

prosecution of those responsible (there are also reports of as many as 20 extra-judicial killings since September of last year).

- third, there is article 51 of the Law on Civil Servants, which provides that except in cases of *flagrante delicto*, no civil servant (nor military or police personnel, by a government decision to extend the law) can be arrested or prosecuted without the government's prior consent. The SRSG (HR) in his November report said that:

"Article 51 contravenes the basic principle of equality of all persons under the law and creates a climate of lawlessness in which persons in the police or military are not held accountable for their acts, even when such acts include murder, rape, robbery or arson."

No move has been made by the government to repeal this article, however, despite a call for such a move in the recent UNGA resolution.

- fourth, more generally, there is a legal culture in which the well-connected seem to have little fear of prosecution for corruption or other offences. The concepts of due process and presumption of innocence are not well-respected, especially in political cases: for example, it is accepted as a certainty that Ranariddh will be found guilty in the military trial that the Second Prime Minister insists must take place before the Prince can return and take part in elections.

The second issue is corruption of legal officers themselves. Judges are paid only the equivalent of \$30 per month, widely opening the door for them to seek other sources of income.

The third issue, capacity, concerns the weakness of the legal structures and the limited number of experienced practitioners, lawyers and judges. During the Khmer Rouge period, much of the professional class was eliminated or fled; during the Vietnamese occupation, the justice system operated on politicized lines and proceeded from assumptions of guilt rather than innocence. Contract law was irrelevant. UNTAC did not attempt to establish legal structures and train personnel, and the Cambodians since then have been handicapped by factional disagreements that, for example, delayed until December 1997 the formation of the Conseil Supérieur de la magistrature, which names judges.

There have been large increases in the numbers of legal personnel recently, although the new entrants lack experience: in last 2 years, the number of lawyers has gone from 32 to 200; there were only 40 judges (most, non-lawyers) until the magistracy council was formed in December - it appointed another 100.

## **2. Support for the Legal System**

### **a) Cambodian Government**

In general, the Cambodian government seems to have welcomed the assistance it has been