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VIOLATIONS OF THE LAWS OF WAR BY THE KHMER ROUGE

Summary

Since December 1978 when Vietnamese troops invaded Cambodia and toppled the radical Maoist government of Democratic Kampuchea (Khmer Rouge), hundreds of thousands of Cambodians have fled to camps along the Thai-Cambodian border. The "displaced" Cambodians living in these camps are subject to a wide variety of human rights abuses by camp administrators representing the resistance factions, including the Khmer Rouge, who are fighting the Phnom Penh government in Cambodia. These abuses include denial of food and medical care to those who refuse to fight; use of children in the war; forced labor; exposing civilians to physical danger by making them targets of military attack; and forced *refoulement*, or forcing refugees back to the country from which they fled. Asia Watch documented many of these abuses in the course of a mission to the Thai-Cambodian border in January 1990. A recent Thai initiative to establish a "neutral camp" for the Cambodians could, if properly implemented, address some of these abuses. The role of the United States is now to help ensure that appropriate safeguards to protect the lives of the Cambodians are put into place as the initiative is developed and to be willing to use diplomatic and economic leverage as needed in Thailand in the interest of promoting human rights.

Background

After ousting the Khmer Rouge government, Vietnam installed in January 1979 a new regime in Phnom Penh led by President Heng Samrin and Foreign Minister (now Prime Minister) Hun Sen which it backed with its armed forces until September 26, 1989 when those forces returned to Vietnam. Although the Phnom Penh government controls most of the territory of Cambodia, it has not been accorded widespread recognition outside what used to be the socialist bloc. Apart from the Soviet Union and its former Eastern European satellites (except Romania), the Hun Sen government has been recognized by only a few countries including Cuba, Nicaragua, Mozambique, Angola, Libya and India.

In fact, a majority of the members of the United Nations have rejected on several occasions the Phnom Penh regime's claim to be the legal government of Cambodia, regarding it instead as a rebel authority.¹ The Hun Sen government, consequently, has been widely perceived as one lacking legitimacy. Its military forces consist of a standing army, an ostensibly "voluntary" civilian militia into

¹ G.A. Res. 36/5, U.N. GAOR Supp. (No.48) at 2-5, Press Release GA/6546 (1981); GA Res. 35/6, U.N. GAOR Supp. (No.48) at 3-5, Press Release GA/6375 (1980); G.A. Res. 34/22, U.N. GAOR Supp. (No. 46) at 16-17, U.N. Doc. A/34/L.13/ Rev. 2 (1979).

which villagers are, in places, reported to be forcibly recruited, and in recent months, some 3,000 and 5,000 Vietnamese troops which have reportedly returned from Vietnam to help the government fight the Khmer Rouge and its allies.

The rival claimant to status as the legitimate government of Cambodia is the Coalition Government of Democratic Kampuchea (CGDK), a loose amalgam headed off and on by Prince Sihanouk which consists of the various factions resisting Phnom Penh: the Khmer Rouge who were driven out of Cambodia at the time of the Vietnamese invasion; the non-Communist Khmer People's National Liberation Front formed in 1979 and headed by former Prime Minister Son Sann; and the United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC) led by Prince Norodom Sihanouk, revered by many Cambodians as a "god-king."

The CGDK is a tactical alliance, a diplomatic fiction useful for opposing the Phnom Penh government and Vietnam's role in installing it. A majority of UN member states has effectively recognized it as the lawful government, and it represents Cambodia in the General Assembly. In addition, a handful of countries have formally presented credentials to its officials in ceremonies along the Thai-Cambodia border. Among those countries with "ambassadors" to the CGDK are the six ASEAN countries (Thailand, Indonesia, the Philippines, Malaysia, Singapore, and Brunei); China; Egypt; North Korea; and Yugoslavia.

If the CGDK is Cambodia's lawful government, it is clearly a government-in-exile. As a coalition, it does not in fact control or exercise governmental authority within any part of Cambodia. In contrast, different factions of the coalition have succeeded in establishing small "liberated zones" near the Thai border. The Khmer Rouge, which is by far the strongest faction militarily, is reportedly in control of some 20,000 civilians and 7,000 troops in the areas around Pailin and Phnom Malai in western Cambodia. The three factions have their own guerrillas. The Khmer Rouge is believed to have infiltrated substantial parts of the Cambodian countryside beyond the liberated zones, but its control is not overt, and it is impossible to accurately assess how extensive it is. Some villages are said to be run by the Phnom Penh officials by day and by the Khmer Rouge at night.

If the CGDK exerts little control over territory or population inside Cambodia, however, the different factions unquestionably control over 300,000 Cambodians living in camps in Thailand. The United Nations Border Relief Operation (UNBRO) and a group of international relief agencies supply

food, water, building materials, sanitation, medical and social services, and educational materials and training to 292,929 refugees in six separate camps controlled by the Khmer Rouge, the KPNLF or FUNCINPEC. Up to 100,000 more Cambodians live under strict Khmer Rouge control in a series of satellite camps, isolated from any contact with the outside world.

Most of these Cambodians have been in the border camps since 1979-80, their flight from Cambodia fuelled by a number of factors including starvation, exhaustion, and disease from three and a half years of Khmer Rouge rule; hope of reuniting with family members split apart by Khmer Rouge social policies; real or feared persecution at the hands of the Vietnamese invaders; desire to fight the Vietnamese occupation; and hope for resettlement in a third country. Some of the camp residents are clearly civilians; others are just as clearly guerrilla fighters. The distinction is sometimes blurred as each resistance faction is determined to use the population of the camps it controls to further its war aims, and men, women and children who should be treated as civilians may be compelled to serve the military. All able-bodied males are subject to forcible conscription in the guerilla forces, but some also enlist as a way of escaping the boredom of the camps or manifesting one's patriotism. Increasingly, the Khmer Rouge, the KPNLF and FUNCINPEC are trying to move people from the camps across the border into Thailand, often against their will, to settle captured territory, carry supplies or fight. In the first three months of 1990, the different factions moved an estimated 20,000 people into Cambodia, sometimes forcibly.

The Role of Thailand

The government of Thailand, while not a party to the conflict between the CDGK and Phnom Penh forces, has by no means been unaffected by that conflict. It has unquestionably played a major humanitarian role, and has taken on an enormous financial, social and political burden in the process, by allowing hundreds of thousands of Cambodians to stay in Thailand. By classifying them as displaced persons or illegal entrants, however, rather than as refugees, the Thai government has denied them the protection accorded refugees by international law. (It is true that not all of the Cambodians in the border camps would qualify for refugee status but in the absence of any screening process, they should be presumed to be refugees until proven otherwise.) Moreover, the Thai government has directly contributed to human rights violations by allowing the CGDK resistance factions full control over camps on Thai territory and preventing camp residents from any freedom of choice over which camp to live in; and by acquiescing in or actively helping the mass relocation of Cambodians back into Cambodia. The human rights abuses cited in this paper, from *refoulement* to forced labor to use of children in the war effort, take place largely on Thai territory and could be stopped if Thailand had the political will to do so. The Thai government's announcement on March 7, 1990 of plans to establish a "neutral" camp, free from political influence, may be an important first step in trying to protect the rights of civilians in these camps prior to eventual repatriation. Thai officials reportedly said that they will conduct a survey to determine who wishes to go to the neutral camp and who wishes to return to "liberated" parts of Cambodia. But without adequate safeguards to monitor the survey process, the physical transfer from existing camps to the proposed neutral site, the day-to-day administration of the new camp, and any repatriation efforts, the civilians inside will continue to be the victims.

The Applicable Law

Inasmuch as the CGDK claims to be the lawful government of Cambodia and is recognized as such by a majority of UN member states, it, like other governments, is obliged to respect internationally recognized human rights and is internationally responsible for violations of those rights committed by and attributable to the armed forces of its various coalition members. Further, irrespective of its status as the lawful government or a combination of dissident forces, the CGDK is directly bound by applicable rules of international humanitarian law, *i.e.*, the law of armed conflict.² In this regard, the present nature of the hostilities between CGDK and Phnom Penh government forces in Cambodia is that of a non-international, *i.e.*, internal, armed conflict. Accordingly, relations between the parties to the conflict are governed by common Article 3 of the Geneva Conventions and customary international law ruled applicable to internal armed conflicts.³ Also, while not directly applicable to the Cambodian conflict, Protocol II to the Geneva Conventions⁴ does contain rules providing authoritative guidance on the conduct of hostilities by the parties to that conflict.

In this paper, Asia Watch primarily addresses violations of human rights and humanitarian law by the Khmer Rouge; a fuller report, forthcoming, will include material on the other resistance factions and the Hun Sen government as well.

The Khmer Rouge Camps

There are five main "clusters" of Khmer Rouge camps along the Thai-Cambodian border: O Trao, Site 8, Borai and Site K, all in Thailand; and the areas around Pailin and Phnom Malai inside Cambodia. Except for the last, each cluster typically contains one "open" UNBRO-assisted camp on the Thai side of the border; one or more "closed" camps housing porters and families of fighters hidden closer to the border than the "open" camp; and several secret military camps inside Cambodia.

² Cambodia has ratified the four 1949 Geneva Conventions.

³ Even if another state(s) were to intervene with its armed forces on the side of either party to the Cambodian conflict, common Article 3 and customary international law would continue to govern the legal relationship at least between the CGDK and Phnom Penh forces. The introduction of another state's armed forces in the conflict would "internationalize" this non-international armed conflict. See Gasser, Internationalized Non-International Armed Conflicts: Cases Studies of Afghanistan, Kampuchea and Lebanon, 33 Am.U.L. Rev. 145-145-147 (1983) (discussing the legal issues posed by such interventions); See also Africa Watch, Angola: Violations of the Laws of War by Both Sides, 119-141 (1989) (for discussion of that "internationalized" civil war).

⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts. Cambodia has not ratified Protocol II and therefore its terms do not bind it.

a. The O Trao Camp System

Also referred to as the North Sisophon battlefield, the O Trao camp system consists of at least seven satellite camps surrounding O Trao, a UNBRO-assisted camp with about 16,000 residents as of January 1990. The area is under the control of Ta Mok, the infamous Khmer Rouge commander nicknamed "the slaughterer" for his role in the purges of his colleagues during the period Cambodia was under Khmer Rouge control.

Three regions with roughly equal populations surround O Trao. Zone 1001 to the northeast, under the control of Division #1001 commander Ta Kyeu, contains 3,000 soldiers and about 5,000 civilians in two camps, Chuam Sla and Camp 40 (also called K7). Ta Vuon directs civilian affairs in the region. To the east, Zone 912, under Division #912 commander Ta Reth, contains similar numbers of soldiers and civilians in at least two secret camps. Zone 1003 to the south, controlled by Ta Mok's Division #1003, contains over 3,000 soldiers and over 10,000 non-combatants in O Bankov and O Lakao camps, and Phum Chuam, a prison commanded by Ta Kong. Ta Seng is in charge of the region's civilian population.

Asia Watch estimates that the O Trao camp system contains over 9,000 troops and up to 40,000 civilians. The soldiers operate primarily in Oddar Meanchay, Siem Reap, and Preah Vihear provinces inside Cambodia.

b. The Site 8 Camp System

Also referred to as the South Sisophon battlefield, the Site 8 camp system consists of three clandestine camps around Site 8 itself, the largest and most "open" UNBRO-assisted camp, with about 40,000 residents.

Phnom Dei, about five miles north of Site 8, houses 3-4,000 troops from Division #64 and about 5,000 porters and family members of soldiers. Some three thousand soldiers from Division #63, stay over five miles to the south of Site 8 at Pluong Ches, which also contains the main prison in the area. Just across the border from Pluong Ches is Phnom Chakrai.

Seven or eight miles northwest of Site 8 lies T85, an area that contains at least 15,000 non-combatants in three sub-camps. The largest of these houses about 10,000 people. Of two smaller sub-camps, one is for recent arrivals from the Phnom Khieu area, the other for civilians relocated from Phnom Malai during Vietnamese shelling attacks in 1989. A fourth sub-camp in the vicinity of T85 contains about 1,000 soldiers from Brigade #102.

Asia Watch estimates that the Site 8 camp system contains 7-8,000 troops and about 60,000 civilians. Troops operate primarily in Battambang, Siem Reap, and Kompong Thom provinces.

c. The Borai Camp System

Also referred to as the Samlot battlefield, the Borai camp system contains two clusters of secret camps east of Borai itself, which had been an UNBRO-assisted camp until the Khmer Rouge forcibly relocated its 4,400 residents across the border into Cambodia in January 1990.

According to a former regiment commander at Borai, thousands of Borai residents now live in a commune just inside Cambodia called Bosa Om, under former Borai administrator Ta Kieng and his deputy Ta Chan. A couple of miles to the north of Borai, a secret camp led by brigade commander Meth Neary Vee houses up to 3,000 porters, all single women reportedly between the ages of 13 and 50. Several miles across the border to the east lies Pole 70, a sprawling complex that contains a number of sub-camps.

Almost 20 miles inside Cambodia lies the military outpost O Krowich. Pole 69 is situated several miles north of the Pole 70 complex, under brigade commander Ta Num, who controls 1,000 soldiers and several thousand non-combatants.

Asia Watch estimates that the Borai camp system contains over 7,000 soldiers and about 20,000 civilians. Troops operate primarily in the Cambodian provinces of Pursat, Maung, and Konpong Chhnang.

d. The Site K Camp System

Also referred to as the Koh Kong or Southwest battlefield, the Site K camp system contains a series of secret military and civilian camps in the vicinity of Site K, a UNBRO-assisted camp of about 12,000, under chief administrator Ta Chay. Pol Pot directs DK's political and military affairs from Zone 87 (one of Pol Pot's aliases is 87) in Thailand's Trat province opposite Koh Kong. Several former commanders who had attended Zone 87 training sessions told Asia Watch that Pol Pot remains the unquestioned political and military leader of the Khmer Rouge, formulating the movement's policies with the same inner circle which ruled Cambodia from 1975-78 -- Son Sen, Nuon Chea, Khieu Samphan, Ieng Sary, and Ta Mok.

This camp system includes camps known as V3, V4, Kai Che, Phum Thmei, O Koky and Ang Tek. Asia Watch estimates that the Site K camp system contains 8-9,000 soldiers and about 25,000 civilians. Troops operate in Koh Kong, Kompong Speu, Kompong Chhnang, Takeo and Kampot provinces inside Cambodia.

Camp administrators make little distinction between civilians and combatants. All able-bodied single men and some married men are fighters; single women and some men carry ammunition or war materiel 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 also be given a particular task (*chat tang*) to aid the war effort such as planting vegetables. Assigned tasks vary with one's place of residence.

Even the camps with a majority of non-combatants are organized along military lines, commanded by officers and required to observe military discipline and obedience. Until its leaders

forcibly relocated the entire population of 4,400 into Cambodia on January 25, 1990, the UNBRO-assisted camp called Borai was organized into four "regiments" of 98 "regimental" families each, according to a former regiment commander. A regimental family consisted of four nuclear families. At the time the commander escaped in February 1989, the camp population consisted almost entirely of women, children and the elderly, as the men were fighting inside Cambodia.

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 80-120 pounds of military hardware, food and medicine to supply military units on trips inside Cambodia that can last up to one month. These journeys through war zones expose porters to grave danger from attacks, land mines, and malaria. All escapees interviewed by Asia Watch who portered supplies for the Khmer Rouge reported casualties during these trips.

Most former porters testified that land mines were the greatest danger. Not only were they vulnerable to mines planted by Vietnamese and Hun Sen troops, but by their own troops as well. In 1987, Ta Mok, one of the highest-ranking Khmer Rouge commanders, lost his leg when he stepped on a Chinese #69 mine planted by his own soldiers.

A man whom we shall call Sin Phat described to Asia Watch the hardships he had endured while being forced to porter by camp leaders in Zone 1003, part of the O Trao camp cluster controlled by Ta Mok. He had portered weapons and supplies from O Bankov to Prey Seatt, deep in Siem Reap province, about once a month from early 1986, when he was married at age 36, until September 15, 1989, when his leg was injured by shrapnel from a mine blast that killed two other porters. With about 20 soldiers accompanying his unit of 50-60 porters, he would carry 100-120 pounds of mines, 840 rockets, rocket-propelled grenades (RPGs), AK-47s, and other military hardware for six days until the unit reached the Khmer Rouge military base.

He estimated that in three years, he had seen almost twenty porters killed by mines. In July 1989, Kem, a 38-year-old man whose wife and five children lived in O Bankov, was killed only a few miles outside O Bankov when he stepped on a mine which he believed had been planted by Khmer Rouge soldiers. Two days later, while walking through dense forest in northern Battambang province, Paly and Reourn, both married men in their thirties, were killed when a "hat mine," a Vietnamese mine so-called because of its shape, was detonated under their feet. Such a mine must be manually detonated by a nearby soldier. On September 15, a hat mine killed Vanna and Sarun, and shrapnel from the blast ripped into the legs and stomach of Sin Phat, who was walking several paces behind the two. He had to walk another two days, without his pack, until he reached the military base and received medical treatment for the injury, which has left a long, jagged scar on his right thigh. In November 1989, he and his wife fled to Site K.

A deputy battalion commander named Kao Lam told Asia Watch that his troops often accompanied porter units from Phum Thmei camp in the southern region around the Site K camp system on long trips to Phnom Kuk, located on a hill near route 5 in Krakor district of Kompong Chhnang province. The journey, which usually took two weeks, involved a unit of about 100 porters, all single women ranging in age from the low-teens to the mid-forties, and 50-60 soldiers. Meth Neary Rhim, a regiment commander in her late thirties, controls four 100-woman porter units in Phum Thmei.

Kao Lam reported that the porters were rarely killed by mines because his soldiers would check the paths in front of the group. However, during a trip he led in October 1989, a woman about twenty years-old was killed by a hat mine that had been hidden under bushes near the path. On another trip in August 1989, a woman collapsed and died while carrying her 80-100 pound pack containing weapons and ammunition. Kao Lam surmised that the woman had "too much spirit" to complain about her physical condition. He recalled that another porter had died of exhaustion in 1988.

Pon Sarin (a pseudonym), who escaped in July 1989 to the KPNLF-controlled camp, Site 2, from Phnom Khieu in the Pailin district of Cambodia, witnessed four members of his 60 man unit killed by mines in the first six months of 1989. He estimated that, each year since 1984, six to eight porters in his unit were killed while carrying 40 to 50 kilogram loads, including mines, AK-47s, Chinese B40 and B69 rockets, medicine, and food to military bases in Pursat, Takeo and Kompong Speu provinces in Southwest Cambodia. The dead men's positions in the porter units were filled by recruits from newly-captured villagers, most of whom, he said, were compelled to porter.

In March 1989, a man named Han stepped on a mine near the base of Phnom Khieu mountain, less than a mile from a major civilian camp. In April, the leader of the porter unit, Sean died in the deep forest at Prey Thom, four days into the journey, when a hat mine was detonated underneath him. Another man, Ky, whom Khmer Rouge soldiers had taken from his family and farm in Treng village, Battambang province, and forced to join a porter unit, also fell victim to a hat mine on June 1. He was killed near the village of Doah Kramom about a mile north of the village of Sala Krav. The very next day another hat mine claimed the life of Kan near the military base at Koun Phnom, about four miles west of Sala Krav.

Methods of Compulsion

Camp residents are mobilized for the war effort through a mixture of extortion and appeals to patriotism, and compulsion. In December 1989, for example, Ta Kyeu, the military commander of the Khmer Rouge camp known as K7 or Camp 40 in the Borai camp system gathered several thousand residents together and complained that the lack of spirit in the "rear camps" (those housing non-combatants) was harming the military effort. He told them that camp authorities would not tolerate individuals placing their own selfish needs above the primary goal of national liberation, and because the struggle for liberation was entering a critical phase, all inhabitants of K7 would be required to work harder for victory. Each inhabitant was assigned a particular task (*chat tang*) in the process.

Under the Khmer Rouge government of Pol Pot from 1975-78, failure to perform *chat tang* often meant death. A noticeable "softening" took place after a 1985 Vietnamese military offensive that drove all resistance camps inside Cambodia back across the border into Thailand. Instances of disobedience were in any case rare in Khmer Rouge camps, undoubtedly for fear of the possible consequences. As late as February 1989 when Asia Watch published its report, *Khmer Rouge Abuses Along the Thai-Cambodian Border*, occasional summary executions were reported. But from interviews with recent Khmer Rouge escapees who in late 1989 had attended special training sessions for high-level cadres in southern Thailand called Zone 87, it is clear that ranking Khmer Rouge leaders are now instructing their subordinates that the Khmer Rouge image must be boosted, both domestically and abroad. To maintain good relations with the coalition government, Pol Pot himself is said to have taught, Khmer Rouge forces must refrain from killing or brutalizing Cambodians either in the camps or in contested villages. Asia

Watch was told that Pol Pot was holding classes for Khmer Rouge cadre as recently as March 1989 in a camp in Trat province, Thailand.

Denial of Food

Nevertheless, there are other forms of compulsion, and the most common appears to be denial of food. All escapees interviewed by Asia Watch from the cluster of camps known as O'Trao attest that the operative rule is "no work, no food." All supplies are controlled and distributed by the camps' military authorities who also regulate who may enter and exit. Residents are totally dependent on the camp leadership for their means of existence. Escapees from Zone 1001, an area to the northeast of O Trao which includes the camp known as K7 told Asia Watch that all single men are required to serve in the army, but that married men can work either as porters or as laborers around the camp. In fact, they said, there is little choice, because the rations allotted to non-porters are so inadequate that nearly all choose to be porters.

One man interviewed by Asia Watch recounted what had happened to his neighbor, a man named Chan, in the Khmer Rouge camp of O Bankov when Chan refused to porter in April 1989. Chan had been part of a 50-man portering unit. Under the command of Battalion 61 leader Ta Sim, the unit was for older married men over the age of 30 who were not trusted to be front-line soldiers. As a porter, Chan was well provided for, although his rations were less than a fighter's. Married men who so wished could work in the less dangerous occupation of camp laborer but they then received less than half the rations of porters, clearly not enough to live on.

While on a trip across the border in April 1989, another member of Chan's portering unit who was walking just ahead of Chan stepped on a mine and was killed. When Chan returned to O Bankov, he refused to continue portering. His rations, as well as those of his wife and two children, were cut off for two months, during which they survived on donations from neighbors. After the two months, several soldiers visited Chan's house in the evening and took him away. As of October 1989, when the interviewee escaped from O Bankov, Chan had not returned.

In another example, a 45-year-old father of four called Sman (not his real name), a porter in Phnom Khieu, came down with a disease in February 1989 which left part of his body numb and made movement difficult. Sman had been forced to porter at Phnom Khieu since 1984. In 1987, his arm was badly injured by shrapnel from a mine that killed another porter. When Sman fell ill, the commander of his portering unit accused him of faking his illness and ordered him to accompany the unit the next day on a two-week trip. Sman refused. But when he went to the hospital, the paramedics refused to treat him without permission from the unit commander. When Sman's wife went to get rations from the camp distribution center, she was told that they were being withheld until Sman rejoined his unit. Sman was incapacitated for the next eight months, during which his family barely survived on charity from neighbors. In October 1989, when Sman could walk again, he returned to the portering unit and the family once again began to receive rations.

In December 1989, Sman and his family fled to Site 2 after four days and nights walking through the jungle. Medical personnel at Site 2 told Asia Watch that Sman still suffered from the disease as well as from malaria, and that the whole family was malnourished.

Another man interviewed by Asia Watch who wished to remain anonymous, a 30-year-old man with a wife and two sons, stopped working as a porter in August 1989 because he did not want to become a mine victim. Instead, he joined a unit comprising mostly men over 50 who were building a dirt road between the Chuam Sla Camp (also in Zone 1001) and several rice fields. His weekly allotment as a laborer, however, consisted of barely enough rice, salt and tinned fish to last four days. Rather than return to portering to get the food he needed to survive, he and his family on September 3 fled first to O Trao and then to the Sihanouk-controlled camp called Site B.

A former nurse also told of her food rations being cut for insubordination. A 30-year-old woman, she had worked in the hospital at Site K. In August 1989, camp administrators told her she was suspected of giving information to international aid agency workers at the hospital, and they were transferring her to the front lines as a result. She said she did not want to go.

The next day, the deputy chief administrator of Site K came to her house, saying they needed nurses to assist the national liberation struggle because so many soldiers were being wounded in the offensive. She refused, saying that she preferred to stay at Site K because the medicine was better and she wanted to work with the foreign staff. The administrator got angry and said she was supposed to be serving the Khmer Rouge, not the foreigners, and if she did not move, her rations would be cut. Four days after failing to receive her weekly rations, she fled to the KPNLF camp of Sok Sann.

A similar incident took place in Chuam Sla camp in Zone 1001. Lot Saluet (not his real name) told Asia Watch that he asked permission from the chief of his porter unit in late 1989 to go to the hospital because his malaria had worsened considerably since the last trip inside Cambodia; he now had a high fever and the shakes. The chief told him that he had to accompany the unit on the next trip in mid-September 1989, before he could receive medical attention, but Lot Saluet refused. The following day, a deputy of one of the camp's civilian leaders visited his house and told him that he would receive medicine if he joined the unit, because only those who fulfilled their patriotic duty as Cambodians could expect to be taken care of. Lot Saluet agreed to join the unit, but he felt so weak during the first day of carrying over 100 pounds of rocket launchers and ammunition that he felt he would collapse several times. The trip, to a military base in eastern Preah Vihear province, was expected to take 11 or 12 days. During the first night, he slipped past the soldiers on guard duty and walked all night and the following day until he reached O'Trao camp on the Thai side of the border. On October 3, 1989, he escaped to Site B.

Forced Recruitment inside Cambodia

In order to augment their military or portering units, Khmer Rouge commanders occasionally force people from villages inside Cambodia back to the border at gunpoint.

Three Cambodian men, interviewed independently at the KPNLF-controlled camp of Sok Sann, gave the same account of an event that took place on July 21, 1989 in Pailin, a gem-rich district bordering Thailand that was seized by Khmer Rouge forces in October 1989. According to their account, about 300 Khmer Rouge soldiers, armed with AK-47 rifles and rocket launchers, swept into a make-shift village about ten miles south of the town of Pailin, routing eight soldiers from Hun Sen's forces who were on guard duty. The Khmer Rouge soldiers rounded up 107 Cambodians, mostly men, who had come to

Pailin in order to make some money digging for gems and marched them south for two days until they reached an outpost of a military camp called Pole 70, under the control of Khmer Rouge division commander, Ta Meth. According to the three sources, the captured men were dressed in the uniforms of Hun Sen's forces, photographed, then lectured on the importance of reclaiming Cambodia from "the contemptible Vietnamese aggressors." After several days in which they were fed only one bowl of rice per day, five of the men succeeded in bribing a guard and escaping to Sok Sann.

Other sources told Asia Watch of forced recruitment of villagers during Khmer Rouge forays into Cambodia. A 19-year-old former soldier with Division 912 said that it was standard practice to recruit supporters in villages before returning to the base camps along the border. The ex-soldier said that many young men joined of their own free will, impressed with the new uniforms and advanced weaponry of the Khmer Rouge. However, Khmer Rouge troops also seized young men accused by informers of being sympathetic to the Hun Sen government; these captives were then taken to the border for "re-education" after which they would serve as porters.

After a mission in Varin district in Siem Reap province in late 1989, a battalion from Division 912 under the command of Ta Pon stopped in a village of about 80 families called Phum Nary. Ta Pon called a meeting and ordered about 20 youths between the ages of 15 and 25 to accompany the troops back to the border. The youths apparently felt they had no choice. Ta Pon later told his own soldiers that he felt the village had not been cooperating sufficiently with the Khmer Rouge's efforts to liberate Cambodia.

Asia Watch received information from several sources that Khmer Rouge commanders use psychological threats to compel Cambodian villagers to join their forces. A former battalion commander from Zone 1001 said that Ta Kyeu instructed commanders on psychological methods of recruitment. Guerrillas were instructed to infiltrate Phnom Penh-controlled villages and conspicuously visit the homes of several families. When authorities of the Phnom Penh government returned during the day, they would suspect these villagers of collaborating with the enemy, a criminal offense. When faced with the possibility of punishment for such collaboration, many "choose" to join the Khmer Rouge.

Use of Children in the War Effort

One of the escapees from Phnom Khieu interviewed by Asia Watch had three children, now aged 14, 13, and 11, who began to porter at the age of 10. The 11-year-old told Asia Watch that he had been part of a portering unit made up of 40 boys and girls between the ages of 10 and 12. They would porter one day a week from the base camp on the mountain of Phnom Khieu to military camps at the summit and a nearby base, Kam Rieng. They carried rice, vegetables, and tinned fish and were accompanied by a camp official but no soldiers because the day-long journey was not through very dangerous territory. He knew of no cases, for example, of children stepping on mines.

All the children aged 10 or older at Phnom Khieu were subject to such assignments. If they refused, their parents could be sent to re-education centers for one or two weeks. In March 1986, a man called Meth Phirun (not his real name) was sent for two weeks of re-education after his son refused to join a porter unit. Asia Watch sources could not recall a more recent instance of this occurring because parents of children at Phnom Khieu had, in his words, "learned the lesson."

An elderly couple who used to reside in the camp known as T85 told Asia Watch that many children chose to join the military or porter units because they wanted to demonstrate their spirit and nationalism. The couple had received permission from camp commander Ta Nguon to leave T85 for Site 2 in September 1989. They explained that on very rare occasions, the elderly were allowed to leave if T85 commanders judged that they were no longer useful to the war effort.

The couple reported that children as young as 12 who wanted to fight "the Vietnamese aggressors" would be sent about eight miles east to Phnom Dei, a military camp on the border. During periodic camp meetings, Khmer Rouge commanders would encourage them to join the military, praising as virtuous and patriotic those children who went to the front. A 13-year-old boy who lived in the house next to them had disregarded his parents' wishes and joined Ta Cheam's Brigade #102. He went to Phnom Dei for training in August 1989.

The couple explained that children over the age of 12 who did not volunteer for military or portering service were assigned to work units at T85. These units did a variety of tasks - built and repaired houses, cleared and planted vegetable gardens, built ditches, and performed other tasks around the camp.

Four escapees from O Bankov camp in Zone 1003 told Asia Watch that Ta Mok's rule "no work, no food" applied to children as soon as they reached the age of 12, unless the child was too small or unhealthy.

If the children are forced to porter supplies in combat areas, the enemy might consider them to be directly supporting the adversary's battle action and thus deliberately attack them. And, in any event, their proximity to such areas exposes them to the risk of death or injury resulting from attacks against military targets. Such a result is in violation of the "humane treatment" injunction of Common Article 3 which is supplemented by Article 4 (3)(c) of Protocol II which states, "children below the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities."

Forced Relocation

Assuming that the residents of Khmer Rouge controlled camps who do not directly participate in hostilities are civilians, their forced relocation back to Cambodia in conflictive zones or in the vicinity of military targets exposes them to the effects of attacks in violation of Article 3's obligatory guarantee of "humane treatment" in all circumstances⁵ and the customary law principle of civilian immunity and the requirement to distinguish civilians from combatants at all times. If the camp residents are to be presumed refugees, then their forced relocation across the border, condoned by Thai authorities, constitutes *refoulement* and is prohibited by customary refugee law.

Such displacements took place periodically throughout 1989 and early 1990. The Khmer Rouge has moved thousands of civilians across the border into Cambodia from secret camps along the Thai border as part of a policy to settle the Cambodian territory captured from the Hun Sen government.

Several escapees from the Phnom Khieu area asserted that since November, soldiers in Division 415 have been clearing mines in order to establish a large camp for civilians currently residing in Thailand. Son Much, a 24-year-old former soldier with a Khmer Rouge battalion commanded by Aow Rim, reported that he and about 100 other members of the battalion spent a week in early December 1989 clearing forest, building roads, and clearing mines in Phnom Khieu, under the supervision of a military commander named Ta Pach. Much said Ta Pach had told him that now that the Khmer Rouge forces had captured enough territory to accommodate the civilians, the latter must be moved quickly in order to strengthen the fight against the Vietnamese.

Officials of Khmer Rouge Division 450 invited a group of journalists in late January to visit Phnom Malai, about 25 kilometers away. At a press briefing, Khmer Rouge officials said its soldiers were clearing thousands of mines in order to construct a provincial township of 20,000 and move people from the Thai border during the next rainy season.

In December 1989 and January 1990, between 3,000 and 4,000 Khmer Rouge guerrillas living in a military camp known as V3 on the Thai side of the border moved 10 kilometers inside Cambodia to a series of satellite camps near O Lehong camp near the Kbal Lan mountain range. At the same time, some 6,000 non-combatants were moved into V3 with a military escort, reportedly having been given no choice of either staying in their original camp (V4) or moving somewhere else. No one resisted, reportedly out of fear of punishment if they did and the knowledge that all the supplies in V4 were being transferred to the new camp.

Bangkok newspapers reported in early January that the Khmer Rouge had moved 7,000 civilians from secret camps inside Thailand to Cambodia.⁶ Some 2,000 were reportedly moved from the O Trao

⁵ Article 17 (1) of Protocol II addresses this issue as follows: 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. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

⁶The Nation, January 3, 1990.

area across the border to the Tachada mountains northwest of Battambang; 2,000 more to Phnom Malai; and 3,000 to the Pailin area. A Thai military officer reportedly said that in addition to clearing Phnom Malai and Pailin for settlement, Khmer Rouge forces had cleared Phnom Chakrai, an area in Cambodia opposite the largest Khmer Rouge camp, Site 8, which houses over 35,000 refugees.

A major incident of forced relocation took place in late January 1989 in Borai camp. Several months earlier, Asia Watch learned, the United Nations Border Relief Operations (UNBRO) had worked out an agreement to move the 4,400 residents of Borai to Site K, another camp which received more UNBRO assistance than did Borai and was less dominated by the Khmer Rouge military. On January 23, three UNBRO trucks arrived in Borai to begin moving the civilians. The camp administrator, a man named Ta Kleng, however, refused to allow the trucks inside the camps and told UNBRO officials that no one wanted to move to Site K. Gunfire in and around the camp forced the trucks to withdraw. When UNBRO officials returned the next day, there was no one left at Borai -- all 4,400 residents had been evacuated during the night, reportedly to the Cambodian village of Bosa Om, about five miles inside the border. Several thousand Borai residents already had been moved there in early 1989.

Although UNBRO officials publicly praised the cooperation of the Thai military unit responsible for the security of the camps, the DPPU (which has generally played a constructive role), Asia Watch sources said that the DPPU had in fact known beforehand that the Borai residents would never be allowed to move to Site K and had even helped the Khmer Rouge relocate them.

A move from Site 8 to Phnom Chakrai may be imminent. Several recent escapees from Site 8 told Asia Watch in January that the camp administrators led by Ta Sok had instructed all camp residents to prepare to move nine kilometers into O An Leuk, a Cambodian hamlet near Phnom Chakrai. O An Leuk is only two kilometers across the border from Pleung Ches, a secret military camp that contains the main prison of the Site 8 area. A man named Kim Theoun decided to escape to Site 2 in January 1989, after site 8 section leaders had led a series of meetings in December to inform the population of the move inside Cambodia. He told Asia Watch that he fled to Site 2 because he did not want to be forced by the army to move. He and two other escapees said that the vast majority of camp residents did not want to move, but were afraid to either flee Site 8 or resist the orders of the Khmer Rouge military.

At the time of the Asia Watch mission to the border in January, there were strong rumors of impending forced relocations from the two remaining UNBRO-assisted camps, O'Trao and the camp known as Site K whose combined populations approach 25,000.

It should be noted that not all mass transfers of population across the border appear to be the result of compulsion. A Reuters report on March 18 noted that among the more than 20,000 people who have been moved from the camps into "rear bases" in Cambodia over the last two months were "women and hordes of children" who "seemed cheerful and gave no impression that they were there against their will." The article quoted a refugee official in the Thai border town of Aranyaprathet as saying it was a mistake to think the Khmer Rouge had no popular support, and that most of the civilians who had crossed the border recently did so willingly because they were the families of guerrilla fighters. "What you have to blame [the Khmer Rouge] for is high risk," he said. "They jeopardize the lives of their women and children for military gain."

Escapees from all five Khmer Rouge-controlled border areas report that Khmer Rouge leaders

instruct the people to prepare to live in the camps inside Cambodia for several more years.

Human Rights and Humanitarian Law Violations

Regardless of whether the Khmer Rouge are considered a guerrilla group or a faction of a legitimate government, they have a responsibility to abide by recognized norms established in international human rights and humanitarian law. Torture and other forms of cruel, inhuman or degrading treatment are outlawed by customary law and by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention Against Torture. Denying food and medical treatment to coerce conscription flagrantly violates the Geneva Conventions' Common Article 3's non-derogable guarantee of "humane treatment." Denying food is also specifically outlawed by Article 14 of Protocol II: "Starvation of civilians as a method of combat is prohibited." While the term "civilians" was intended to refer to the enemy side, the prohibition on starvation has the status of customary law and therefore applies to all.

The Khmer Rouge's use of children to porter supplies in or to combat areas not only violate customary law rules of civilian immunity and Common Article 3 but also the specific prohibition in Protocol II on the use of children under the age of 15 in the war effort.

Refoulement, or sending refugees back to the country from which they fled, is prohibited by international law. To the extent that population removals from the Thai border camps into Cambodia are forced, both the Khmer Rouge and the Thai government are parties to *refoulement*.

The non-combatant residents of Khmer Rouge controlled camps should also be protected from forced displacement according to Article 17 of Protocol II: "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." The dismantling of the 4,400-strong Borai camp in January 1990 would thus be illegal.

Policy Recommendations

Asia Watch calls on all parties to the Cambodian conflict to abide by provisions of international human rights and humanitarian law. It urges the United States government to raise with the Chinese government at every opportunity the urgent need to cut off arms supplies to the Khmer Rouge.

Asia Watch strongly endorses the establishment of a neutral camp, as many of the above problems stem from the absolute control exercised by the factionally-linked camp administrators over essentially captive populations.

A neutral camp, if carefully administered and secured, would end the practices of forced conscription, forced displacement of non-combatants across the border into Cambodia, and forced portering of ammunition and other supplies for the war effort.

But establishing such a camp is a difficult and expensive project. If it is to be coupled with the offer of voluntary repatriation, it is essential that a fair and thorough screening process be developed to ascertain the wishes of the camp population. The screening operation must be sufficiently well-funded, staffed, and monitored so that pitfalls evident in screening Vietnamese boat people in Hong Kong can be avoided. The United States should offer whatever assistance it can to the Thai government to ensure that the screening goes smoothly.

As plans for the neutral camp progress, administrators and commanders in the existing camps may be more tempted than before to move supplies and people across the border. Thai authorities and the international community must be prepared to monitor the camps far more closely than they have in the past and undertake to prevent such actions which have led to the kind of abuses documented in this report.

The United States should support the concept of a neutral camp and provide assistance as necessary to ensure that the requisite safeguards are put in place. It should also urge the Thai government to grant refugee status to all "displaced persons" now in Thailand so that they can enjoy the additional protection of the United Nations High Commissioner for Refugees (UNHCR). The UNHCR should have full access to the neutral camp.

The United States should also urge the Thai government to ratify the United Nations Convention and Protocol Relating to the Status of Refugees.

News from Asia Watch is a publication of Asia Watch, an independent organization that monitors and promotes human rights throughout Asia. The Chairman is Jack Greenberg. The Vice-Chairman are Matthew Nimetz and Nadine Strossen. The Executive Director is Sidney Jones. Asia Watch is part of Human Rights Watch, which includes Africa Watch, Americas Watch, Helsinki Watch and Middle East Watch.