

## **CAMBODIA'S COMMUNE ELECTIONS:**

### **SETTING THE STAGE FOR THE 2003 NATIONAL ELECTIONS**

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## I. SUMMARY AND RECOMMENDATIONS

On February 3, 2002, Cambodia held its first local elections in more than thirty years. While the general level of violence declined in comparison with the national elections of 1993 and 1998, the pre-election period was still marred by political killings, intimidation, voter coercion, and vote-buying.

The February 2002 commune elections will serve as a curtain raiser for Cambodia's next National Assembly elections, scheduled for May 2003. Given the human rights violations committed in relation to the polling, when Cambodia's Consultative Group of international donors meet in Phnom Penh on June 19-21 they should insist on a minimum set of reforms and conditions for the electoral process. Donors should not support the electoral process by providing aid or technical assistance for the national elections until the Royal Government of Cambodia takes concrete steps to reform the National Election Committee, ensure the safety of candidates and voters, end impunity for perpetrators of political violence, and take steps to ensure that the voting cannot be manipulated.

This report summarizes the major human rights issues in the commune elections, and makes recommendations for the conduct of future polls. It is based on research conducted in Cambodia by Human Rights Watch in Phnom Penh and several provinces before and after the elections, from December 2001 to April 2002.<sup>1</sup> Human rights violations committed in conjunction with the elections included the following:

- Threats, intimidation, arbitrary detention, and killings of activists and commune council candidates running against the ruling Cambodian People's Party (CPP) as well as property violations against the offices and signboards of those parties.
- Intimidation and coercion of voters, primarily through confiscation of voter registration cards and pressure to take oaths of loyalty to the CPP.
- Denial of fair access to the state media by the parties running against the incumbent CPP.
- Failure by the National Election Committee, the Central Security Office for the Defense of the Elections, and other governmental mechanisms with the responsibility to do so to address and penalize violations of the electoral law such as bribery, intimidation and violence.<sup>2</sup>

The report includes a detailed case study that examines two politically motivated killings that took place in Kompong Cham province in November 2001, which were followed by a sustained campaign of intimidation against opposition candidates and supporters. The case study shows the clear impact of political violence in Cambodia upon the democratic process, not just in the immediate locality of the incidents, but in the surrounding areas and beyond. It also demonstrates the continuing impunity enjoyed by members of the security forces and local officials suspected of human rights violations, and the continued importance of international pressure on national and local authorities to take action against perpetrators.

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<sup>1</sup> Provinces visited during the election campaign included Battambang, Kandal, Siem Reap, Kompong Cham and Pailin municipality.

<sup>2</sup> Cambodia's National Election Committee (NEC) is mandated by the election law to organize, oversee and monitor all aspects of the elections from registration of voters, parties and candidates to ultimately verifying the accuracy of the final tally. The government established the Central Security Office for the Defense of the Commune Elections in August 2001, after receiving heavy criticism from donors, human rights groups and the U.N. about a rash of political killings from donor countries. Presided over by Deputy Prime Minister Sar Kheng, it includes representatives from the interior and defense ministries, national police, military and the NEC.

## Recommendations

### *To the Cambodian government:*

- Take all possible steps to ensure the security of all elected national and commune-level officials, irrespective of party affiliation, and the security of all candidates and their supporters during election campaigns.
- Ensure that all persons implicated in political violence or human rights abuses are brought to trial promptly and receive fair trials as guaranteed under Cambodian law and international human rights treaties to which Cambodia is a state party.
- Reform the composition and functions of the National Election Committee (NEC), together with its provincial and commune-level subcommittees, before it commences its new five-year mandate in September 2002. Reforms should include:
  - Revising committee memberships to prevent control by any political party;
  - Improving and strengthening procedures for the NEC and its subcommittees to investigate and penalize electoral offenses;
  - Improve the NEC's internal reporting mechanisms and transparency, and its coordination with local and international monitors.
- Guarantee effective exercise of the right to freedom of expression for all candidates and their supporters during election campaigns.
- Establish new mechanisms, whether within the NEC or a separate body, to ensure full and unfettered access to broadcast media to all political parties during election campaigns.
- Establish and implement a fair and transparent system for the allocation of radio and television broadcast licences.
- Ensure that the sanctions provided under Cambodia's election law are imposed promptly on any political parties that coerce or otherwise unduly pressure citizens to join or pledge to vote for them.
- Ensure that those responsible for the killings of Thon Phally and Phoung Sophat in Tbong Khmum district of Kompong Cham, cited in this report, are brought to justice promptly and fairly. In doing so, the relevant authorities should, in particular:
  - Assume responsibility for summoning witnesses to the court;
  - Intensify efforts to apprehend the remaining suspects in the killings, and ensure that they are not receiving protection from individuals within the Cambodian military;
  - Take necessary measures to ensure the safety of witnesses in these cases and other victims of ongoing intimidation in Tbong Khmum;
  - Ensure the security of Kompong Cham and Tbong Khmum political activists in the run-up to the 2003 national elections.

### *To Cambodia's international donors and others in the international community:*

- Continue to support Cambodian civil society organisations, in particular independent nongovernmental election monitoring and human rights groups, in order to assist them to effectively monitor and report on post-commune election violence, intimidation, reprisals and the run up to the 2003 national elections; and to press for investigations into alleged violations and prosecutions.
- Call on the Cambodian government to guarantee fair access to the broadcast media by all political parties, particularly during election campaigns, as an essential prerequisite for ensuring that voters have access to the widest possible range of information when determining how to exercise their democratic choice.

- Press the Cambodian government to ensure the prompt prosecution of any persons implicated in political violence or human rights abuses.

## II. BACKGROUND

Cambodia has not held local elections of any kind since the late 1960s, when only candidates from then-Prince Sihanouk's ruling Sangkum Reastr Niyum party could run for office. Commune elections, originally slated to be held after 1993 national parliamentary elections overseen by the U.N. Transitional Authority in Cambodia (UNTAC), were repeatedly delayed. The 1993 elections and post-election political maneuvering resulted in a fragile coalition government between the CPP and the royalist Funcinpec Party that collapsed in a coup four years later. In 1998, a second parliamentary election was narrowly won by the CPP over Funcinpec, which was given a junior role in a new coalition. Cambodia's national political opposition is currently provided by the Sam Rainsy Party (SRP), which holds fifteen out of 122 seats in the National Assembly.

Cambodia has 1,621 communes, which are administrative units consisting of four to seven villages. Prior to the 2002 elections, commune leaders, who are particularly influential at the local level, were appointees of the CPP, and many had been in position since the fall of the Khmer Rouge in 1979. Under the commune election system, they were replaced for the first time with popularly elected commune councils and commune chiefs. As well as marking an important step in the development of democratic institutions in Cambodia, the commune elections may set the tone for national elections slated for May 2003. They were also the first polls to be conducted during a time of relative peace, and thus could have important ramifications for Cambodian democracy, rule of law and human rights.

## III. HUMAN RIGHTS ABUSES DURING THE COMMUNE ELECTIONS

### Pre-Election Violence and Intimidation

Between January 1, 2001, and February 3, 2002, fifteen members of Funcinpec and the opposition Sam Rainsy Party, most of whom were prospective or confirmed commune council candidates, were killed. (See Appendix A for list of people killed.) The incidence of political killing increased as the election neared, with more than half the cases occurring between November 2001 and January 2002.

Trials have taken place in four cases of suspected political killing dating from 2001, three of which resulted in convictions and lengthy jail terms for the defendants. However, in none of these cases did the courts accept a political motive for the killings, attributing one to a business dispute and two to revenge for alleged acts of "black magic". Observers of two trials that took place in February 2002 were concerned that in both cases key defendants were found guilty despite insufficient evidence, their convictions providing unwarranted justification for claims that the killings were not politically motivated. In addition to the killings, between January 1, 2001, and February 3, 2002 there were:

- More than 200 reported cases of intimidation, threats and harassment against activists and candidates running against the CPP, including twenty-four death threats. There were two reported cases of threats made against CPP supporters.
- Twenty-three cases of arbitrary arrest or detention of opposition party supporters.<sup>3</sup>

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<sup>3</sup> Of the twenty-three cases, some involved multiple victims, the total number of whom was thirty-four. In seventeen cases, a total of twenty-four victims were released without charge after being detained for periods varying between an hour and a week. In five cases, all in Battambang, the five victims were kept in detention and charged with offences related to the Cambodian Freedom Fighters, a group that launched an armed attack in Phnom Penh in November 2000. In the final case,

- Fifty cases of property violation against opposition parties, including forty-two cases where party signboards were damaged, destroyed or removed for fear of reprisal. Two cases of property destruction were reported against the CPP.

### **Voter Coercion and Vote-Buying**

The pre-election period saw intimidation of voters, primarily through confiscation of voter registration cards and pressure to take oaths of loyalty to the CPP, in at least ten Cambodian provinces. As early as August 2001, electoral monitoring organizations received reports in a number of provinces of vote buying, which continued through to election day. Each of the three main parties has been reported as involved in vote buying, although the CPP has been cited in the great majority of cases. In addition, the pre-election night (February 2) saw incidents reported from almost every province of gift giving by all major parties (illegal in Cambodia) and voter coercion by local CPP officials.<sup>4</sup>

### **Unequal Access to the Media**

Media access for opposition parties, and in particular access to the broadcast media, was more restricted than in the 1998 national elections. Of the thirteen Cambodian national radio stations, only FM102 (a non-political channel operated by the Women's Media Center, a nongovernmental organization) and Beehive Radio (operated by the Beehive Social Democratic Party, which did not stand in the commune elections) are wholly free from CPP affiliation. Funcinpec managed to re-establish a radio station in 2001, but it remains closely linked to the government and its national coalition partner. The Ministry of Information has consistently rejected the SRP's applications for a radio broadcast license.

Despite substantial national and international pressure, the NEC did not change a pre-campaign decision preventing six local-level candidate debates from being aired on national television, although one debate was broadcast on a national radio station. In addition, the NEC reversed its decision to allow broadcast of fifteen pre-screened, national-level election roundtable debates organized by nongovernmental organizations during the campaign period.

The NEC's media monitoring subcommittee primarily focused on the political content of voter education materials produced by election NGOs, rather than the lack of access to the airwaves by opposition parties during the campaign.

With almost no access to any form of broadcast political discussion, voters' ability to make an informed choice on election day was severely limited. A report published by the nongovernmental election monitoring organization COMFREL (Committee for Free and Fair Elections) indicated that the activities of the government and the CPP dominated news coverage both before and during the campaign period, while the exposure given to opposition parties was negligible.<sup>5</sup>

### **Polling and Vote Counting**

Polling day itself was relatively peaceful, with no major incidents of violence reported. National and international election monitors noted that most problems in the voting and counting processes were organizational, rather than the result of deliberate electoral fraud.

The increased transparency of the counting process, whereby votes were counted publicly in the polling station after close of polling, by contrast with prior national elections where they were collected in separate locations for counting, resulted in few complaints of electoral fraud, with the major cause of dissent relating to decisions taken

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five people were detained but four were subsequently released. The other, a leading SRP candidate, was kept in detention and charged with offenses relating to land grabbing.

<sup>4</sup> Report on Cambodian Commune Elections 2002, Special Representative of the United Nations Secretary-General for Human Rights in Cambodia, April 2002.

<sup>5</sup> Conclusions on the Findings of the Media Monitoring Unit of COMFREL, February 5, 2002

over invalid ballot papers. By contrast with 1998, when all post-election complaints filed by the opposition were dismissed, the NEC did respond to some objections made by the Sam Rainsy Party, holding provincial-level recounts of ballots from eleven polling stations. The revised result from one station in Kompong Speu province handed the victory in that commune to the SRP. Calls to hold recounts in a further seven communes where the SRP lost by a narrow margin were dismissed by the NEC.

The CPP emerged the winner, securing 68 percent of commune council seats and commune chief positions on close to 99 percent of all councils. The SRP obtained 12 percent of commune council seats and commune chiefs on thirteen councils, and Funcinpec received 20 percent of commune council seats and commune chiefs on ten councils.

### **Inaction by the Government Mechanisms to Address Election-Related Violations**

Despite continued complaints of intimidation and vote buying, the NEC and its provincial and commune subcommittees did not once exercise their considerable powers of sanction against offenders. A planned “Code of Conduct for Village and Commune Chiefs” that the NEC pledged to distribute before the campaign period was never finalized, providing no guidance for those who sought to obey the election regulations, let alone deterring those intent on violating them. Although the NEC and its provincial and commune subcommittees claimed to have resolved some complaints through a conciliation process, their failure to take firm and public action sends the message that such unlawful practices will be tolerated in future elections.

### **Post-Election Period**

Concerns continue for the security of newly elected councilors, former candidates and other opposition party members as the new commune councils are formed. Since the elections took place, one SRP supporter was shot dead in Phnom Penh, and a SRP candidate was seriously injured in a shooting in Kompong Cham province. Available evidence suggests that both incidents were politically motivated. With national elections little more than a year away, the Cambodian government must take substantial steps to ensure that politicians are protected from violence and harassment, and that citizens feel free to vote with their conscience.

## **IV. CASE STUDY: POLITICAL VIOLENCE AND INTIMIDATION IN TBONG KHMUM**

Tbong Khmum district in Kompong Cham province saw some of the worst violence and intimidation of the Cambodian commune election period. A double killing in Sralop commune, followed by a sustained campaign of intimidation directed against opposition candidates, showed clearly the impact of political violence on the democratic process and the impunity enjoyed by local officials suspected of involvement in violations. The ongoing murder investigation also demonstrates the importance of international pressure on the Cambodian government to pursue and prosecute suspected offenders.

### **Kompong Cham**

Kompong Cham province straddles the Mekong River northeast of Phnom Penh, and borders Vietnam to the east. Cambodia's most populous province and the heart of the lucrative rubber industry, it also has a long and bloody history of conflict. Situated along a key trade route, its strategic military significance has placed it at the center of warfare in Cambodia. During the Indochina wars, districts east of the Mekong saw heavy fighting involving not only Cambodian forces and Khmer Rouge guerillas, but also units of the Viet Cong and North and South Vietnamese armies. Under the rule of the Khmer Rouge (KR), Kompong Cham witnessed some of the worst atrocities directed against Cambodian civilians, as well as extensive purges of KR cadre as the regime began to turn in on itself. Following their ouster from power, the Khmer Rouge retained bases throughout the province until reintegration efforts commenced in 1996.

## Map of Cambodia



The province now serves as the base for the Royal Cambodian Armed Force' Military Region 2 (MR2), an area also encompassing Kratie to the north, and Prey Veng and Svay Rieng to the south. According to local human rights groups, MR2 soldiers have been repeatedly implicated in serious human rights violations, from extortion and armed robbery to assault, rape, illegal detention and murder. Efforts to prosecute suspected offenders have been frustrated, with suspects failing to answer arrest warrants in the few instances where they have been issued.

Kompong Cham has historically been a CPP stronghold. The birthplace of Prime Minister Hun Sen, it was the area from which he and many other Khmer Rouge officers fled to Vietnam in 1977, fearing the growing purges in the KR's Eastern Zone. When they returned to Cambodia backed by the Vietnamese army two years later, Kompong Cham was the first province to fall. In the subsequent People's Republic of Kampuchea, Khmer Rouge defectors such as Hun Sen and Heng Samrin who had served in Kompong Cham and other eastern provinces took key positions in government. Hun Sen's brother, Hun Neng, was later appointed Kompong Cham governor.

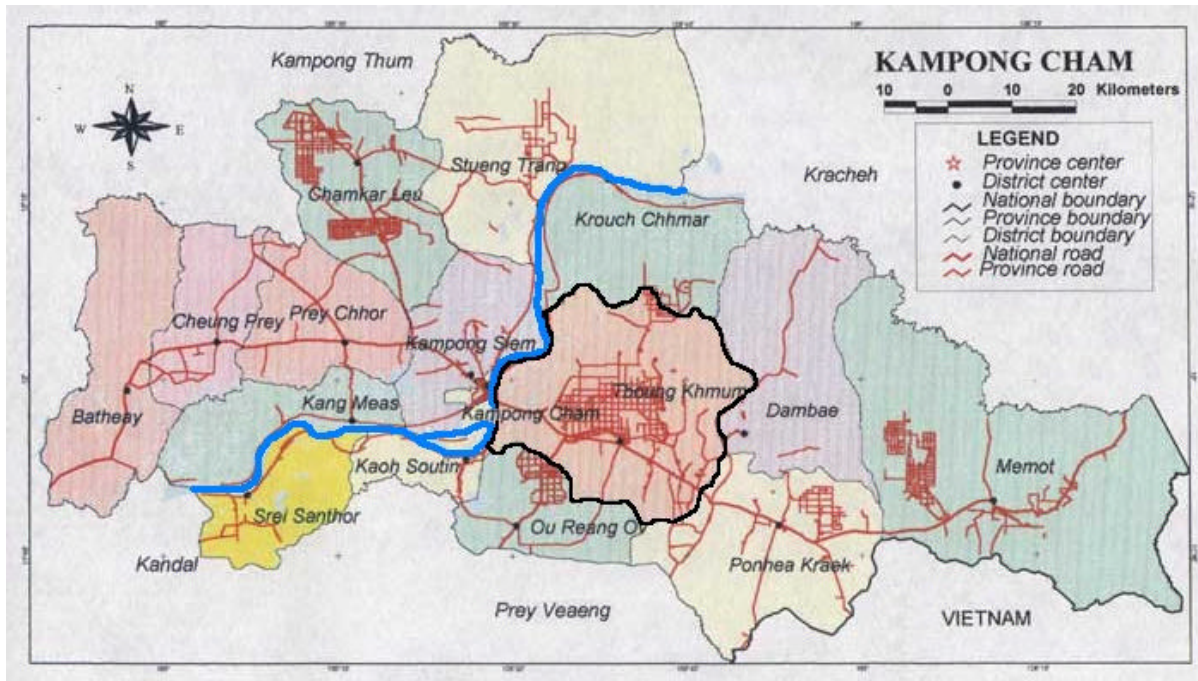
Yet despite the province's strong association with the CPP, when U.N.-sponsored national elections were held in 1993 the population voted overwhelmingly for the royalist Funcinpec (FUN 53.9 percent, CPP, 30 percent). Funcinpec held the province in the 1998 elections, albeit with a significantly reduced majority (FUN 38.5 percent, CPP 34.2 percent), and also won the most votes in the district of Tbong Khmum.

### Tbong Khmum District

Tbong Khmum lies on the east side of the Mekong river, across a newly-constructed bridge from Kompong Cham provincial town and along National Road 7 to Vietnam. The road, currently the subject of a major reconstruction

effort, cuts through Tbong Khmum, passing just south of the massive rubber plantation that lies at the heart of the district. Tbong Khmum is also fringed by smaller plantations in Kroich Chhmar district to the north, and O Reang Ov to the south, while important fishing concessions lie along the river to the west.

### Map of Kompong Cham Province



In addition to the military bases scattered throughout Tbong Khmum, the rubber and fishing concessions have long been a focus for violence. According to local human rights groups, police and military guards have repeatedly been implicated in cases of threat, assault and even murder while enforcing the illegal seizure and usage of concessions.

Tbong Khmum was the scene of some of the worst crimes in the run-up to the 1998 election, including numerous cases of threat and intimidation. The link between politics and violence was clear, for example in the June 1998 killing of Sam Rainsy Party activist Em Iem. A U.N. report documents the circumstances surrounding his death:

The investigation into the killing of Em Iem (c.10 June; Tbong Khmum, Kompong Cham) has established convincing evidence of a political motive. On the morning of 10 June 1998, Em Iem left his home on his bicycle to go to the district headquarters of the Sam Rainsy Party where he was working. He was witnessed being arrested by six men including the village chief, commune police and the militia chiefs. He was searched and party documents were seized. He was seen being handcuffed, blindfolded and taken in the direction of a nearby rubber plantation, where his body was found several days later in a shallow grave. The body was exhumed and identified on June 19. It showed damage to the left side of the head, to the back of the neck and to the right hand. Several teeth had been broken, the right jaw was broken and the nose was smashed. Witnesses said that on the night before the murder (June 9) the village chief had invited people to his home where he declared loudly that anyone joining a political party other than the CPP would be killed. The threat was reiterated several days after the murder, during a gift distribution ceremony, when he stated that Sam Rainsy Party members would be killed one after the other.<sup>6</sup>

<sup>6</sup> Report on Monitoring Of Political Intimidation And Violence (28 June - 5 July 1998), Special Representative of the United Nations Secretary-General for Human Rights in Cambodia, July 1998.



Given their experiences in past elections, the residents of Tbong Khmum viewed the prospect of the February 2002 commune elections with strong apprehension. One voter, who claimed no affiliation to any political party, described the situation:

It is important to have the elections, as we want to choose for ourselves who will be commune chief. But we know that whenever there is voting, there will also be killing. So I am very worried about this election, as there is often killing and violence here.<sup>7</sup>

The year 2001 started badly in Tbong Khmum, with a murder that linked politics, access to resources and the military. On January 14, long-time Funcinpec member and prospective commune council candidate Chhay Than was shot dead in his home in Chiro Pi commune. Than, a fisherman, had been closely involved with advocacy for his fellow villagers against the confiscation of fishing lots and the use of illegal fishing methods by lot owners. The suspect in the killing – a soldier from a neighboring commune who worked guarding the fishing lots – remains at large. But worse was to come as the election drew near.

### **Double Killing in Sralop Commune**

At around 6:20 p.m. on the night of November 14, 2001, people riding on two “motos” (small 100cc motorbikes commonly used throughout Cambodia) arrived at the house of Phoung Sophat in Veal Knach village, Sralop commune. Phoung Sophat, a member of the opposition Sam Rainsy Party, lived close to National Road 7 and the Sralop police post. He was not running as a candidate in the commune elections, but his wife described him as an enthusiastic supporter who was fond of calling on his drinking partners to vote for Sam Rainsy.

According to witnesses, the first moto drew up at the house and two men dismounted, calling for Sophat by his nickname of “Thur”. They told Sophat's wife that they had come to see her husband on business, and she agreed to fetch him from a neighboring house where he was tending his sick aunt. She left, returning ten minutes later with her husband, and they together approached the second moto, which had stopped in the darkness a few meters away. As they neared the motorbike its passenger dismounted, took Sophat by the shoulder and shot him twice at point-blank range with a handgun, killing him instantly. The four perpetrators, three of whom were wearing military jackets, swiftly left the scene and headed west along National Road 7. There was no attempt to rob Sophat or his wife.

Two hours later, in the nearby village of Trapeing Dom, Funcinpec commune election candidate Thon Phally and his wife were awoken by the sound of people moving under their house (which, like many others in the area, is supported on long stilts). Coming to the door, they saw two men in military uniforms climbing the ladder towards them. Without a word, one man shone a flashlight in the face of Thon Phally, and the second shot him with a handgun. He died a few minutes later. Footprints under the house indicated that four or five men had been present, and had fled from the scene into rice fields to the east.

Later that night, reports indicate that two motos bearing three unknown men entered the compound of another Funcinpec candidate in a third village of Sralop. Fortunately for the candidate, he was not at home at the time, and the motos eventually departed.

Local police immediately dismissed the killings as due to unrelated personal disputes, and not in any way connected to politics.<sup>8</sup> But as more evidence emerged, it became clear that the two killings constituted a deliberate act of intimidation against opposition parties in Sralop commune, the effects of which were to be felt throughout Tbong Khmum in the run-up to the commune elections and beyond.

### **The Preliminary Investigation**

Soy Tha, Thon Phally's wife, was interviewed by the police the day after the murder. Shocked and terrified, she said that she did not know any of the attackers. But she was later to revise her statement in a way that made her

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<sup>7</sup> Human Rights Watch interview with Tbong Khmum resident, January 22, 2002.

<sup>8</sup> Lor Chandara, "Two Killings Not Political, Police Say," *The Cambodia Daily*, November 19, 2001.

initial reluctance to testify understandable. On November 21 she stated that she had recognized the man who pulled the trigger on her husband as Ian Saveth (commonly known as “Veth”) – the deputy police chief of neighboring Longieng commune and son of the Sralop commune chief.<sup>9</sup> Veth had been seen by several villagers hanging around the north end of Trapeing Dom village earlier on the afternoon of November 14, accompanied by his friend Lang Sarin (“Seth”) – the deputy police chief of Sralop commune. Witnesses said the two had also been joined by three men in military uniform, riding on two motos.

There is no record that the police sought to question Veth, but they did speak that same day to his colleague Seth. Seth denied any involvement in the killing, but implicated three men: Yuon Samoeun, Yuon Thonny and Chorn Rotha – the same three who had been seen with Seth and Veth on the afternoon of the 14th.

Yuon Samoeun was the former chief of militia in Sralop commune, and the husband of Phuong Sophat's former sister-in-law. Yuon Thonny, his nephew, was also a former militia member in Sralop. Equipped with a uniform and weapon, local residents believed that he had become a member of the District Military – although he does not appear on their records. It is possible that he was registered under a false name, or that he was an "unofficial" soldier, equipped by officially serving officers to conduct extortion and intimidation for them. Chorn Rotha, a friend of the other two and former Khmer Rouge fighter, is a sergeant in the District Military.

On November 23, a warrant was issued against the three suspects, ordering them to be brought to the district court for questioning in the murder of Thon Phally. No action was taken against Veth or Seth, and no link was made to the killing of Phuong Sophat, despite the proximity and similarities between the cases (a ballistics report had already confirmed that the same type of gun was used in both killings.)<sup>10</sup> The suspects, however, remained at large.

### **Continued Intimidation**

The killings of Phuong Sophat and Thon Phally proved to be just the start of an apparent intimidation campaign against opposition members in Sralop commune, and Funcinpec candidates in particular. About ten days after the killing, two men in military uniforms arrived after dark at the house of a prominent Funcinpec candidate in a village near Trapeing Dom. Armed with a handgun, an AK-47 automatic rifle and a flashlight, they called for him to come out, but he was not at home. His wife did not dare to open the door or look more closely at the men. The date of this incident is not confirmed, but it appears to coincide with the issue of warrants against Yuon Samoeun, Yuon Thonny and Chorn Rotha.

Five days later, two armed men matching the descriptions of those who had appeared at Trapeing Dom came to the house of another Funcinpec candidate. They did not enter the compound, but stood outside for around half an hour playing a flashlight over the house. They then moved down the road to repeat the intimidation at the house of another candidate. Five days later they returned, and the same pattern ensued.

Acts of intimidation returned to the village of Trapeing Dom, where Thon Phally had been murdered, targeting Funcinpec candidate Sin Suon, and his neighbor, party agent Pin Kha. On the night of December 13, two or three men entered Sin Suon's compound, kicking the ladder up to his house and threatening to release his cows. This was repeated a further four times, followed by visits on two occasions to the house of Pin Kha, until human rights workers visited Sralop on January 15 and learnt what was taking place. The following day, Sin Suon was evacuated from Sralop.

Prior to his evacuation Sin Suon and several other candidates in Sralop had taken to sleeping in the rice fields away from their houses, fearing that they might be killed if they could be found at night. By the time the official election campaign started on January 18, the party had arranged for all candidates to stay together in the Funcinpec commune office. This provided some safety in numbers, but the fact that the office was located directly

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<sup>9</sup> See Bou Saroeun, “Fear still haunts Kampong Cham commune,” *Phnom Penh Post*, March 15-28, 2002.

<sup>10</sup> Technical and Scientific Police Department Report, November 20, 2001.

opposite the Sralop police post, whose deputy chief was a suspect in the Thon Phally murder, did little to help the mood of the candidates. Funcinpec could not afford to extend this protection to other party members and agents.

On January 22, prominent Funcinpec figures came to campaign in Trapeing Dom, including Interior Co-Minister You Hokry and Kompong Cham First Deputy Governor Thav Kimlong. The visit may have provided the impetus for further political intimidation in Trapeing Dom that same night. Sin Suon was not at home, but his neighbor Pin Kha was targeted. On this occasion, villagers spotted men approaching from the fields and warned Pin Kha, who hid. A call was placed to the Sralop police post for assistance, but the villagers were told that no-one could come as all the policemen were "at a wedding". The police later denied this, saying they had sent an officer to the village, although he did not attempt to contact the victim or village authorities. Human rights groups assisted Pin Kha to join the Funcinpec candidates in the commune office for the remainder of the campaign.

### **The Official Response**

As the election neared, human rights groups kept up pressure on the district court and the police to apprehend the murder suspects. The media also became alerted to the continuing problems in Sralop, and eventually the authorities began to act.

On January 11, 2002, the opposition newspaper *Samleng Yuvachan Khmer* (Voice of Khmer Youth) published an article on Tbong Khmum, describing the killings of Thon Phally and Phoung Sophat, the subsequent intimidation campaign and other violations taking place in the district.<sup>11</sup> The following day, Director of National Police Hok Lundy issued an order suspending Seth and Veth to facilitate investigation into the Thon Phally case. The two policemen were required to reside in the district police headquarters – allowed to come and go freely, but not to return to Tbong Khmum.

On January 15, the Cambodia Office of the U.N. High Commissioner for Human Rights (COHCHR) released a pre-election report that drew particular attention to two Cambodian districts, Tbong Khmum and Chhouk district in Kampot province:

It is the view of the Special Representative of the Secretary General for Human Rights in Cambodia that immediate steps should be taken in these locales and in surrounding areas to address practices that clearly contravene Cambodia's electoral and criminal laws, and to tackle longstanding problems arising from impunity<sup>12</sup>.

The focus drawn to the case by the U.N. and other human rights organizations appears to have been effective. Just two days after the report was published, Prime Minister Hun Sen spoke at the groundbreaking ceremony for a road reconstruction project in Tbong Khmum. Toward the end of a speech that focused on the importance of development assistance, he included a surprise announcement:

There is a murder case in the village of Sanlob, Sanlob commune. May General Choeun Sovantha search the two suspects as His Excellency You Hokry already passed the case down the system here.<sup>13</sup> I gave my instruction days ago to arrest and bring these criminals to justice. Anyone [who] committed acts of violence must be arrested no matter what political party they belong to or ranks they may have.<sup>14</sup>

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<sup>11</sup> Sorya, "Many Murders East of Mekong River," *Samleng Yuvachan Khmer* (Voice of Khmer Youth) newspaper, January 11, 2002.

<sup>12</sup> COHCHR, "Pre-campaign period report by the Special Representative of the U.N. Secretary General for Human Rights in Cambodia on crime and intimidation related to the commune elections," January 15, 2002.

<sup>13</sup> Shortly after the killings, Funcinpec Co-Interior Minister You Hokry established an investigative commission, although it appears to have taken little action.

<sup>14</sup> "Selected Comments to the Groundbreaking Ceremony to Rebuild the National Road 7, 17 January, 2002," *Cambodia New Vision*, Issue 48, January 2002. "Sanlob" is an alternative name for Sralop; although neither killing took place in Sralop village, Hun Sen was clearly referring to the Sralop commune murder cases.

This direct order produced instant results. General Chouen Sovantha, the Commander of Military Region 2 and, according to some observers, the most powerful man in Kompong Cham, is an old ally of Hun Sen who fought alongside him against the Khmer Rouge. On January 18, Sovantha issued a directive for the arrest of Yuon Samoeun, Yuon Thonny and Chorn Rotha, citing the arrest warrants and Hun Sen's order. On January 29, Yuon Samoeun was arrested in Phnom Penh. He denies involvement in the killings, and the other two men remain at large.

Human rights organizations continued their pressure on the Kompong Cham provincial court to prepare arrest warrants against the policemen known as Veth and Seth, and on February 22 the provincial prosecutor filed charges against them. On March 4, the two were finally placed in detention.

### **Wider Pattern of Violence in Tbong Khmum**

Tbong Khmum has a long history of crime and violence, but a sharp increase in armed robberies in early 2002 with close similarities to the events in Sralop led human rights groups to question whether some of the same perpetrators – or organizers – might be involved. And whatever the true motivations behind the various attacks, they clearly served to heighten the atmosphere of fear and intimidation in the pre-election period.

On January 8, 2002, a group of four men in military uniform with flashlights and AK-47 rifles attacked the house of Heng Seng in Doung Preas village, An Cheum commune, beating his wife and stealing their valuables. Four days later the attackers returned to the village in greater numbers (witnesses put the group at more than six) and repeated the attack, first at the house of Heng Seng's sister, Heng Thol, and then at the adjacent house of their father, Doung Heng. Shots were fired at Doung Heng, who fled into the fields and is now believed to be in hiding with his family. The motive for the attacks remains unclear, but Doung Heng was clearly the target – the perpetrators named him during both attacks on his children. A former member of Funcinpec, Doung Heng was rumored to be joining the Sam Rainsy Party. The local police attributed the attack to a personal dispute, yet the numbers involved and professionalism of the assaults make this an unlikely scenario.

On the night of January 13, two near-identical armed robberies took place in villages some thirty minutes apart by road. In Suong commune, approximately five men with AK-47s and flashlights stole five buffalo from a house in Chrok Phaun village, on the edge of a rubber plantation. There was no attempt to conduct the robbery by stealth – the men deliberately awoke their victims, told them to stay inside and fired warning shots into the ground. Tracks indicated that the buffalo were led to a waiting truck in the plantation. Meanwhile, in Chup commune, a half-dozen armed men stole six cows from a house in Toul Sambo village, this time firing warning shots through the house. Tracks again led into the nearby rubber plantation, where it is thought a truck collected the animals. The following night, Tip Nimith village in Kor commune was targeted, with the victim Ms. Hang Srieng, the number five candidate on the Sam Rainsy Party candidate list. Three armed perpetrators stole two cows, shot and injured Hang Sreing's son, and once more escaped into the rubber plantation.

The victims of these three robberies had in common their vulnerability. Their houses were relatively remote and located next to plantations, making for an easy escape with the livestock. But perhaps more significantly, none had any connection with the ruling party or local officials – giving them little chance of justice. Hang Srieng was described as the poorest person in her village, making robbery at her house the least profitable.

The apparent professionalism of these raids stood in contrast to a series of otherwise similar robberies in the south of Tbong Khmum. A series of three attempted cattle robberies in Steung Penh village, Chikor commune over the nights of January 13-15 suddenly intensified on the night of January 16, when a gang of approximately ten men armed with AK-47s and sporting head-mounted flashlights entered the village, shooting and injuring a villager and escaping with his two cows. The following night, about a dozen men entered Thnung village in Muong Riev commune (not far from Steung Penh), again with AK-47s and head-torches, surrounded a house and attempted to steal cows. Spotted by a neighbor, they first shot at his house, then threw a grenade through his window, killing his mother-in-law, wife and two daughters.

On this occasion, however, the perpetrators were not aware that two trucks of provincial police were in the village in advance of the electoral campaign that began the following day. Hearing the shots and explosions, the police approached the scene and a firefight ensued. One perpetrator was fatally injured, but told the police before dying that he came from just over the district line in Sangke village, O Reang Ov district. The following day, police arrested nine men in Sangke, three of whom (including the village chief) remain in custody.

The gang from Sangke appeared far more amateurish than the perpetrators in the previous examples. They seemed to have little local knowledge and planning, not even being aware of the large police presence awaiting their final attack. Yet they had clearly been organized and equipped with uniforms, weapons and head-torches (the last of these probably being the hardest items to find in Cambodia). These may have been opportunistic, copycat attacks, but some observers have speculated that they were deliberately arranged to distract attention *away* from the unfolding events in Sralop commune.

### **The Impact of Intimidation**

The effects of violence and intimidation go far beyond the individuals targeted, or the village or commune where they live. News of the double killing in Sralop commune spread swiftly throughout Tbong Khmum, causing many opposition candidates and activists to fear for their safety if they continued with their work.

In neighboring An Cheum commune, the Funcinpec candidates experienced a relatively peaceful campaign, taking the occasional drunken threat in stride. But they were acutely aware of the problems experienced by their counterparts in Sralop, to the extent that some admitted they did not *want* to win the election. They claimed that after the 1993 national election, when Funcinpec won in their commune, most members had been the victims of robbery. They did not expect any different this time around:

If we win, it is election night that we are afraid of, after they have counted and the results are produced. If we are lucky, then when we wake up our cows will be gone. If we are unlucky then our lives will be gone.<sup>15</sup>

Sam Rainsy Party candidates were similarly afraid. An SRP candidate in An Cheum explained:

Of course many people know about [the killings in] Sralop. Afterwards, my family came to me and asked me to stop being a candidate for Sam Rainsy. They had heard that I might be killed. But I decided to stay.<sup>16</sup>

In other communes, candidates experienced specific threats and intimidation, and were acutely aware of the potential threats to their safety. Opposition candidates from both parties in Longieng commune, where murder suspect Veth served as deputy police chief had been repeatedly threatened by one of his subordinates. Eventually, the district Sam Rainsy Party office lodged a complaint with the district police, and the accused officer was summoned to the district police headquarters. However, as the candidates were terrified of the policeman in question, who claimed to possess a large supply of weapons including guns, grenades and land mines, they did not wish to see him punished for fear that they would then be subject to reprisals:

We hope that he will be educated, and not fired. When he learnt that he had to go to the district police headquarters, he went to the house of every Sam Rainsy Party candidate, armed with a hand grenade, and told them that he would kill them all if he lost his job.<sup>17</sup>

### **The Post-Election Period**

The opposition candidates in Tbong Khmum need not have worried about winning. The CPP were victorious through the district, taking 56 percent of the vote (compared with 37 percent in the 1998 national elections) and

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<sup>15</sup> Human Rights Watch interview with Funcinpec candidate for An Cheum commune council, January 23, 2002.

<sup>16</sup> Human Rights Watch interview with SRP candidate for An Cheum commune council, February 21, 2002.

<sup>17</sup> Human Rights Watch interview with SRP candidate for Longieng commune council, February 21, 2002.

retaining control of all the communes. Their victory was mainly at the expense of Funcinpec, whose share of the vote dropped from 41 percent to 24 percent. The Sam Rainsy Party made gains, increasing their share from 11 percent to 19 percent. It was a pattern largely reflected throughout the rest of the country.

Polling day itself in Tbong Khmum was relatively quiet, with no major incidents of violence or intimidation, although there was a significant presence of village and commune authorities around polling stations (and in some cases inside, in the form of CPP party agents). In Sralop commune, six seats were won by the CPP, three by Funcinpec and two by the Sam Rainsy Party.

Shortly after the election, reports from Sralop indicated that the brother of murder suspect and deputy police chief Seth, along with the chief and deputy chief of his village, were coercing villagers to provide alibis for both Seth and Veth in the murder of Thon Phally. Meanwhile, the election has not ended the violence and intimidation. On March 3, gunmen shot and seriously wounded a former SRP candidate in An Cheum commune. Several candidates who were previously targeted for nighttime visits have again reported the presence of armed men near their houses after dark. With three of the five murder suspects now in custody, and the others having fled the area, it appears that other perpetrators continue to operate with impunity, and may be seeking retribution for the arrest of their fellow gang members.

### **Conclusion**

Although much of Cambodia did not experience the level of violence and intimidation associated with the national elections of 1993 and 1998, this was not the case for Tbong Khmum district. The deliberate killing of two opposition members, combined with a follow-up campaign of armed intimidation, was easily sufficient to make opposition candidates and supporters throughout the district fear for their lives. In a situation where some candidates preferred to lose the election for fear that victory would bring retribution, it is clear that democratic processes are unable to function.

The prime suspects are law enforcement and military officers who are closely associated with local authorities and the ruling CPP. In the Sralop double killing, sustained pressure on national authorities and local police officials led to the arrests of three suspected perpetrators. Yet it remains to be seen whether future court proceedings will guarantee a fair hearing for the accused, and justice for the victims.

The early indications are not promising. On April 8, 2002, Thon Phally's widow Soy Tha received a letter from the Kampong Cham provincial court notifying her that a trial had been set for April 12 - just four days later. In a highly irregular procedure, the letter included a list of sixteen people that she was required to bring to the court as prosecution witnesses. Summoning prosecution witnesses is the responsibility of the court, not the victim's family, a point emphasized by the fact that some of the names on the list were not even known to her.

The day before the trial was due to take place, and following the intervention of several human rights groups, lawyers appointed to represent Soy Tha won a postponement of the trial (citing the fact that they had not yet received the relevant court papers). A new date for the hearing has yet to be announced.

For the people of Tbong Khmum, it is doubtful whether any outcome will prove satisfactory. Many in Sralop commune expressed fear that Veth and Seth might be released. One witness to events on November 14 who provided a statement to police said that, although not a political party member, should the two suspects return he would have to leave the area for his own safety. Yet if any suspects are convicted, citizens are similarly afraid of the retribution that might come from their associates remaining at large.

The only effective way to resolve these problems remains to end the impunity granted to perpetrators of human rights abuses. The violence and intimidation in Tbong Khmum will prove an important test case for Cambodian justice, and should continue to be closely monitored if it is not to join the long roll call of unresolved cases of political violence. Unless the Cambodian authorities demonstrate clearly and effectively their willingness to

pursue the perpetrators of politically motivated abuses and bring them to justice, the prospects for free elections in 2003 and beyond look bleak.

## APPENDIX A: KILLINGS OF FUNCINPEC AND SRP PARTY MEMBERS

Between January 3, 2001, and January 5, 2002, fifteen Funcinpec and SRP party members, most of whom were prospective or confirmed commune council candidates, were killed. While there is no evidence that any of the killings were directed from high levels of government, the government's lack of serious and effective action to stop the killing resulted in a climate of fear and intimidation for voters and candidates alike. The killings included the following:

- On January 3, 2001, SRP activist Phoung Phann was shot dead at his home in Kompong Cham. A member of the military was arrested over a year later in the killing, but as yet no trial date has been set.
- On January 14, 2001, prospective Funcinpec candidate Chhay Than was killed in Kompong Cham. Court attempts to question the suspected perpetrator, a local soldier, have so far proved unsuccessful.
- On June 30, 2001, prospective SRP candidate Uch Horn was killed in Kompong Speu. He had previously complained to two local human rights groups and the U.N. that he had received death threats. Two local residents, one a police officer, were convicted of the murder on October 12, 2001. However, investigations by human rights NGOs also point to the possible involvement of Uch Horn's village chief in the killing.
- On July 17, 2001, prospective Funcinpec candidate Meas Soy was shot and killed by two unidentified persons in Kompong Chhnang. A member of the military was subsequently tried for the murder, but acquitted for lack of evidence.
- On August 23, 2001, prospective SRP candidate Touch Voeurn was shot and killed at his home in Siem Reap. On February 22, 2002, three men were convicted in the murder. The court rejected a political motive for the killing, finding instead that the murder was carried out as revenge for Voeurn's suspected "black magic". Trial observers commented that there was insufficient evidence against the alleged perpetrators, who have all launched appeals.
- On September 21, 2001, Chhim Leang Sri, a prospective SRP candidate in Kompong Cham, was shot dead by three armed men. No suspects have been arrested.
- On November 5, 2001, confirmed SRP candidate Sam Sophear was beaten to death by five assailants in Battambang. On February 1, 2002, seven men were sentenced to terms of between four and fifteen years in the killing. Prosecutors claimed that fellow SRP member Thach Theoun had arranged the beating due to a business dispute and his conviction – on hearsay evidence alone – meant that the court accepted a non-political motive for the killing. The alleged middleman in the killings, a former SRP member accused by the party of being a government intelligence agent, has not been apprehended by the police and was convicted in absentia.
- On November 14, 2001, SRP member Phoung Sophat was shot dead in Kompong Cham. Two hours later, Funcinpec candidate Thon Phally was shot dead in the same commune. Two local policemen and a former militia member have been arrested in the killing of Thon Phally, with a further two suspects still at large. The proximity and similar methods used in these two killings suggest that they are related.
- On December 8, 2001, SRP activist Ouk Sao was shot dead at his home in Kompong Thom. To date no suspects have been arrested for the killing.
- On December 9, 2001, Funcinpec candidate Orn Chileng was fatally wounded at his home in Takeo province after being attacked with a knife and a wrench. A CPP election observer has been arrested in connection with the killing.
- On December 14, 2001, the body of Ros Don, first-placed candidate on the Funcinpec party list for his commune, was found near a roadside in Siem Reap. Don had sustained a number of blows to the head. Police have attributed the death to an accident.
- On January 4, 2002, third-placed Funcinpec candidate Long Kim Thon and her husband Soun Kroeun, a Funcinpec election observer, were shot dead in fields near their village in, Kampot province. On January 15 a civilian was arrested in connection with the killing.
- On January 5, 2002, Touch Sean, a SRP candidate, was shot dead at her home in Svay Rieng province. Local authorities claim robbery as the motive for the killing. Three people have been arrested as suspects in the killing, one a district-level deputy police chief.



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