independent, they would appreciate independent and adequate remuneration, and bodyguards as well.**

**UNTAC's failure to take more concrete steps to establish an independent judiciary ultimately defeated its later efforts to prosecute serious human rights abuses. Various measures proposed and**

---

<sup>32</sup> Strangely, copyrights were to be protected during the transitional period, although no penalty for infringement was stipulated.

<sup>33</sup> Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period, Article 73 (September 10, 1992). The text does not specify whether this rule is to have prospective or retroactive application.

<sup>34</sup> This is not to say that the UNTAC code was unknown. One Cambodian human rights activist related an incident where a man, accused of raping a woman, was summoned to the office of her brother, a military official. While fingering his pistol, the officer informed the man that he had a few days to come up with the damages the family had asked for, otherwise it would be five to ten years in jail under the UNTAC law.

<sup>35</sup> *Loi Portant Sur La Procedure en Matière Penale*, Chapter II (specifying procedures to prepare and submit a report on each case to the judge, and to produce the suspect to the procurator).

never adopted including putting judges on a salary of about \$500 per month from UNTAC funds or appointing foreign jurists to monitor, supervise and participate in each court until Cambodian judges acquire a modicum of independence and expertise. By February, UNTAC had trained 60 persons in criminal defense, but only one of the 60 was acting as a defender before the courts as of Asia Watch's visit, and that person had been hired directly by the Human Rights Component. Without practical steps to create an independent bar and with trainees reluctant to practice, the prisons emptied by UNTAC human rights officers quickly filled again with persons unlawfully detained and no lawyers to come to their aid.

A case in point was the arrest and detention on December 19, 1992 of two Democratic Party activists in Svay Rieng province for their involvement in a violent dispute. UNTAC police handed the two over to SOC authorities who put them in jail; the activists remained there as of Asia Watch's visit in February. Democratic Party officials had tried to find someone to represent the pair and challenge their continued detention in court, but all the eligible persons they approached, including relatives of the men, were frightened that they too would be imprisoned if they accepted this role. Although In Tam, the leader of the Democratic Party, was willing to challenge the pair's detention, he was ineligible under the UNTAC criminal code, which disqualifies executive-level officials of political parties from representing persons accused.<sup>36</sup>

### ***The Special Prosecutor and the "Action Cell"***

In December 1992, frustration with UNTAC's approach to political violence came to a head after an attack on a FUNCINPEC member who lost his eye (see above, p.9). This incident, following a string of murders of other FUNCINPEC activists, prompted Prince Sihanouk to declare he would no longer cooperate politically with UNTAC.

In response, Special Representative Akashi announced a set of new measures designed to strengthen UNTAC's ability to respond to political violence. Directive 93/1 of January 1993 authorized UNTAC to prosecute cases involving serious human rights violations, to make arrests and detain suspects in such cases, and to use the courts and prisons of the Cambodian parties for this purpose. A "Special Prosecutor's Office" was created, and an UNTAC human rights officer was named to the post. The office was strongly opposed within UNTAC by the Civil Administration component, which considered it far beyond UNTAC's mandate, but Akashi overruled these objections. In its first month of operation, UNTAC succeeded in taking two suspects into custody.

The first was Em Chan, a SOC policeman who was arrested January 16, 1992 and charged with the January 14 murder of a FUNCINPEC party officer in Kampot province. Within 48 hours of his arrest, as stipulated by the UNTAC criminal provisions, the Special Prosecutor brought Em Chan before the chief judge of the Phnom Penh municipal court, who authorized his continued detention for two weeks.

The second was Than Tuean, a Khmer Rouge deserter who turned himself over to UNTAC and was arrested on January 26 for allegedly taking part in a massacre of 13 ethnic Vietnamese and two ethnic Khmers in the village of Kampong Tralach, Kampong Chhnang province. Before transferring him to Phnom Penh, UNTAC officials interviewed this man and had him perform a re-enactment of the massacre, which they videotaped, without defense counsel present.

---

<sup>36</sup> Criminal Provisions, Article 7(2).

But when the Special Prosecutor brought him before the same Phnom Penh judge on January 28, the judge refused to cooperate. He had been advised by the Ministry of Justice that his earlier agreement to detain the first suspect was wrong, and that he would be punished if he repeated his error or extended detention in Em Chan's case. The Ministry told UNTAC officials that Phnom Penh courts did not have jurisdiction over incidents involving persons and actions in other provinces, and members of the Civil Administration component privately echoed this opinion, despite the fact that the Phnom Penh court had often heard cases from other provinces, and the main jail in Phnom Penh had many prisoners from other provinces awaiting trial in the capital. UNTAC ruled out transferring such cases to provincial courts because of security considerations.<sup>37</sup>

UNTAC thus found itself in custody of two Cambodians in violation of its own rules on criminal procedure. Akashi in February issued a second directive, extending indefinitely the detention of both suspects until a court could be found to hear the matter, thereby violating international human rights law as well.<sup>38</sup> As of May 1993, the two men had been housed temporarily in an UNTAC troop barracks for well over 100 days.

Without a court to try and punish offenders, the only deterrent effect of the Special Prosecutor's Office has been the prospect of arrest and detention. But even this strategy has been further compromised by an executive committee of top UNTAC administrators known as the "Action Cell." This committee, established in 1992 to decide on whether UNTAC should request the Cambodian parties to dismiss abusive officials, also took control of the decision whether to arrest and prosecute offenders.

Considerations of diplomacy have undermined effective action in many cases. After months of deliberation, the Action Cell authorized the arrest of seven CPAF officers in Battambang who had kidnapped four FUNCINPEC members (see Section III, above). SOC officials thwarted every attempt to hold the CPAF men responsible and have the victims produced. But the Action Cell decided that before UNTAC would make the arrests, it would give SOC one week to produce the seven on its own initiative. The deadline passed without result, and when an UNTAC contingent went to serve arrest warrants on March 9, 1993, it found the military compound deserted, and the seven suspects transferred to the Pailin front.

---

<sup>37</sup> Although some have argued that "corrective action" mandated by the peace accords for human rights abuses implies no more than policy action or dismissals, there is no reason it cannot indicate arrest, prosecution, and imprisonment as a remedy as well. UNTAC's "direct control" of public security matters should also, at a minimum, allow it to appoint its personnel in this area, such as the Special Prosecutor, and take steps to ensure its policies, such as the criminal provisions, are carried out.

On jurisdiction, the UNTAC criminal provisions, which nullify conflicting Cambodian law, provides that trial courts "have general jurisdiction over the application" of the provisions (Article 3(2)). The provisions contain no geographical limitations. The Tan Tuean case was not the first time UNTAC adopted this position. While no prison and court existed in the non-communist factions' zones, UNTAC officials had negotiated with SOC courts to take custody and try suspects apprehended in these zones. At that time it was felt that persons from one part of Cambodia could not be deprived of rule of law because criminal justice facilities had yet to be installed there.

<sup>38</sup> International Covenant on Civil and Political Rights, Article 9(1) provides in relevant part:  
No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Article 9(3) further provides:

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or release. [...]



**A similar strategy foiled attempts to arrest CPAF soldiers who had executed a Khmer Rouge soldier. On January 24, a Khmer Rouge soldier named Moung was arrested by CPAF soldiers in Tang Trapeang village, Pich Changra commune, Baribo district, Kampong Chhnang province. UNTAC police found Moung's body buried half a meter underground a few days later. A CPAF platoon leader said that three soldiers had opened fire when Moung tried to escape, and that he was shot at a range of 200 meters in the middle of a firefight between CPAF and Khmer Rouge soldiers. Residents, however, said the area had been free of fighting at the time. Other observers suggested that Moung was shot because of a personal dispute with one of his captors, Son Thoeun. Whatever the reason, it was clear that CPAF soldiers were involved. Upon exhumation, Moung's body showed he had been shot at a range of 30 centimeters and killed by a bullet fired from the front of his head through his right eye. His body, dressed in civilian clothes, also showed bayonet thrust wounds to the back, and cuts to the arm and shoulder consistent with torture or beating.**

**In February, the Action Cell decided not to prosecute the case. Despite the clear forensic evidence, there was concern expressed about whether guilt could be proven, and some members felt that an arrest might open UNTAC to criticism it was partial to the Khmer Rouge. Instead, it was decided that the UNTAC provincial administrator would write to the CPAF provincial authority requesting disciplinary action. Some time later, the Action Cell did authorize the issuing of arrest warrants for the offenders, but by that time they had disappeared as well.**

**In the case of the prison guard in Battambang's provincial jail who tortured and burned inmates, the Action Cell did authorize the arrest without first warning SOC authorities. The individual, however, remained as a guard in the prison for months after his brutalities had been known. The Action Cell took charge of the affair even down to reviewing the specific police plans for the arrest; even so, the suspect escaped.**

**By May, UNTAC had only managed to take two prisoners into custody,<sup>39</sup> although there is sufficient evidence to justify arrests in many more cases. Although many Cambodians, including the indigenous human rights groups, welcomed UNTAC taking a more active law enforcement role, there was little enthusiasm on the part of the peacekeepers for making arrests, given that there is no jail, no armed police force, no independent tribunal to authorize detention and hear the case, and no strategy to protect those who might be called to testify.**

## **VII. THE ELECTIONS**

**The failure to cope with human rights abuses more generally left UNTAC in a weaker position to deal with electoral abuses. Local administrators, having seen little to fear from UNTAC officials, engaged in intimidation and coercion to persuade people to vote for their respective parties. An electoral law, drafted by UNTAC and approved by the SNC, listed as offenses threats, intimidation or bribery to influence voters, infringement of secrecy of the ballot, confiscation of voter cards, and various types of electoral fraud. Penalties for these offenses include disenfranchisement and, for offending individuals and political parties, disqualification from standing in the election. These penalties were not enforced. The Information and Electoral components of UNTAC tried to ensure a fair chance for the opposition in SOC-controlled**

---

<sup>39</sup> UNTAC police have cooperated with SOC police in apprehending a Prey Veng commune chief and others accused of gunning down an opposition member in his home on March 28, 1993. These suspects are being held in the Prey Veng jail, while the Prey Veng provincial court reviews the case. Although the Special Prosecutor has presented arguments to the court, the case is not under his aegis but under that of local authorities.

territory, but the CPP still retained an enormous advantage in resources. Many Cambodians feared that UNTAC would be unable to guarantee the secrecy of the ballot. And as the Khmer Rouge began a campaign to sabotage the elections through violence, the fairness of the May vote, secret ballot or not, became more and more problematic.

### ***Voter Registration, Party Cards and Intimidation***

One conspicuous success of the UNTAC operation so far has been registering approximately 4.6 million Cambodians to vote -- 96 percent of estimated eligible voters. UNTAC registration teams conducted vigorous civic education about registration and set up registration points throughout the countryside, venturing even into Khmer Rouge villages to issue Cambodians voter registration cards. The registration operation, which began in October 1992, was completed in January 1993.

It is questionable, however, whether the only conclusion to be drawn from the high registration figures, as UN Secretary General Boutros Boutros-Ghali suggested, is that "the Cambodian people as a whole have shown that they desire an election."<sup>40</sup>

Cards, for many Cambodians, signify both political protection and control. Many who registered to vote were eager to gain a sense of protection and belonging by acquiring a UN identity document with their photograph. Ethnic Vietnamese migrants to Cambodia also registered in various parts of the country in order to obtain some proof of Cambodian citizenship, even if they did not intend to vote. Indeed, the voter registration card has to some extent replaced the SOC identity card, which used to be essential to travel in the country. According to Cambodians Asia Watch interviewed, even without a SOC identity card they were able to avoid (or mitigate) official extortion or arrest at roadblocks by showing their voter's card. Nor was the appetite for cards restricted to UNTAC cards. All parties handed out cards to their members, as did the human rights organizations. Many Cambodians were eager to collect as many cards as possible so that they would not be tied to a particular party.

Another important factor in the success of voter registration was the concerted effort of the SOC administration to organize voters to register. In villages throughout Cambodia, village and commune leaders marshalled all adults to travel to registration points. An equally concerted effort has been made by local authorities to ensure that registered voters support the ruling party, the Cambodian People's Party. Since late 1992, SOC administrators have spread the message that the vote will not be secret, and citizens who do not vote for the CPP can expect reprisals. Among the more fanciful stories given to peasants were that the SOC would observe their vote from satellites, or through magic pencils they must use on the ballot.

Another tactic was for local officials to examine and record the information and registration number on the UNTAC card. This practice was prevalent in Phnom Penh. Most persons interviewed felt that this was simply done to intimidate people and make them believe that SOC (or whichever party) would be able to trace their vote. Some were concerned, however, that this was an attempt to create new dossiers or surveillance systems, as SOC identity cards had been keyed to political biographies of citizens which were kept in dossiers in police stations.

It should be noted that similar pressures existed in the non-communist zones; in FUNCINPEC

---

<sup>40</sup> "UN Says Cambodia Polls to Proceed Despite Obstacles," by Anthony Goodman, *Reuter* May 7, 1993.

territory, all residents were also expected to have party cards, (just as refugees in Site B, the FUNCINPEC camp on the Thai-Cambodian border, were required to have cards while they were in the camp and after they returned to Cambodia). For its part, the Khmer Rouge threatened to kill anyone who voted in the elections at all.

### ***Voter Card Confiscation***

In December and January, many political parties began confiscating voter registration cards. UNTAC officials confirmed incidents of confiscation in 12 of 21 provinces and municipalities, and suspected it was taking place throughout the country. The immediate cause appeared to be the requirement that provisionally registered political parties produce lists of 5,000 registered voters to be included on the ballot. In some areas, SOC officials had confiscated cards "for safekeeping," but in others they had actually destroyed cards, or told people they could discard their UNTAC card once they received a CPP card. In Khmer Rouge areas too, voter cards were confiscated and destroyed. UNTAC made a formal complaint to Hun Sen on February 16, 1993, recalling that confiscation of cards is a direct violation of the UNTAC electoral law. On February 19, the SOC Vice Minister of the Interior, Sok An, issued a directive saying that "if such cases of confiscation truly exist," they would not conform to the electoral law, and that practices such as taking a count of cards must be avoided as this could be interpreted as intimidation. Asia Watch received unconfirmed reports that cards had been returned by SOC officials in some districts subsequently. It was not clear as of February whether voter card confiscation would prove to be a major problem for UNTAC.<sup>41</sup>

### ***Campaign Practices and Publicity***

UNTAC officials tried with some success to curb SOC abuses such as having police and military officials wear the CPP logo, or placing the party logo in courts and police stations. UNTAC has been less successful in preventing SOC from converting administrative buildings throughout the country into CPP offices, and in monitoring the use of government civil servants and government property for the campaign.

UNTAC limited the period for official campaigning to six weeks prior to the election, hoping thereby to minimize the potential for political violence and to control security better. This limit had no effect on the dominant party in each area. The SOC, for example, began even legitimate activities months in advance, disseminating posters with the party logo, and broadcasting propaganda. In terms of media exposure, SOC has a definite advantage as it is the only Cambodian party with its own television station.

The SOC turned over an entire radio transmitter for UNTAC's use, and UNTAC has provided other parties with airtime for their political messages. It has also recorded political roundtable discussions for airing over SOC television, as well as videos on the elections and human rights. UNTAC has also mounted an aggressive and creative campaign to teach villagers about the secrecy of the ballot, using video, radio, travelling theatre troupes, and human rights lecturers.

---

<sup>41</sup> When voters lose their cards, there are procedures for them to tender ballots that require them to write their name and residence on an envelope enclosing their sealed ballot. These ballots will be taken to Phnom Penh and checked against computer files of all registered voters; if the individual is registered, the outer envelope is discarded, and his or her ballot put in a pile with others to be counted. There was some concern that the requirement of signing the ballot envelope may convince many their vote is not secret.

**The backdrop of political violence, intimidation and general insecurity in the country, however, pose formidable obstacles to reassuring voters that they may vote their conscience. Deepening violence in Cambodia has restricted the movement and activities of ordinary Cambodians, of political activists, and of the UN itself. Following the murder of a Japanese election worker in April, 30 other volunteer election workers decided to leave their posts from concern that UNTAC could not guarantee their safety. Attacks on UN personnel have forced UNTAC to cancel plans for polling stations in particularly insecure districts, scaling back operations as much as ten percent or more.**

## **VIII. CONCLUSIONS AND RECOMMENDATIONS**

**At the beginning of this report, Asia Watch raised the question of what the UN and the international community might have done differently. Some observers question whether the Khmer Rouge should ever have been included in the plan from the outset, or whether it was possible to mount such a huge operation with such little regional expertise and expect it to succeed. Asia Watch's concerns lie less with the conception of the plan than in its implementation, which from a human rights perspective, was deeply flawed.**

**Confronting human rights abusers too often took a back seat to conciliation, in the interests of keeping the peace accords on track. Standing up to the Khmer Rouge and the Phnom Penh government early on, in particular, might have prevented the escalation of violence that came later. A clear determination to act firmly, decisively, publicly and quickly against abusive officials and party cadre might have acted as a deterrent to further killings, disappearances, arbitrary arrests, abusive detention practices, intimidation and harassment. UNTAC's failure to do more to take "corrective action" against -- i.e. punish -- such individuals exemplified its inability to protect human rights. The UN's involvement in Cambodia was predicated on the recognition that the nation's tradition of atrocities mandated "special measures to assure the protection of human rights," among them sweeping powers of administration and an entire component of the mission devoted to human rights. In Cambodia, the political mandate for human rights protection was in place, making the failure of protection an especially damaging precedent for peace-keeping.**

**On the other hand, UNTAC can take credit for some major achievements. UNHCR managed to get some 300,000 refugees back from the Thai border without serious incident, and there is, despite the violence, unprecedented freedom of expression and association in Cambodia. Those achievements must not be discounted but the question is what comes next.**

**As the countdown to the election proceeds, no semblance of the "neutral political atmosphere" called for in the Paris accords exists. It is difficult to envision a "free and fair" election or an election outcome that does not contain the potential for ongoing human rights violations. Few believe that if the SOC loses, it will relinquish power, and many believe that if it wins a significant majority, party cadres will take revenge against their political rivals. An SOC victory is also likely to mean continued war with the Khmer Rouge. If FUNCINPEC wins, or if Prince Sihanouk becomes head of state, there may be efforts to include the Khmer Rouge in the new government in the interests of national reconciliation. In either case, there will be no strong institutions in place to act as a check on executive authority.**

**The new government, under any circumstances, will remain a party to the seven international human rights covenants to which the Supreme National Council acceded. It therefore will have a legal obligation to protect fundamental rights such as the right not to be arbitrarily deprived of life or tortured,**

**the rights to freedom of expression, assembly and association; the right to protection against ethnic discrimination; and the right to take part in the conduct of public affairs.<sup>42</sup> But these rights will have to be actively enforced, and this is where the problems may lie.**

**Given its role in creating the current situation, the international community has a particular responsibility not to abandon Cambodia to its post-election fate but to put in place a set of safeguards that will protect the Cambodians that UNTAC will leave behind. These measures can be divided into two major categories, retributive and preventive.**

## **Accountability for Past Abuses**

### ***1. Prosecution of perpetrators for past abuses***

**Literally hundreds of serious abuses have been documented by UNTAC, but few have been publicly exposed or redressed. Nor have Cambodian authorities who have obstructed investigations, or who themselves are responsible for abuses committed by their subordinates, been called to account. There is the danger that many perpetrators will never be exposed; that those who have been investigated will never be arrested; and that those few arrested will never be tried.**

**Asia Watch therefore urges UNTAC to immediately appoint an independent tribunal to try cases brought by the Special Prosecutor and to ensure that the results of all UNTAC investigations be referred to such a tribunal for prompt action. It urges the new Cambodian government to give a high priority to the creation of an independent judiciary and until one is in place, to support an UNTAC-appointed tribunal with jurisdiction over those who commit grave abuses in Cambodia.**

**The UNTAC mandate expires at the end of the transitional period, that is, at the point when the constituent assembly elected in May approved a constitution and creates a new government. The process is expected to take three months. In the event that there are cases of serious abuses outstanding, and the new Cambodian government opposes extending the mandate of an UNTAC-appointed tribunal, the international community must be prepared to consider alternatives.**

### ***2. Making Public Reports of Abuses***

**UNTAC should make public the results of all human rights investigations it has conducted in a manner that takes the safety of witnesses into consideration. A new Cambodian government should consider the appointment of a Truth Commission to ensure that past abuses are known and the perpetrators identified.**

### ***3. Extension and improved enforcement of UN sanctions against the Khmer Rouge until those responsible for ethnic violence are punished.***

---

<sup>42</sup> In 1992 the SNC acceded to numerous international instruments, including the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination Against Women; and the Convention and Protocol Relating to the Status of Refugees. UNTAC declined to recommend that the SNC accede to the Optional Protocol of the ICCPR on the basis that no other Asian nation had yet done so. Such a failure on the part of the UN to advocate the broadest possible application of existing international human rights law was inexcusable.

**The Thai-Cambodian border must be better monitored by the UN to ensure that timber and gems do not go into Thailand to provide foreign exchange for the Khmer Rouge and petroleum does not go the other way. Countries that are major consumers of the banned commodities, including Japan and Vietnam, must take steps to ensure their nationals do not violate the embargo, and punish those who do. Those who break the embargos, whether they are Thai generals or traders, should be held accountable by law.**

***4. Denial of shelter to Pol Pot and other senior Khmer Rouge leaders.***

**Pol Pot and senior leaders should be held accountable for crimes against humanity committed in 1975-79 and denied any role in a future Cambodian government. Pressure should be placed on Thailand to arrest Pol Pot for those crimes, rather than providing him shelter and protection.**

**Preventive Action**

***5. More vigorous execution by UNTAC of existing powers.***

**UNTAC will remain in Cambodia at least through August, and the Secretary-General of the United Nations has recommended a continuing role for UN troops during the transitional period. UNTAC should exercise all of its powers more vigorously in the remaining three months than it has in the previous 17, including direct control of administrative agencies, protection of vulnerable groups, and corrective action in the face of human rights abuses. The latter should include the carrying out of arrests and prosecutions through the Office of the Special Prosecutor.**

***6. Continued human rights monitoring by the UN and the international community***

**The UN Commission on Human Rights authorized a Special Representative for Cambodia in March 1993. It is imperative that the Representative maintain close contact with residents and human rights activists in Cambodia, and keep the international community fully informed on human rights developments, positive and negative. A permanent presence in Phnom Penh of the Geneva-based UN Center for Human Rights would be desirable. Even more so would be the continued presence of provincial human rights officers, with adequate logistical support to ensure they are capable of continuing to monitor, investigate and report abuses.**

**If such a UN presence is not possible, the signatories to the Paris accords should ensure that they have within their embassies in Phnom Penh at least one person responsible for monitoring the human rights situation, with the ability to travel frequently around the provinces. Maintaining contact with Cambodian human rights organizations should be central to his or her role.**

### ***7. Protection of access by human rights and humanitarian organizations.***

**There is a danger that when UNTAC leaves, human rights abuses will become less visible, and access to and movement within the country will again be restricted. It is incumbent on the new government to guarantee freedom of movement to both Cambodians and foreigners, to protect existing human rights organizations, and to allow for free and unrestricted human rights monitoring. The signatories to the Paris accords, especially the Perm-5, should guard against any attempt by the new government to restrict access of the International Committee of the Red Cross to prisons; the UNHCR to returned refugees and the internally displaced; and international human rights organizations to the country at large.**

### ***8. Guarantee of shelter to any potential refugees fleeing persecution.***

**The Thai army's action in early 1993 to return to the Khmer Rouge 80 men who escaped from a Khmer Rouge prison camp must not be repeated, and UN monitoring of the Thai border is also necessary to guard against future instances of such refoulement. Any prisoners should be turned over to the ICRC immediately, and any refugees should be allowed to benefit from the full protection services of UNHCR. Vietnam, Thailand and other countries bordering Cambodia should be urged to provide, if necessary, unrestricted first asylum to Cambodian refugees.**

### ***8. Reform of Existing Justice System***

**The new Cambodian government has the responsibility to create a depoliticized, professional and neutral police force, ensure the military is accountable to civilian authorities and nurture an independent judiciary and corps of legal defenders.**

### **For More Information**

**Dinah PoKempner (202) 371-6592  
Sidney Jones (212) 972-2258**

***Asia Watch is an independent organization created in 1985 to monitor and promote internationally recognized human rights in Asia. The Chair is Jack Greenberg, the Vice Chair is Orville Schell, the Executive Director is Sidney Jones and the Washington Representative is Mike Jendrzeczyk.***

***Asia Watch is a division of Human Rights Watch, which also includes Africa Watch, Americas Watch, Helsinki Watch and Middle East Watch. The Chair of Human Rights Watch is Robert L. Bernstein and the Vice Chair is Adrian DeWind. Aryeh Neier is Executive Director; Kenneth Roth, Deputy Director; Holly Burkhalter, Washington Director; Susan Osnos, Press Director.***