

**Testimony of Kenneth Roth
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Before the Senate Foreign Relations Committee**

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HUMAN RIGHTS IN CAMBODIA

My name is Kenneth Roth. I am deputy director of Human Rights Watch. I appear on behalf of Asia Watch, one of the components of Human Rights Watch.

My testimony today is based on an Asia Watch investigative mission to Phnom Penh in which I took part in May 1990; two investigative missions to the refugee camps on the Thai-Cambodian border, most recently in January 1990; and other sources of information available to Asia Watch.

I will begin by describing human rights abuses by the Phnom Penh government, the "State of Cambodia," headed by Prime Minister Hun Sen. I will then examine abuses committed by the three factions of the Coalition Government of Democratic Kampuchea (CGDK), which is seeking to overthrow the Hun Sen government. Although I will note abuses committed by all three factions of the CGDK, my remarks will focus principally on abuses by the Khmer Rouge, both because their violations continue to be the most severe among the resistance factions, and because preventing the return to power of the genocidal Khmer Rouge is, appropriately, the stated first priority of US policy toward Cambodia. Finally, I will comment on how, despite Secretary of State Baker's announcement on Wednesday withdrawing US support of the seat at the U.N. held by the CGDK, US policy continues to harbor a deadly contradiction which makes the return to power of the Khmer Rouge more likely.

I. The State of Cambodia (Hun Sen Government)

Beginning in early 1989, the Hun Sen government instituted a far-reaching program of economic and constitutional reform, but these changes have not been accompanied by an opening of the political system or a discernible improvement in respect for human rights.

The new economic program grants individual farmers the right to long-term tenure to land and the right to pass land on to their children. Ownership of homes occupied by people since 1979 were turned over to their residents. The right of private enterprise was established and private businesses were encouraged. The riel, the national currency, was allowed to float to near the market rate. These reforms, together with liberalized rules governing foreign relief and development workers, provided a significant spur to Cambodia's troubled economy. Its effects are readily visible to a visitor to Phnom Penh.

In April 1989, a new constitution was introduced, amending in several notable respects the constitution of 1981. The new constitution abolishes the death penalty. It prohibits physical abuse of prisoners and provides that coerced statements are not admissible in court. It guarantees the right to be represented by a lawyer in criminal trials. It affirms the presumption of innocence. And it restores

Buddhism as the state religion. Previously, most of these guarantees had been contained only in a statute known as Decree Law No. 27. As will be outlined below, however, many of these provisions, in statutory or constitutional form, had limited practical effect.

Despite these constitutional changes, Asia Watch remained concerned about a variety of abuses by the Hun Sen government, including the indiscriminate use of mines and artillery shells in the course of the war, the mistreatment of prisoners, restrictions on civil and political liberties, and a lack of due process in criminal prosecutions and other cases which can lead to imprisonment. In May 1990, upon request of Asia Watch and with the permission of the Hun Sen government, an Asia Watch delegation of which I was a part visited Phnom Penh to look into these concerns. We held meetings with government officials, principally in the Foreign Ministry and the Justice Ministry, and were free to speak with foreign diplomats, journalists, relief and development workers, and private Cambodian citizens. The visit was said by the Cambodian government to have been the first authorized for an independent human rights organization, although in fact we were preceded by the Cambodian Documentation Center the previous summer.

A. Violations of the Laws of War

We found the government's conduct of the war to violate international humanitarian law, or the laws of war, in several respects. (Asia Watch assesses the conduct of the war by both sides to the conflict according to common Article 3 of the 1949 Geneva Conventions, which sets out minimum standards for the protection of civilians in a non-international conflict. Cambodia has ratified the Geneva Conventions.) Unfortunately, the Defense Ministry rebuffed our efforts in May to meet with responsible officials to discuss our concerns.

1. Village Militia

An important source of concern is the government's increasing reliance on village militia to wage the war. These militia are assigned such tasks as defending bridges or their own villages from resistance attack. We received estimates that the militia currently number in the neighborhood of 300,000. While formally attached to the army, the village militia are composed of peasants who generally receive token, if any, military training or direction. The lack of discipline makes them ripe for abuse. We heard numerous reports of village militia halting cars and trucks on public highways and extorting payment, particularly along the road linking Phnom Penh and Kompong Som. Like similar untrained units around the world, members of the militia appears at times also to use their formal status to settle private scores.

2. Mines

The lack of training given the militia is compounded by the government's policy of equipping them with mines to help in their assigned defensive efforts. We heard several accounts of villagers -- and at times members of the militia -- who had been maimed because a local militia had planted a mine without marking it and had forgotten where it had been placed.

As a general matter, mines planted by both sides to the conflict are a monumental problem that will plague the nation for years to come. We were told that there are some 500,000 mines along the Thai-Cambodian border, and mines continue to be placed in the interior of the country. The vast majority of these are unmarked, raising the prospect of countless civilians being injured or killed unless an unprecedented effort is made to locate and defuse these weapons.

3. Shelling

We received reports that government troops rely heavily on heavy artillery and multi-barreled rocket launchers known as "Stalin's organs" to prosecute the war -- an apparent reflection of a frequent inability or unwillingness to use more direct methods of combat. Such shelling is often conducted in an indiscriminate fashion, with few steps taken to protect noncombatants. In battles near the Thai border in February and March, government troops reportedly retook Svay Chek and Thmar Puok from resistance forces, but the 130mm shells it used reportedly destroyed the villages. In May, during our visit, government troops were shelling the Kong district of Kompong Speu, a half hour west of Phnom Penh, at the rate of five to six shells per minute for some six hours; half of the wounded who made it to a local hospital were civilians.

4. Possible Forced Displacement

Asia Watch has received recent reports of an estimated 16,000 residents of Kompong Speu Province who have been displaced to the provincial capital. Local officials and some of those displaced said the residents had moved to escape areas vulnerable to Khmer Rouge attack. But others report having been ordered by government troops to leave homes in the west, southwest and northwest of the province. If the latter reports are confirmed, it would appear to reflect a government counterinsurgency strategy of trying to isolate the Khmer Rouge from the civilian population.

Article 17 of Protocol II to the 1949 Geneva Conventions provides: "the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand." Although Cambodia has not ratified Protocol II, Article 17 provides authoritative guidance in interpreting the meaning of the requirement of humane treatment of the civilian population contained in common Article 3 of the 1949 Geneva Conventions which, as noted, does bind the government.

B. Other Violations

1. Torture and Mistreatment of Prisoners

Asia Watch has been extremely concerned about reports of torture and serious mistreatment of prisoners by security forces. Among the locations of such abuses commonly cited are "T-3" prison and "PJ" police jail in Phnom Penh and "TK-1" prison in Battambang. Prisoners have been subjected to the use of electric shocks; burning with hot irons; near suffocation with plastic bags; confinement in dark, solitary cells; shackling and handcuffing for extended periods; severe beatings; and prolonged deprivation of food and water. There are also reports of extended arbitrary imprisonment without charge or trial.

Most of the documented reports, however, date from 1985 and 1986, if not earlier.* In the past two months, however, Asia Watch has obtained information suggesting that certain of these practices continue. According to a man interviewed in Phnom Penh, he returned to Phnom Penh in mid-May and was arrested two days later on suspicion of being a resistance spy. After a brief stay in "PJ" police jail, he was transferred to "T-3" prison, where he spent nine nights. He was kept in a completely dark cell, an

*See Amnesty International, Kampuchea: Political Imprisonment and Torture (June 1987), and Lawyers Committee for Human Rights, Kampuchea: After the Worst (August 1985).

estimated 1.7 by 3 meters, with six others. All were forced to wear leg shackles and handcuffs except when escorted, blindfolded, to the bathroom. The other six had been in custody for periods ranging from two to eleven years. The man was interrogated daily, and beaten ten to twenty times with a stick while being questioned. In an apparent effort at psychological pressure, his head was also held under a slowly dripping tube.

To examine the extent of practices of this sort, Asia Watch requested permission during its visit in May to visit "T-3" and "TK-1" and to speak confidentially with prisoners there. We also asked to meet with officials of the Interior Ministry, which controls the prisons. The Interior Ministry denied this request, stating that if we were interested in human rights we should work to bring Pol Pot to trial, but the way it treated its prisoners was a matter of Cambodia's internal affairs.

Upon being informed of this response, Long Visalo, the Vice Foreign Minister, was clearly embarrassed, and promised to permit a return visit by Asia Watch in September, during which we would be permitted to visit the prisons we had requested and to conduct confidential interviews with prisoners. We remain hopeful that this will come to pass, although we are cognizant of the fact that the International Committee of the Red Cross has been seeking confidential visits with captured combatants since 1981 without success. The sole independent contact with prisoners of which we are aware was a show put on for journalists in Phnom Penh in 1989, when a large group of prisoners was displayed en masse to journalists. In the presence of officials, the journalists were invited to ask questions. Few took advantage of this meaningless exercise.

In the absence of an opportunity for independent scrutiny of prison conditions, Asia Watch cannot conclude that there has been any improvement in the treatment of prisoners.

2. Arbitrary Conscription and Forced Labor

Despite passage of a law in July 1989 meant to regularize conscription, young men continue to be rounded up in arbitrary fashion. The new law provides that males aged 18 to 30 are subject to three years of military service, although certain deferments and exemptions are available for such categories as students and the sole bread-winner of families. Local people's committees are assigned the task of selecting the youth to be drafted. However, we received several reports of young men being forcibly rounded up at bars or video parlors. Asia Watch objects to such round-ups because they are inherently arbitrary -- often targeting members of less privileged classes -- and because they are not authorized by local law. In addition, medical personnel continue to be called upon to serve up to three-month tours of duty at the front.

Apart from the formal draft, there have also been persistent reports of civilians being called upon to perform forced labor. The focus of these reports was a program, known as "K-5" or "A-5," which required civilians to assist in the construction of a major barrier along the Thai border, where so many died of malaria and were injured by mines that the government later acknowledged that the program had been a mistake and phased it out.

3. The Lack of Political Freedom

Cambodia continues to be a closed political society, with no organized opposition permitted and no visible evidence of an independent, civil society. The National Assembly, selected in noncompetitive elections in 1982, continues to extend its own mandate on an annual basis, even though the constitution ordinarily requires elections every four years. The two principal newspapers are both under direct or

indirect control of the Kampuchean People's Revolutionary Party, although some criticism of government policy can be found in at least one of them, Kampuchea Weekly, the newspaper of the Kampuchean United Front for National Construction and Defense. We were able to find no evidence of independent underground publications, although the establishment in the past year of several private photocopy shops in Phnom Penh may permit the emergence of small-scale samizdat sometime in the future. Apart from the Buddhist hierarchy, there appear to be no organized associations independent of the United Front, a government agency for mass mobilization of popular groups.

The most significant new freedoms appear to be in the area of religion. The practice of Buddhism, the principal religion in Cambodia, is now open to all. Even the first open Catholic mass was celebrated this past Easter.

In approximately March 1990, a small group of intellectuals, including several senior officials, appear to have begun discussions about the need for a new political party. The prospect of creating such a party, while not announced to the general public, appears to have been discussed in private conversation, including with senior officials of the ruling party. Beginning on May 16 and continuing during my visit to Phnom Penh, some 15 people said to be affiliated with this effort were arrested, including several senior officials. Although several weeks later, in June, the government announced that it had stopped a coup attempt, the event triggering the arrests appears to have been the planned public announcement of the formation of the new party, which was to be named the Society for Democracy and Freedom Party (also translated as the Liberal Social Democratic Party). Among those arrested were: Ung Phan, the Minister of Transport, Communications and Posts; his planning chief, Nou Saing Khan; the deputy director of the European and American Bureau of the Foreign Ministry, Kan Man; Col. On Sum, of the Defense Ministry's research department; and Thun Saray, acting director of the Institute of Sociology. Khieu Kanharith, the outspoken editor of Kampuchea Weekly, was removed from his post. Parallel arrests, which may not have been directly related to the planned creation of the new party, included Men Sam An, a senior official of the ruling party, and her husband, Peng Path.

These arrests indicate that the Cambodian government is not yet ready to accept political pluralism in advance of a comprehensive settlement to the war. During our discussions in Phnom Penh, several people voiced support for the idea of a "Nicaraguan solution" -- that is, holding competitive elections without a comprehensive settlement, with the hope that they will confer sufficient legitimacy on the victor to end international support for the resistance. In opposition to this view were those who said that it would be logistically impossible and strategically unwise to hold elections in advance of a comprehensive settlement. The arrests suggest that the latter view, at least temporarily, has prevailed.

4. The System of Justice

The Cambodian government faces a monumental task in reconstructing its justice system after the devastation of the Khmer Rouge years. Only seven lawyers are said to have survived the reign of the Khmer Rouge, and all laws were abolished. The difficulties of starting a legal system from scratch cannot be overestimated. While the Cambodian government has made important strides in this direction, it persists with certain practices that compromise the rule of law, leading us to conclude that a significant portion of the problem remains a continuing lack of political will to create a government subject to law.

The Cambodian government appears to be making a sincere effort to establish at least the structure of a legal system. A School for Administrative and Legal Cadre, the closest that Cambodia comes to a law school, provides the most basic training in legal principles, with the assistance of visiting foreign jurists. A Supreme People's Court and provincial courts have been established but, according to

Justice Ministry officials, there remain too few civil servants with legal training to create district courts.

Despite the rudimentary judicial system, courts reportedly are not overworked because few cases are brought before them. In part this reluctance to make use of judicial remedies reflects a traditional preference for conciliation, a lack of knowledge about court procedures, and the scarcity of lawyers. But it also appears to reflect continuing distrust of the courts, due to their lack of independence. For example, we were told that although each tribunal includes at least one legally trained judge, it is composed of a majority of people's assessors, who are appointed by various mass organizations under the United Front. Moreover, all judicial decisions are reviewed by the Justice Ministry, which is empowered to order revisions. The Justice Ministry justifies this power as necessary for quality control of an embryonic system, and it may well serve that function, but the potential for political considerations to affect judgments is obvious.

It also became clear to us, upon probing Justice Ministry officials, that there are important limits to the reach of the judicial system when it comes to the review of cases of detention. We were informed that no judges and no members of the Justice Ministry are granted access to the prisons, where they might review the treatment of prisoners or the grounds for holding them. When various governmental departments receive complaints from citizens charging unlawful incarceration of their relatives, we were told, the complaints are simply passed on to the Interior Ministry for resolution. Moreover, the Interior Ministry is empowered to detain suspected security offenders without trial (subject to certain theoretical administrative checks), thereby bypassing the procedural safeguards recently embodied in the constitution for criminal defendants. What emerges is an Interior Ministry that remains a fiefdom unto itself, able to incarcerate at will and to continue the abusive practices reported in the past, without review by the branches of government ordinarily charged with upholding the law.

II. The Khmer Rouge

The Khmer Rouge, with an estimated 30,000 to 40,000 troops, is by far the strongest military power among the three resistance factions that make up the CGDK. The three coalition partners control some 300,000 refugees who have fled to border camps in Thailand.

Asia Watch has received convincing reports that Pol Pot and other senior leaders of the murderous Khmer Rouge reign are still in control of Khmer Rouge forces, directing military operations from a villa in Trat Province in southern Thailand. There he presides over a class of 150-200 "students", mostly battalion and division commanders, and he is reportedly often joined by military leaders such as Ta Mok, known as the "Butcher" for his role in the slaughter of Cambodian civilians in the period 1975-78. One man who attended these classes told Asia Watch in January that Pol Pot repeatedly stressed the need to subordinate military strategy to politics, and one of the key goals of the Khmer Rouge should be to delay internationally supervised elections until the countryside in Cambodia had been sufficiently "prepared."

Although the genocidal practices of the Khmer Rouge largely ceased with their ouster from power by the Vietnamese invasion of December 1978, there is little to indicate that their commitment to human rights has grown, or that they would not resume comparable abuses if they returned to power. Khmer Rouge troops, while uniformly described as highly disciplined, continue to abuse both noncombatants within Cambodia and Cambodian refugees in Khmer Rouge-controlled camps in Thailand.

A. Violations of the Laws of War

1. Mines

We received numerous reports in Cambodia of the indiscriminate use of mines by the Khmer Rouge. An anti-personnel mine seemingly favored by the Khmer Rouge, we were told by independent doctors and relief workers traveling outside Phnom Penh, is a plastic, Chinese-made model. These mines are relatively light, so one person can easily transport several by backpack over the long distances that can separate Khmer Rouge troops from their bases in Thailand. Although these mines are designed to maim rather than kill, they are particularly dangerous because the plastic shrapnel cannot be detected by x-rays.

The Khmer Rouge reportedly deploy these and other mines in rice paddies (the plastic model is said to float just below the surface of the water), in fields, and dangling from trees. In all of these places, they are as likely to produce casualties among noncombatants as among troops.

The placement of larger, anti-tank mines along roads and railways is also attributed to the Khmer Rouge. Trains operating along the single functioning railway in Cambodia (between Kompot and Pursat via Phnom Penh) are preceded by some three flat cars piled with wooden logs in an attempt to trigger mines before damage is done to the locomotive or passenger cars. (Cambodians are free, if they dare, to ride on top of these cars without purchasing a ticket.) In at least two incidents over the past three years in Kompot, a passenger train and a passenger bus were stopped by mines and then sprayed with machine-gun fire by Khmer Rouge troops.

2. Summary Executions

While we heard from several observers in Cambodia that the Khmer Rouge were making political inroads in the countryside, in part by treating villagers with respect and by purchasing rice at above the price paid by the government, Khmer Rouge respect for noncombatants did not extend to party leaders encountered in villages. The Khmer Rouge appear regularly to execute these government representatives in summary fashion, with a ritualistic bullet to the head and heart. One such execution occurred in the Kong Pisei District of Kompong Speu province during my visit in May.

3. Forced Recruitment

Asia Watch has also received reports from refugees interviewed at the Thai-Cambodian border that the Khmer Rouge occasionally force people at gunpoint to leave their villages inside Cambodia and to move to the Thai border, where they are used to augment Khmer Rouge military or portering units. Reports of such forced recruitment were received as recently as the past month, from the area around Kompong Speu. At times, villagers in Cambodia perceived as sympathetic to the Hun Sen government reportedly have been taken back to the border for "re-education," before being made to serve as porters. Several sources reported that the Khmer Rouge also use psychological techniques to facilitate recruitment, such as by conspicuously visiting several families in a village, who then face the choice of "volunteering" to join the Khmer Rouge or facing possible punishment by the government for collaborating with the enemy.

B. The Border Camps

The Khmer Rouge controls four main clusters of refugee camps in Thailand -- O'Trao, Site 8,

Borai and Site K -- plus some territory within Cambodia. Each cluster of camps in Thailand contains one "open" camp which receives assistance from the United Nations Border Relief Operation (UNBRO) and one or more "closed" camps housing porters and families of fighters hidden closer to the border. There are also several secret military camps inside Cambodia. The "open" camps are visited by day by relief officials but, like the camps under the other resistance factions, are closed to outsiders by night. The "closed" camps -- a phenomenon unique to the Khmer Rouge among the Cambodian resistance groups -- are inaccessible to relief workers.

Khmer Rouge-controlled camps are highly militarized, with camp administrators making little distinction between civilians and combatants. All able-bodied single men and some married men are required to be fighters; single women, some men, and even some children as young as 10, are required to carry ammunition and supplies across the border into Cambodia. Able-bodied women and some of the elderly work building houses, bunkers and roads, clearing forests, or working in the fields. Others, including the very old, the very young and the sick, may be given a particular task (*chat tang*) to aid the war effort, such as planting vegetables.

Beyond actual combat, the most difficult and dangerous service lies in carrying heavy loads on long trips to the Cambodian interior. Khmer Rouge porters are required to carry 80 to 120 pounds of military hardware, food and medicine to supply military units inside Cambodia. Trips can last up to one month. These journeys through war zones expose porters to grave danger from attacks, pervasive land mines, and the virulent and deadly cerebral malaria that is common in certain border regions. Mines, planted both by government forces and by the Khmer Rouge themselves, are a particularly common source of casualties among porters. Physical exhaustion also takes a significant toll.

Camp residents are mobilized to assist the war effort through a combination of exhortation, appeals to patriotism (fighting what is said to be the puppet government of the Vietnamese invaders), and compulsion. While the Khmer Rouge were in power in Cambodia, failure to perform an assigned task could mean death. But the principal method of compulsion used today to force the able-bodied to serve as porters is the denial of food and medicine. The Khmer Rouge, like the other resistance factions, prevent residents in their camps from leaving without authorization. Khmer Rouge cadre also control the distribution of food and medicine supplied by UNBRO and, with the help of the Thai army, by China, the Khmer Rouge's principal supporter. By barring access to medicine or by reducing food rations to subsistence levels, the Khmer Rouge thus are able to compel reluctant camp residents to take up the dangerous work of a porter. Asia Watch has also received occasional reports of summary executions and disappearances of camp residents by the Khmer Rouge.

Apart from forcing camp residents to serve as porters, the Khmer Rouge have forced entire civilian populations to return to Khmer Rouge-controlled areas of Cambodia from their camps in Thailand. These displacements took place periodically throughout 1989 and early 1990, affecting thousands. Although some camp residents moved voluntarily, many were compelled to make the move, subjecting them to the hazards of shelling, mines and malaria. As noted in the case of possible forced transfers by the government, these violate the duty of humane treatment contained in common Article 3 of the 1949 Geneva Conventions, as interpreted with the guidance of Article 17 of Protocol II. In addition, these forced transfers violate customary refugee law prohibiting refoulement, or the return of refugees to an area where they are likely to face persecution.

These abuses by the Khmer Rouge in the border area are set forth in greater detail in two Asia Watch publications: Violations of the Rules of War by the Khmer Rouge (April 1990) and Khmer Rouge Abuses Along the Thai-Cambodian Border (February 1989).

III. The Non-Communist Resistance

Allied with the Khmer Rouge as part of the CGDK are two other military forces: the Khmer People's National Liberation Front (KPNLF), ostensibly led by former Prime Minister Son Sann but in fact deeply divided; and the militarily insignificant National Sihanoukist Army of Prince Norodom Sihanouk.

A. Military Cooperation with the Khmer Rouge

Although the Bush administration insists, and US law requires, the non-Communist resistance not to cooperate with the Khmer Rouge, Asia Watch has uncovered evidence that such cooperation regularly occurs. While the Khmer Rouge and the non-Communist resistance are in any event working for the same military goal of toppling the Hun Sen government, such direct military cooperation is particularly disturbing.

Asia Watch has interviewed some ten KPNLF battlefield commanders, from the rank of captain to lieutenant colonel, and all reported some battlefield coordination with Khmer Rouge troops. For example, a lieutenant colonel told Asia Watch that he had led a 100-soldier contingent of KPNLF troops, which was joined by 100 Khmer Rouge troops, in an attack on Ta Smon on November 6, 1989. He reported following the directives of the Khmer Rouge commander, who was in charge of the operation. Although the attack was unsuccessful, the troops next attacked and captured Treas village. Treas is in the "liberated zone" that the Bush administration claims is under the sole control of the non-Communists.

The National Army of Sihanouk (ANS) appears to cooperate even more closely with the Khmer Rouge, especially in northern Cambodia. One ANS commander told Asia Watch that ANS troops were so inexperienced that they would have no chance of military success without help and guidance from battle-hardened Khmer Rouge guerrillas. He reported that in Varini district, Khmer Rouge guerrillas defeated Hun Sen's forces on their own, then invited the ANS to occupy several small villages to hide the extent of their successes.

In addition to this direct military cooperation with Khmer Rouge, Asia Watch is concerned by the behavior of both the KPNLF and the ANS forces with regard to human rights.

B. KPNLF Violations

1. Conscription and Forced Labor

Unlike the Khmer Rouge and the Sihanoukists, the KPNLF does not generally force refugees under its control to serve in its army or labor units, with a few exceptions. The principal KPNLF camp, Site 2, with a population of about 150,000, supplies only about 6-8,000 soldiers, according to sources in the KPNLF military. Asia Watch has received reports of KPNLF officers occasionally cruising through camps in Thai trucks, during the early morning hours before relief workers arrive, and forcing young men into Cambodia to the military base at Bang Tra Kuon, opposite the Thai town of Tapraya. This practice was most frequent in September and October 1989. However, many of those interviewed said that security was lax at Bang Tra Kuon and they were able to slip out at night and return to Site 2.

The greatest problem of conscription and forced labor appears to be in Sok Sann, a small KPNLF camp with 10,000 inhabitants in Trat Province in southern Thailand. General Prum Vit forces most able-bodied single men to serve in the military or porter units. Those who refuse are denied UNBRO supplies.

2. Unchecked Violence

Violence in Site 2 has reached alarming proportions. Almost nightly, young men armed with AK-47s and M-16s -- the rifles used by the KPNLF army -- rob and sometimes kill camp residents. Due to lax discipline, soldiers mingle freely with civilians in the camps, and retrieve weapons from just outside the camp's perimeter once the last foreign relief workers leave at 5 p.m. Many camp residents told Asia Watch that they believed the great majority of robberies take place with the blessing of certain KPNLF leaders, providing a source of supplementary income.

Asia Watch has also received reports in the last year of misconduct by KPNLF troops inside Cambodia. Most notable was their conduct in the western town of Svay Chek, where they reportedly ransacked numerous homes and raped two women, prompting veiled apologies by political leaders.

3. The Justice System

Efforts to establish a justice system in KPNLF-controlled camps have also been ineffective. Through 1989, there was no formal system of justice at Site 2. Criminal cases were resolved by military and civilian leaders. Their decisions were often influenced by the status, wealth and connections of the persons involved.

At UNBRO's insistence, justice committees were formed and a legal code was drafted at the end of 1989. Asia Watch interviews with those involved in the justice committees indicate that power and influence still usually determine the outcome of adjudicated disputes. Moreover, not a single active member of the military has been tried, let alone convicted, by a justice committee. A major reason for this failure is that judges fear violent reprisals by those they might otherwise rule against. At the same time, Asia Watch has interviewed prisoners who are being held without charge or trial in KPNLF-controlled prisons.

C. Violations by the National Sihanoukist Army

In Site B, the Sihanoukist camp of some 60,000 refugees, forced military service is a major problem. All able-bodied men are required to go to the front. A Ford Foundation demographic study completed in early 1989 found that Site B's population was 89 percent women. When confronted with these facts, the Sihanoukists reportedly said that, unlike residents of Khmer Rouge camps, their residents all choose to go to the front out of loyalty to the Prince and their country. Several former residents of Site B interviewed by Asia Watch, who had fled to avoid forced service, contradicted this assertion, indicating that opposition to the practice was widespread. Asia Watch has also received reports of large numbers of children aged 12 to 16 who had been forced to participate in military and portering units.

As in Site 2, there is no functioning justice system in Site B. However, it appears that the civil and military commanders' exercise of their discretion in resolving disputes has engendered fewer complaints of improper influence. Crimes by soldiers are reportedly punished, so there is relatively little violence in Site B.

IV. US Policy

In the view of Asia Watch, the Bush administration's position on Cambodia continues to be afflicted by a deadly contradiction, despite the welcome announcement by Secretary Baker this past Wednesday that the US would cease to support seating the CGDK at the U.N. On the one hand, Secretary Baker justified this diplomatic move out of fear that the Khmer Rouge might be nearing military victory. On the other hand, he insisted that the administration would continue to provide financial support to the two non-Communist resistance factions that are allied with the Khmer Rouge.*

Secretary Baker stressed in his announcement that the withdrawal of US support of the CGDK is meant to address no more than the upcoming annual debate at the United Nations over who will hold the Cambodian seat -- an important, but limited, issue. By continuing to finance the coalition partners of the Khmer Rouge, the US will make it more likely that the Khmer Rouge will prevail in its quest to topple the Hun Sen government.

*The intention to continue funding the non-Communist resistance factions was reaffirmed by Robert Kimmett, Under Secretary of State for Political Affairs, during an interview later that day on the MacNeil/Lehrer Newshour.

Four principal arguments have been advanced to support continuing aid to the non-Communist resistance. In our view, each is insufficient to justify this "unholy liaison"* with the partners of the Khmer Rouge.

First, as a preliminary matter, we are reassured that the principal aim of US policy is to prevent the return to power of the Khmer Rouge. Asia Watch fully supports that goal. While concern about the Khmer Rouge clearly plays a role in the formulation of US policy, we fear that it has taken a back seat to punishing Vietnam for installing the current Cambodian government in January 1979. We recognize that the administration's willingness to open talks with Vietnam on the subject of the Cambodian conflict indicates a possible first step in softening this apparent hostility toward Vietnam. But the hostility seems to have deep roots, the product of lingering competition with the Soviet Union, Vietnam's main supporter; misguided appeasement of China, a traditional Vietnamese rival and, as noted, the principal Khmer Rouge backer; and an unstated desire to vindicate the fall of Saigon by engineering the toppling of Vietnam's ally in Phnom Penh.

If the administration were sincere about stopping the Khmer Rouge, it would do far more than simply withdraw support for the CGDK's credentials at the U.N. It would call on China to halt military aid to the Khmer Rouge; it would ask Thailand, through which arms for the Khmer Rouge must flow, to turn off the tap; and it would support a proposal to create a neutral refugee camp in Thailand so that the Khmer Rouge would not have a captive population from which to recruit soldiers and porters. Instead, by funding two of the three factions seeking to overthrow the Hun Sen government, the US makes it more likely that the third and strongest faction, the Khmer Rouge, will prevail.

Justifying US policy is all the more difficult because the Hun Sen government has agreed in principle to permit elections that would include the Khmer Rouge -- a long-time US demand. But if the US continues to insist on neutralizing Cambodian security forces before elections are held, that will leave the government all the more vulnerable to Khmer Rouge attack. At the same time, the US is increasingly willing to accept some of the most brutal Khmer Rouge leaders -- such as Khmer Rouge President Khieu Samphan -- in a proposed Supreme National Council that would assume Cambodian sovereignty pending elections.

During my visit to Phnom Penh, Cambodians noted the irony that in Nicaragua, the US recognized elections without requiring the prior disbanding of the Sandinista army. Why, they asked, demand more from Cambodia when to do so increases the risk of a Khmer Rouge takeover? It is a legitimate question.

The second argument for continued funding of the non-Communist resistance contends that such assistance does not help the Khmer Rouge because US law prohibits diverting these funds for Khmer Rouge benefit. But that argument conveniently reduces the question of support to one of accounting. Regardless of whether a single US dollar reaches Khmer Rouge coffers, US aid bolsters a three-party alliance dedicated to overthrowing the Cambodian government. Success is most likely to benefit the Khmer Rouge.

The third argument holds that supporting the resistance will diffuse the Khmer Rouge threat by encouraging a comprehensive settlement. Softening up the Hun Sen government, the thinking goes, makes it more willing to grant the concessions needed for the Khmer Rouge to agree to contest and abide by elections.

*Kimmitt, *ibid.*

But why expect the Khmer Rouge to agree to elections as the Hun Sen government weakens, particularly in light of recent dramatic advances by the Khmer Rouge deep into Cambodia, far from their bases in Thailand? And why trust the Khmer Rouge, whose disdain for the rule of law allowed only seven lawyers to survive their brutal reign, to abide by elections and end their armed struggle?

The fourth argument equates the Hun Sen government with the Khmer Rouge by noting that many top Cambodian officials were Khmer Rouge military commanders in the Eastern Zone, before they fled to Vietnam in the face of vicious internal purges in 1977 and 1978. These officials certainly have blood on their hands and, as noted, they continue to be responsible for serious abuses. But they were never part of the senior Khmer Rouge leadership and, once in power, they have not come close to the genocidal practices for which the current Khmer Rouge leadership was responsible. Abuses by the Hun Sen government deserve critical US attention, but they do not justify a policy of indirectly underwriting a Khmer Rouge victory.

Asia Watch believes that the administration should live up to its avowed aim of preventing the return of the Khmer Rouge. Withdrawal of US support of the rebel coalition should be combined with a halt of all aid to the resistance, so that the US does not remain party to a gambit that may force the Cambodian people to relive the Khmer Rouge nightmare.