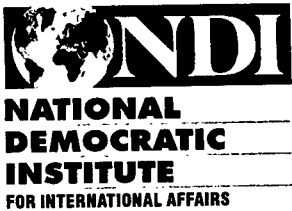


**The July 26, 1998 Cambodian
National Assembly Elections**

NATIONAL DEMOCRATIC INSTITUTE

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1717 Massachusetts Avenue, NW
Fifth Floor
Washington, DC 20036
(202) 328-3136
fax: (202) 939-3166
email: demos@ndi.org
<http://www.ndi.org>

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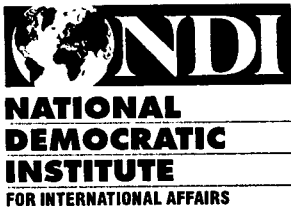
THE JULY 26, 1998 CAMBODIAN NATIONAL ASSEMBLY ELECTIONS



For further information, please contact:

Glenn Cowan
Senior Advisor for Asia
National Democratic Institute for International Affairs
1717 Massachusetts Avenue, NW, Fifth Floor
Washington, DC 20036
Telephone: (202) 328-3136
Fax: (202) 332-5576
E-mail: glennc@ndi.org

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1717 Massachusetts Avenue, NW
Fifth Floor
Washington, DC 20036
(202) 328-3136
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email: demos@ndi.org
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NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

The National Democratic Institute for International Affairs (NDI) is a nonprofit organization working to strengthen and expand democracy worldwide. Calling on a global network of volunteer experts, NDI provides practical assistance to civic and political leaders advancing democratic values, practices and institutions. NDI works with democrats in every region of the world to build political and civic organizations, safeguard elections, and promote citizen participation, openness and accountability in government.

Democracy depends on legislatures that represent citizens and oversee the executive, independent judiciaries that safeguard the rule of law, political parties that are open and accountable, and elections in which voters freely choose their representatives in government. Acting as a catalyst for democratic development, NDI bolsters the institutions and processes that allow democracy to flourish.

Build Political and Civic Organizations: NDI helps build the stable, broad-based and well-organized institutions that form the foundation of a strong civic culture. Democracy depends on these mediating institutions—the voice of an informed citizenry, which link citizens to their government and to one another by providing avenues for participation in public policy.

Safeguard Elections: NDI promotes open and democratic elections. Political parties and governments have asked NDI to study electoral codes and to recommend improvements. The Institute also provides technical assistance for political parties and civic groups to conduct voter education campaigns and to organize election monitoring programs. NDI is a world leader in election monitoring, having organized international delegations to monitor elections in dozens of countries, helping to ensure that polling results reflect the will of the people.

Promote Openness and Accountability: NDI responds to requests from leaders of government, parliament, political parties and civic groups seeking advice on matters from legislative procedures to constituent service to the balance of civil-military relations in a democracy. NDI works to build legislatures and local governments that are professional, accountable, open and responsive to their citizens.

International cooperation is key to promoting democracy effectively and efficiently. It also conveys a deeper message to new and emerging democracies that while autocracies are inherently isolated and fearful of the outside world, democracies can count on international allies and an active support system. Headquartered in Washington D.C., with offices in every region of the world, NDI complements the skills of its staff by enlisting volunteer experts from around the world, many of whom are veterans of democratic struggles in their own countries and share valuable perspectives on democratic development.



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Acronyms

ANFREL	Asian Network for Free Elections
BLDP	Buddhist Liberal Democratic Party
CEC	Commune election commission
COFFEL	Coalition for Free and Fair Elections
COHCHR	Cambodia Office of the United Nations High Commissioner for Human Rights
COMFREL	Committee for Free and Fair Elections
CPP	Cambodian People's Party
EAS	Election Assistance Secretariat
EU	European Union
FUNCINPEC	National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia
GSSP	Grandfather Son Sann Party
IRI	International Republican Institute
JIOG	Joint International Observer Group
KR	Khmer Rouge
LTO	Long-term observer
MOI	Ministry of Interior
NDI	National Democratic Institute for International Affairs
NEC	National Election Committee
NGO	Nongovernmental organization
NICFEC	Neutral and Impartial Committee for Free Elections in Cambodia
PEC	Provincial election commission
PSC	Polling station commission
PVT	Parallel vote tabulation
RFA	Radio Free Asia
SCM	Supreme Council of the Magistracy
SGPRC	United Nations Secretary General's Personal Representative in Cambodia
SRP	Sam Rainsy Party
STO	Short-term observer
UCD	Union of Cambodian Democrats
UNDP	United Nations Development Program
UNTAC	United Nations Transitional Authority in Cambodia
USAID	United States Agency for International Development
VOA	Voice of America
VOCE	Volunteer Observers for the Cambodian Elections

Acknowledgments

This report on the July 26, 1998 parliamentary elections in Cambodia was written by NDI Program Officer and Field Representative Sophie Richardson. NDI President Kenneth D. Wollack and NDI Director of Asia Programs and Senior Associate Eric C. Bjornlund provided significant editorial assistance. Senior Advisor Glenn Cowan, Senior Associate and former Cambodia Field Director Peter Manikas, Senior Program Officer and Cambodia Field Representative Sarah Malm, Cambodia Field Representative Lawrence Lachmansingh and Program Assistant Andrew Fuys also contributed substantively to the project. The Institute is indebted to the leaders and members of the three Cambodian election monitoring organizations for their courage and commitment to democratic values.

NDI's programs in Cambodia have been made possible by funds from the United States Agency for International Development and the National Endowment for Democracy.

I Executive Summary

This report details the political environment of and technical preparations for the July 26, 1998 National Assembly elections in Cambodia. In addition, the report assesses the elections in the context of Cambodia's struggle to establish democratic norms. Finally, the report discusses the international community's efforts to support the democratic transition through the electoral process.

No election can be viewed in isolation of the political context in which it takes place. Although Cambodia had made some progress since the 1993 United Nations-sponsored elections towards establishing the institutions key to a democratic system, gains were largely reversed by Hun Sen's July 1997 coup to oust his coalition partner. At least 100 people were killed in the wake of the coup, and the political climate did not improve over the course of the year leading up to the elections. This environment, combined with the lack of independent electoral and judicial institutions, demonstrated that the ruling party lacked the political will that is necessary for a genuine, competitive process.

Elections cannot be expected to ease long-held hostilities and establish peace and stability, particularly in a setting such as Cambodia's. Some in the international community, weary of the country's seemingly chronic political turmoil, chose to view the election, regardless of its quality, as the sole mechanism for producing a solution. Attempts failed to establish and maintain a consensus about the standards to which the elections should be held, giving the ruling party an opportunity to exploit allies who would ignore internationally recognized standards in favor of expedient political settlements.

The conclusion of the electoral process should serve as a reminder that those committed to establishing democracy in Cambodia still have a long road ahead of them. The country's dedicated corps of democratic activists deserve considerable credit for their work promoting human and political rights. If Cambodia is to move away from violent, personality based politics, these activists will have to continue to play an active role and deserve ongoing recognition and support.

Commune elections are now slated for early 2000. The political environment leading up to these elections will provide an opportunity to assess whether the new Cambodian government fulfills its recent promises of reform and transparent governance or perpetuates another cycle of repression.

II Cambodia and Elections

Cambodia's contemporary history offers negligible experience in successful self-rule or competitive elections. It was a French colony until 1954, an autocratic monarchy led by then-Prince Norodom Sihanouk until 1970, and then a US-backed republic led by Lon Nol until 1975. In April of that year, the Khmer Rouge (KR) came to power and imposed four years of genocidal rule. In January 1979, Vietnam invaded Cambodia and occupied the country for several years, keeping it closed off from all non-Soviet bloc nations.

The Khmer Rouge fled to the northwestern jungle, where it eventually formed an alliance with a variety of anti-Vietnamese and pro-royalist factions, including Sihanouk's National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia, known by its French acronym Funcinpec, and former Prime Minister Son Sann's Khmer People's National Liberation Front, or KPNLF. These groups waged a low-level civil war throughout the 1980s, which continued to siphon already scarce resources away from Phnom Penh's Vietnamese-backed government, headed by Heng Samrin and Hun Sen. The end of the Cold War and the erosion of support from the USSR to its satellites eventually lead Vietnam to consider withdrawing from Cambodia in the late 1980s.

Significant international involvement from the United States and others generated support for the 1991 Paris Peace Agreement.¹ All of the Cambodian factions, including the Khmer Rouge, signed the Agreement. The treaty outlined the terms under which the Vietnamese would withdraw from Cambodia and dictated the framework for its transition to self rule. Given the daunting challenges Cambodia faced in trying to determine and implement its national self-interests, the Agreement also outlined an unprecedented United Nations effort to repatriate hundreds of thousands of refugees, disarm warring Cambodian political factions, including the Khmer Rouge, and organize and oversee national elections.

The United Nations Transitional Authority in Cambodia

The United Nations Transitional Authority in Cambodia (UNTAC), which began operating in 1992, eventually involved 5,000 civilian personnel, 20,000 peacekeeping troops and cost about \$2 billion. UNTAC relocated more than 350,000 refugees and helped reunite families. It organized elections that were considered a success, but it failed to establish a lasting peace among the rival Cambodian parties.

UNTAC's efforts in registering, educating and reassuring voters were invaluable, but the May 1993 election results were immediately co-opted. The former communist Cambodian People's Party

¹ The Peace Agreement's signatories included Australia, Brunei, Canada, the People's Republic of China, France, India, Indonesia, Japan, Laos, Malaysia, the Philippines, Singapore, Thailand, the USSR, the United Kingdom, the US, Vietnam and Yugoslavia.

(CPP) and its leader, Hun Sen, who was installed by the Vietnamese to lead their Phnom Penh regime in 1984, were unwilling to accept their loss at the polls. Hun Sen and other senior CPP members threatened to resume civil war if they were not given a share of power. Thus, the victorious royalist party, Funcinpec, was forced into a power-sharing arrangement with the CPP. This arrangement was to have divided power equally between Funcinpec and the CPP down to the village level, but instead it created rival power structures through the ministries and the civil service. Hun Sen and Prince Norodom Ranariddh, King Sihanouk's son and head of Funcinpec, became co-Prime Ministers, a relationship that was to prove unsustainable.

Establishment of a Coalition Government

Funcinpec and the CPP maintained a working relationship for the first few years of the coalition government despite periodic political battles. During this time, the National Assembly was formed, passed a constitution and began to adjust to its new legislative tasks. Multiple political parties were established, the press flourished and the Khmer Rouge was increasingly marginalized. Many of the nongovernmental organizations (NGOs) that had been formed during the UNTAC period continued their work in human rights, education and social welfare, beginning to assert a role for civil society in Cambodia that had not been experienced in decades. The international community provided significant financial and technical assistance to these NGOs, demonstrating its commitment to Cambodia's reconstruction.

Unfortunately, the CPP retained control over the development of institutions key to the establishment of democratic rule. For example, judicial independence was nonexistent as all the judges had been appointed by the Hanoi-backed CPP government of the 1980s. The Constitutional Council, Cambodia's highest legal body, and the Supreme Council of the Magistracy, which oversaw the appointment and discipline of judges, were never constituted. The CPP also exercised control over the National Assembly, the army, the police and the civil service.

Political parties existed but were not internally democratic. The government failed to pass laws governing elections or political parties. Perhaps most important, Cambodians continued to fear their government and questioned its commitment to democracy.

Funcinpec, which had always derived its popularity from its affiliation with the royal family, never developed a national party network. Its internal structure was weak and inefficient, which in part prevented it from taking control of offices at the local level. Prince Ranariddh did little to rectify this situation and began to alienate his own supporters. In one notable instance, Ranariddh instigated the expulsion of one of Funcinpec's most prominent members, Finance Minister Sam Rainsy in August 1995.

The Coalition Unravels

By the end of 1995, relations between the two parties began to fray. Hun Sen, frustrated by his coalition partner, began to take increasingly aggressive action to marginalize Funcinpec. At the same time, Funcinpec members became increasingly disenchanted with Ranariddh, whom they held responsible for their party's inability to assert itself against the CPP. In November 1995, Prince Norodom Sirivudh, Funcinpec's Secretary-General and the Royal Government's foreign minister, was forced into exile for allegedly plotting to assassinate Hun Sen. Sirivudh, who was considered to be Funcinpec's best political strategist, was also Prince Ranariddh's most serious challenger for their party's leadership, and Ranariddh did little to assist Sirivudh during his ouster. At Funcinpec's March 1996 congress, Ranariddh tried to regain his party's support by delivering a tough speech demanding that Funcinpec be given its share of local offices, which the CPP had never relinquished; but the effort came too late.

Throughout 1996 and early 1997, several trends signaled an inevitable political standoff. Skirmishes between CPP and Funcinpec troops broke out in northwestern Cambodia. Political parties began to fracture. The judiciary and civil service continued to be dominated by the CPP and legal institutions critical to protecting democratic rights, such as the Constitutional Council and the Supreme Council of the Magistracy, failed to form. Human rights abuses persisted and a number of journalists were murdered. Although elections were expected in May 1998, none of the key legislation was passed and political and governmental leaders appeared uncommitted to open, competitive elections. Perhaps worst of all, these factors led Cambodians to continue to fear their government and doubt its commitment to democracy.

A grenade attack widely attributed to Hun Sen loyalists against rising opposition leader Sam Rainsy at a peaceful rally in March 1997 killed at least 16 people, effectively destroying any remaining hope for salvaging the coalition government. In April, commune elections scheduled for later that year were indefinitely postponed and optimism about national elections quickly faded.

Throughout this period, the CPP and Funcinpec also competed to entice remaining Khmer Rouge units back to the government. Although a law had been passed declaring the Khmer Rouge and any interaction with them illegal, the parties wanted to ensure for themselves the loyalties, troops and recognition successful negotiations would bring under the rubric of "national reconciliation." Khmer Rouge units also controlled areas of the country rich in timber and gems, key sources of income for the government and parties. In a move that deeply offended many Cambodians, King Sihanouk, at the request of the Co-Prime Ministers, pardoned senior Khmer Rouge leader Ieng Sary on September 14, 1996. Both parties maintained communications with the remaining units, but in the late spring of 1997, Funcinpec appeared to be closing a deal with one of the most senior Khmer Rouge members, Khieu Samphan. Seizing upon Funcinpec's contact with the Khmer Rouge and downplaying the CPP's own relationships, Hun Sen publicly accused Prince Ranariddh in May and June of bringing Khmer Rouge into Phnom Penh. At this point, the CPP, with its disproportionate

military strength, chose to oust Funcinpec.

From July 5 to 7, 1997, troops loyal to Hun Sen battled Ranariddh's forces in the streets of Phnom Penh. Funcinpec forces were routed and at least 100 Funcinpec loyalists were killed. Ho Sok, Secretary of State at the Ministry of Interior (MOI) and a senior Funcinpec member, was executed outside his office in the Ministry compound. Widespread looting and vandalism engulfed the city. Dozens of Funcinpec members and supporters, as well as many from other parties not aligned with the CPP, fled into exile.

On August 6, in an effort to give the ouster of the elected First Prime Minister a veneer of legality and to restore some international legitimacy to the government, Hun Sen and the CPP orchestrated two votes in the National Assembly. The votes stripped Prince Ranariddh of his parliamentary immunity and purported to elect Foreign Minister Ung Huot to replace Ranariddh. The votes were clear violations of the Cambodian Constitution and Cambodian law. Ung Huot's nomination had not received the Constitutionally required consent of the President and both Vice Presidents of the National Assembly. Moreover, Ranariddh had dismissed Ung Huot from the party, therefore making him ineligible to represent the winning party of the 1993 elections, another requirement of the Constitution. The votes in the Assembly were also conducted in a coercive manner, one through a public show of hands, the other through a written ballot whose secrecy was questioned by Members.

Important segments of the international community were tepid in their response to the coup. The French and Japanese governments made no public comments about the CPP's actions and did not suspend aid. France publicly backed Hun Sen's argument that Ranariddh's negotiations with the Khmer Rouge justified the CPP's military response. Despite strong statements from the European Parliament, the European Union (EU) quietly continued to prepare its aid package for Cambodia's national elections.

ASEAN, which traditionally refrains from interfering in member countries' internal politics, uncharacteristically decided to carefully assess the political situation in light of Cambodia's pending application to join the group. ASEAN established a sub-group to monitor developments in the country, and a team of diplomats from Indonesia, the Philippines and Thailand came to be known as the Troika. The US government, however, responded strongly by suspending all but humanitarian aid to Cambodia, although did not formally characterize July's events as a coup. The US helped to establish the Friends of Cambodia, a group of primarily western nations.

Following the coup, more than 20 members of parliament fled Cambodia, fearing for their safety. Most subsequently made their way to Bangkok, and it was there that they formed the Union of Cambodian Democrats (UCD), a four-party coalition comprising Funcinpec, the Buddhist Liberal Democratic Party (BLDP), the Khmer Nation Party and the Khmer Neutral Party. The alliance brought together old adversaries, including Prince Ranariddh and Sam Rainsy, who for a brief time

united their efforts against a common opponent rather than advancing a common political platform.

By 1997, "donor fatigue" had set in, and two disparate schools of thought prevailed. Some governments, such as those of France and Australia, saw Hun Sen and the CPP as the only force capable of organizing and managing the country. In this view, the CPP's heavy-handed tactics should be discouraged but there existed no clear alternative to continued CPP rule. Other donor governments, led by the US, found the CPP's tendencies in general and the coup in particular intolerable. They argued that Funcinpec – regardless of its obvious shortcomings -- had won the 1993 elections and had the legitimate right to govern, insisting that democratic norms be upheld.

The National Assembly elections, scheduled for May 1998 and in which most donors had by July 1997 already begun to invest, became the focal point for the international community. Conventional wisdom held that these elections were the only way to resolve the old problems of Cambodia's seemingly interminable internal conflicts. Unfortunately, the international community failed to reach a consensus about the circumstances under which an election should be held and never really developed a common view about the appropriate donor role in such a contest.

Progress Towards Elections

In late September, the group of exiled politicians, lead by Prince Ranariddh, Sam Rainsy and Son Soubert, succeeded in convincing the United Nations not to allow Hun Sen's regime to occupy Cambodia's seat. This was a serious blow to Hun Sen, who craved international legitimacy and the crucial aid it brought. Realizing that this goal could not be achieved solely through force, he acquiesced to international demands for an election. Given the recent events and the 1993 experience, few expected the CPP to lose such a contest.

Under pressure from the international community, the exiles eventually diluted their pre-election conditions, which included a cessation of military hostilities, the ability to resume political activities free of threats, the return of stolen property and fair electoral framework.² The UCD's status as a coalition did not last long, and instead of maintaining a united front as it had in the early fall and forming an electoral alliance, most members returned to Phnom Penh and to their original party affiliations. The exiles' return began with Sam Rainsy in November 1997 and continued through March 1998. Prince Ranariddh, who had in the wake of the coup been charged with smuggling arms and colluding with the Khmer Rouge, remained in Bangkok throughout this period., trying to find a way around Hun Sen's insistence that the Prince stand trial for these crimes if he were to return to Cambodia.

Although a new election law had been in development for at least two years, it was not passed

²Union of Cambodian Democrats: Conditions for a United Return to Cambodia, Submitted for the review of the Ambassadors of the ASEAN Troika, October 17, 1997.

until December 1997. The election law had been drafted with considerable US assistance before the coup and with EU and Canadian funding after the coup. The law itself set the election date for July 26, 1998 -- a mere six months away. The political party law, equally long in the making, passed in November 1997. With these laws in place and most of the exiled politicians back in Phnom Penh, Prince Ranariddh's return and participation remained the sole stumbling block to the elections.

The EU had expressed an interest in donating money and technical assistance to voter registration. Despite the violent coup in early July 1997, the EU continued to develop its assistance package throughout that month and submitted a final version in Brussels on July 31.³ The European Parliament refused to approve the funds, however, until an election law that would allow for an independent election commission had been passed. The EU's critical \$11.5 million in aid was announced in December 1997, just days after the election law was passed. The EC's decision effectively gave the imprimatur of international acceptance to the electoral process.

In February 1998, the Japanese government proposed a four-part peace plan. (See Appendix A.) This included: (1) the safe return and right to campaign for Prince Ranariddh; (2) a guarantee of a pardon if he was to be tried in absentia and found guilty; (3) a cease-fire between Funcinpec and the CPP troops in the northwestern part of the country; and (4) a public Funcinpec declaration that it maintained no allegiances with the Khmer Rouge. This plan was endorsed by the Troika and the Friends of Cambodia. By the end of February, the CPP and Funcinpec had accepted the plan as well.

In early March, Prince Ranariddh was tried in absentia for illegally importing weapons and colluding with the Khmer Rouge. The court found Ranariddh guilty of the first charge on March 4 and of the second on March 18. King Sihanouk then issued a royal pardon on March 21. This cleared the way for Ranariddh's return to Phnom Penh, which took place on March 30. During his initial four-day stay, crowds of CPP and Funcinpec supporters clashed in the streets surrounding the Prince's hotel. Similar unrest occurred when Ranariddh returned to Cambodia for good in mid-April, suggesting that the election had the potential to become violent.

In theory, the stage was set for elections to proceed. In reality, however, Cambodia had established none of the institutions required to hold such an election. Human rights abuses persisted, the former warring factions still had not made peace with each other, the CPP dominated the government and administration, and, perhaps most important, citizens continued to have little confidence that their government was truly committed to a transparent, peaceful competition.

³ Financing Proposal, European Commission, July 31, 1997.

III NDI and Monitoring

NDI in Cambodia

NDI began supporting the development of Cambodia's democratic institutions in late 1992. From 1993 to 1995, NDI conducted programs to develop political parties and strengthen the National Assembly. Beginning in late 1995, NDI provided technical assistance to two Cambodian election monitoring organizations on designing their monitoring efforts, building coalitions and establishing their independence. Since the violent ouster of former First Prime Minister Ranariddh in July 1997, NDI closely monitored the political environment in the country. In conjunction with the International Republican Institute (IRI), NDI provided technical and financial support for the UCD in Bangkok in the immediate post-coup period. The Institutes also conducted two missions to Cambodia to assess the political environment and electoral preparations in August and October 1997.

Although the appropriate conditions did not yet exist, including the lack of Prince Ranariddh's agreement to participate, it was clear by the beginning of 1998 that elections would take place. Monitors to analyze and report on each phase of the preparations were critical to a thorough understanding of the process. At the request of Cambodian NGOs, politicians, democratic activists and members of the diplomatic community, NDI established an ongoing monitoring presence in Cambodia beginning in April 1998.

An NDI team monitored voter registration in June, and in July NDI and IRI issued a statement concluding that ". . . the process leading up to the elections . . . is fundamentally flawed."⁴ (See Appendices C and D.) The institutes jointly organized an election observation delegation for the week of the July 26 elections. The 60-member delegation comprised international election experts, political leaders, democracy activists and regional experts from the United States, Bangladesh, Japan, the Philippines, Slovakia, Thailand and the exile government of Burma. On July 28, after the polling and the first phase of the counting, then delegation issued a preliminary statement about the elections. (See Appendix E.) After the elections, NDI maintained a presence in Cambodia through the end of October to monitor the post-election environment and issue a second post-election statement on August 22. (See Appendix F.)

NDI's Monitoring Methodology

International election observation in Cambodia and in all other transitional societies requires an assessment of all aspects of the electoral process. These include: 1) the pre-election period, including the legal framework, the campaign period, technical preparations, and party and voter registration; 2) balloting on election day; 3) counting and consolidation of results; and 4) investigation and adjudication of complaints and the formation of a new government and its assumption of office.

⁴"Statement by the Pre-Election Assessment Mission," July 14, 1998.

Observation must not be limited to watching voters cast their ballots; it must view the elections as an inseparable part of a larger political process. Elections are an important vehicle for citizens to express their political will, which the Universal Declaration of Human Rights and every other human rights instrument recognize as the basis for the authority of government. There is a growing international consensus that it is not enough for a country to meet minimum legal standards and allow for orderly voting procedures. Rather, the political contestants and the electorate must develop confidence in the overall process; and the degree of that confidence will influence greatly how the public will perceive the legitimacy of the government that emerges from the polls.

NDI has global experience in conducting international election monitoring programs and providing technical assistance to local NGOs that create and implement monitoring programs. For more than a decade, NDI has organized 40 large-scale international election observer delegations in 26 countries and smaller programs for dozens more. NDI has conducted monitoring programs in countries such as Albania, Bosnia, Haiti, Kenya and Liberia that, like Cambodia, suffer from a difficult political environment and have limited experience holding democratic elections. The Institute has also coordinated its election-related efforts with multilateral organizations such as the UN, the EU, the Organization of American States and the Organization for Security and Cooperation in Europe, and with domestic and international nongovernmental organizations. NDI's 1998 monitoring program in Cambodia built on the its work with electoral processes, prior assessments of the political environment, a close relationship with Cambodian monitoring organizations and an in-country presence throughout electoral process.

Lowering Electoral Standards

Over the past decade, a broad consensus based on international practice and on the rights enshrined in the Universal Declaration of Human rights has generated standards for elections to be considered genuinely competitive processes. These standards include opportunities to compete and to do so freely, fair access to the media, a neutral election administration, a legal and political environment in which voters feel free to choose the candidates they wish, and fair conduct of balloting, counting and resolution of disputes.

The magnitude of attention and aid Cambodia had received from the international community since 1992 may have generated the impression that a consensus existed about how best to help the country recover after the July 1997 coup. Diplomatic agendas, however, clashed between those who thought that the power of Hun Sen and the CPP was central to political stability, and those who thought those same players were the obstacles to a peaceful and democratic Cambodia. Differing donor approaches appeared to influence assessments of the electoral process. Simultaneously charged with providing support for the management of the elections while impartially observing the process, representatives from overseas governments and intergovernmental organizations faced roles that may have been in tension -- or even incompatible. Moreover, exacerbating the problem posed by these sometimes conflicting roles, some observers came from governments of undemocratic

countries, such as Burma, China and Vietnam. These inconsistent approaches gave the impression that, as applied in Cambodia, international standards for democratic elections were being lowered.

IV Key Institutions

Political Parties

The UCD was successful in remaining united in an effort to block the CPP's claim to Cambodia's UN seat in September 1997 and delay its acceptance into ASEAN. However, the alliance frayed as individuals recognized and acted upon different considerations regarding their return to Phnom Penh and their participation in the electoral process. Sam Rainsy was the first to return in November 1997. Son Soubert and Kem Sokha, leaders of the BLDP, chose to return in the hopes of salvaging any progress towards democracy the country had made. The Khmer Neutral Party, led by Pen Dareth, made its decision to return home largely based on its inability to support itself outside Cambodia. While many members of Funcinpec went back to Phnom Penh through late 1997 and early 1998, Prince Ranariddh remained outside the country. Reflecting the pre-existing stance between the parties, the UCD members remained aligned as opposition parties throughout the electoral process, but it was clear there was as much competition among them as between them and the CPP.

As 1998 began and the electoral process unfolded, four significant parties existed: the CPP, Funcinpec, Buddhist Liberal Democratic Party and the Khmer Nation Party. The CPP and Funcinpec represented an essentially decades-old rivalry between Cambodia's royalists and communists. The CPP had maintained close ties to Vietnam, and it was during that country's occupation of Cambodia that senior members of the party -- including Hun Sen, Chea Sim and Heng Samrin -- were installed in positions of power. The party has always maintained a well-organized network of supporters to ensure communication and implementation of party policy from the national to the village level. The CPP dominated local-level politics from the 1980s through the 1998 election. Following the coup, it took advantage of significant opportunities to further consolidate control of the media and the army. The CPP used all of these avenues to guarantee and further mobilize support.

Funcinpec maintained its popularity primarily through its ties to the monarchy. Prince Ranariddh's 1993 campaign platform included a promise to return power to King Sihanouk if Funcinpec was victorious. The party's subsequent win was seen as support for a return to the rule of King Sihanouk and a monarchy devoted to Buddhism. Funcinpec, which had through the mid-1990s maintained its ties with France and other western powers, had never had a strong party structure or provincial network of activists. Throughout the Assembly's first term, critics of Funcinpec-- and, eventually, members themselves -- accused the party of inefficiency and corruption. By the time its leaders returned to the country after the 1997 coup, Funcinpec was also burdened with the intimidation of its supporters.

Rival factions of the BLDP and the Khmer Nation Party broke away from the original parties in 1997. The original parties, led by Son Sann and Sam Rainsy, respectively, and the rival factions went to court over the rights to the parties' names, and both of the original parties lost.

Consequently, in the preparations for the 1998 elections, the original parties renamed themselves the Grandfather Son Sann Party (GSSP) and the Sam Rainsy Party (SRP) to distinguish themselves from their rivals. The GSSP promoted itself as the party best representing Khmer culture and tradition, particularly as distinct from those of the Vietnamese. After the split, only three BLDP MPs remained loyal to GSSP.

The SRP had achieved a reputation as an outward-looking, democratic party known for its public criticism of the CPP and Funcinpec. Sam Rainsy had served as the Minister of Finance until it became clear that his efforts to stamp out corruption would include scrutiny of his own party's members. He was removed from his stripped of his ministerial portfolio late in 1994 and in 1995 was ousted from Funcinpec. In response, he established a new party that focused on corruption as well as environmental concerns and illegal logging. Crowds of young, urban voters participated in Rainsy's rallies and demonstrations, showing the party's growing popularity, but it had little time and limited resources to build up support across the country in a hostile environment.

In early May, Funcinpec, SRP and GSSP members refused to attend National Assembly sessions, preventing the parliament from reaching a quorum and selecting three members for the Constitutional Council, a critical preparatory step in the election process. The parties demanded that the National Election Committee (NEC) membership be readdressed and that all parties have equal access to the media. Moreover, they demanded that the vote count be moved to from the village to the provincial level, as had been the case in 1993, to prevent government authorities from identifying the political affiliations of particular villages. Hun Sen made a rare appearance at the Assembly on May 5 and threatened to dissolve the legislature and postpone elections if the members did not return. The following day, he telephoned Prince Ranariddh and an agreement was quickly reached that the votes would be counted at the commune level, but none of the other issues was addressed. Six Funcinpec MPs were dispatched, a quorum was reached and the Assembly voted on the nominations. However, SRP, GSSP and some Funcinpec members continued to threaten a boycott without resolution on the other two issues. Although nothing was done to address the problems with the NEC or access to the media, no parties followed through with a boycott.

During the pre-election period, the three "opposition" parties, as they came to be known, attempted to improve the political climate by periodically threatening to boycott the election and deny it legitimacy. The SRP continued to publicly discuss a boycott through early July, but, despite numerous complaints to the NEC and international observer groups highlighting serious flaws in the process, the party chose to continue its candidacy. Privately, opposition candidates would question their decision to participate in what they considered an undemocratic contest but would also admit that their only other choice was to remove themselves entirely from the political process.

As a result of the July 1997 coup, institutional biases and inequalities in the political environment, the opposition parties began their campaigns at a significant disadvantage. The CPP continued to maintain control over the electoral machinery.

The National Election Committee

Electoral authorities must demonstrate that they are capable of administering a transparent and impartial process. If they are successful, they earn the confidence of the candidates and the public; if they are not, the credibility of the entire electoral process can be called into question. In spite of significant obstacles, Cambodia's National Election Committee (NEC) surpassed expectations by demonstrating remarkable administrative capacity. However, the NEC's membership, its questionable decision-making process on key issues such as the changes to the seat allocation formula and the accreditation of domestic observers, and, ultimately, its failure to properly implement the grievance process, generated little confidence in its independence.

The 11-member NEC was formed in January 1998 to implement the election law and oversee all aspects of the electoral process, including fiscal management, party and voter registration, security, voter education, recruitment of all provincial and commune-level staff members, balloting, counting and the resolution of grievances. (See Appendix G.) The members' terms are five years. The 11 members included a Chairman, Vice-Chairman, two dignitaries and two citizens, though it was never clear what qualifications were required for the latter two categories. In addition, the law also provided that all of the parties then represented in parliament – the CPP, Funcinpec, BLDP and Molinaka – would have one member on the NEC. The eleventh member represented the NGO community. The Ministry of Interior was responsible for compiling a list of the 11 nominees for the Commission, then submitting that list to the Council of Ministers for review before forwarding it for a vote in the National Assembly.

The manner in which the NEC's 11 members were chosen immediately raised questions about its independence. As noted earlier, in 1997 factions of Funcinpec and BLDP split away from their respective parties. These splinter factions were backed by the CPP. In late December 1997, both the original parties and the splinter factions nominated members to serve on the NEC. The Ministry of Interior, after making clear that it did not want to be responsible for determining which of these nominees should be considered legitimate, submitted a list with 13 names to the Council of Ministers. The Council selected Tea Chamrath and Keo Lundy, the splinter groups' nominees, to be the legitimate representatives and eliminated the original Funcinpec and BLDP party nominees. The Council forwarded this list of 11 names to the National Assembly where it was approved.

The final member of the NEC was to represent the NGO community. There is substantial evidence to believe that the selection of Chea Chamroeun, widely regarded as a close advisor to the CPP, to this position by the NGO community was the result of vote buying and coercion. All NGOs registered with the government were allowed to cast a vote in support of a candidate for this position, but in the weeks immediately preceding the vote, new organizations were suddenly registered, all of which supported Chea Chamroeun. In addition, \$100 bribes were allegedly offered to support Chea's

candidacy.⁵

Chea Chamroeun, Keo Lundy and Tea Chamrath assumed responsibility for the key NEC sub-committees of Inspection and Monitoring, Logistics and Security, respectively. Other CPP-nominated representatives, Phom Nhean Vichieth and Chhay Kim, were tasked with running the Media and Finance sub-committees. Although the NEC was chaired by prominent Buddhist educator Chheng Phon and vice-chaired by human rights activist Kassie Neou, the process by which the Committee had formed and that the majority of its members were clearly aligned with the CPP jeopardized its credibility from the outset.

Moreover, although the election law states that the NEC was supposed to be independent of the government,⁶ the CPP-dominated Ministry of Interior wielded considerable influence over the Committee. Opposition candidates and some domestic observers claim that they occasionally took grievances to Interior Co-Minister Sar Kheng because the NEC would not hear their complaints without Sar's approval. The NEC was headquartered within the Ministry's compound, which was occupied by the National Police and gendarmerie. The physical proximity gave the appearance of close Ministry control over access to the NEC. In addition, the Ministry-run National Police, headed by Hok Lundy, the man alleged to have killed Ho Sok, was responsible for special security for candidates and observers during the election.

Provincial and commune election commissions (PECs and CECs) and polling station commissions (PSCs) were appointed by the NEC. These lower bodies implemented the NEC's regulations at the appropriate levels. The NEC estimated that it would require between 50,000 and 60,000 staff members to carry out the required tasks, and, according to the NEC regulations, none of these people could be officials of political parties, commune or village chiefs, or members of the army, police or militia.⁷

The NEC faced a major challenge in recruiting and training competent PEC, CEC and PSC staff members. At a public meeting on June 5, NEC Vice-Chairman Kassie Neou announced that the staff members needed to run the polling places on election day could not be recruited until more funding was available. This meant that election day personnel would be trained and deployed on July 23rd, leaving the 24th and 25th for them to organize at their assigned polling places. When Neou made this announcement, voter registration had already begun and some of the most serious problems

⁵ "Cash now, free and fair later – donors set to fund ballot," Chris Fontaine and Samreth Sopha, Phnom Penh Post, January 16-29, 1998, p. 1.

⁶ Law on the Election of Members of Parliament, adopted by the National Assembly of the Kingdom of Cambodia, December 19, 1997.

⁷ "The PEC Management and Operational Manual for Polling, Counting and the Consolidation of the Results," Revised Edition, June 29, 1998.

clearly stemmed from poorly trained staff members. The NEC's revised plan for election day staff allowed for even less training time than during the preparations for voter registration.

Many commune or village chiefs were chosen for CEC or PSC positions during voter registration and served in those positions through the election despite the NEC regulations' prohibition on holding both positions. While selecting figures with some administrative experience and authority within their communities may have appeared to be a logical source of qualified people, it is important to note that most of these offices had been held by CPP members since at least 1993, if not since 1979. (Although Funcinpec had won the 1993 election, it was never allowed to claim its share of local level offices.) Some observers charged that these local electoral officials were biased toward the CPP and would not carry out their tasks in a nonpartisan manner. The NEC neither responded to these criticisms nor changed its plans, giving observers further opportunity to question the NEC's commitment to ensuring neutrality among its local staff members.

The NEC also had to secure funding for the electoral process. The Royal Cambodian Government had insisted for several months that it was only able to allocate \$4.5 million, or about 10 percent, of the election's costs. (See Appendix H.) Given the concerns among the international donors about the political will and the administrative capacity to hold a competitive election, the European Union's decision to contribute \$11.5 million for voter registration just a few weeks after the passage of the election law opened the door for an additional \$20 million in aid from other donors. The EU claimed that necessary pre-conditions for a competitive process existed, stating that "... without the European Union's money for the registration process, the elections will basically fold."⁸

The European Union's aid package, which was known as its Support to the Democratic Electoral Process in Cambodia, also included technical advisors to the NEC for voter registration, administration, voter education and media relations. The EU would also provide long- and short-term observers. Australia provided technical support and equipment for the NEC's computer center. Canada paid for an expert election advisor to the NEC, while Japan, Cambodia's largest bilateral donor and architect of the four-point peace plan, provided \$6 million for ballot boxes, vehicles and staff training. Other donors included Belgium, China, Denmark, Germany, New Zealand, Norway, Sweden and the UK.

The United States continued its ban on aid to the government, imposed in the wake of the coup, and refused to provide funding to the NEC, implying dissatisfaction with its membership and efforts. Instead, the United States funded Cambodian NGOs' election-related activities, 25 long-term observers coordinated by the Asia Foundation who served as part of the UN's effort, and NDI and IRI to train domestic NGO and political party observers and conduct international election monitoring programs. The US also contributed funds to the United Nations Development Programme (UNDP)

⁸ Fontaine and Sopha.

trust fund for international observers' security.

As the preparations for the election unfolded, the NEC began to demonstrate its administrative capacity despite its lack of experience and resources. In a very short time, the NEC organized itself and conducted a successful voter registration exercise. Some NEC members met regularly with representatives of political parties and domestic and international observer groups. They also solicited NGO input into the drafting of political party and observer codes of conduct. Through these actions, the NEC sought to show that it was willing to hear criticisms from others involved in the elections.

Despite these positive trends, the NEC appeared to be incapable of responding to criticisms effectively. The Committee passed technical issues with political ramifications, such as the disagreement over counting ballots at the village or provincial level, to the National Assembly rather than make decisions itself. Legitimate domestic monitoring groups complained that the NEC credentialed thousands of unknown domestic observers, but it was not until diplomats and the UN strenuously objected to this move that the NEC revoked the credentials.

The NEC's membership and selection process jeopardized its credibility from the outset by leaving it prone to CPP and Interior Ministry manipulation. Individual Commissioners would privately complain about their inability to successfully advocate for fair implementation of the laws, such as the media regulations or the location of the vote count. But these members were always in the minority, each citing his status as "only one of 11 people" as his explanation for the NEC's shortcomings.

The NEC made insufficient efforts to ensure the competence and neutrality of its staff members and refused to take a stand on critical issues unless forced to by donors or diplomats. Its administrative success was encouraging, but its lack of independence became even more clear during the investigation of party and observer complaints in the post-election period. This ultimately contributed to a lack of confidence in the electoral process as a whole.

Formation of the Constitutional Council

The 1993 Constitution established the Constitutional Council as Cambodia's highest legal body. The Constitution provided that the nine-member Council would be comprised of three individuals chosen by the King, three by the National Assembly and three by the Supreme Council of the Magistracy (SCM), the body overseeing the appointment and dismissal of judges. The requirements for membership entail a minimum age of 45 years old, a degree in administration, law, diplomacy or economics, and have 15 years of work experience.

The March 1998 Law on Organization and Functioning of the Constitutional Council further outlined the Council's role as the final arbiter of all election-related disputes. Although the Council

was to have formed as soon as the Constitution passed, it did not assemble until June 1998. It convened its first meeting in August 1998, too late to rule on challenges to the election law, voter registration or any aspects of the process other than election day and ballot counting grievances. Moreover, the membership of the Council proved problematic.

King Sihanouk had announced his three nominees in December 1993. They were Son Sann, founder of the GSSP and a prominent leader in the country's struggle for independence from Vietnam, Chau Sen Cocsal Chhum, the first President of the post-colonial National Assembly, and Pung Peng Chheng, who has been an advisor to the King for several decades. In early May 1998, the National Assembly nominated three CPP members, Top Sam, Bin Chhin and Yang Sem.

Only the Minister of Justice, and, in his absence, the Secretary of State for Justice, could convene a legal meeting of the SCM.⁹ After the National Assembly finally nominated its Council members, the SCM had to finalize its own decisions but Chem Snguon, the Minister, was out of the country for medical treatment. In late May, Sok An, CPP Co-Minister of the Council of Ministers, convened a meeting of the SCM at which those present nominated Chan Sok, Hengo Racken and Ty Neng. Sok An explained that he was filling in for Chem as Interim Minister of Justice with acting Head of State Chea Sim's permission, despite the fact that no laws or regulations provide for this kind of transfer of power. Only four people attended the SCM meeting, so it also failed to reach a quorum of seven out of nine members. After Son Sann, Chau Sen Cocsal, other political analysts and a few diplomats objected to the illegality of these proceedings – and to Ty Neng and Henot Racken's lack of the required educational qualifications – the SCM offered up the nominations of Prak Sok, Thor Peng Leath and Chan Sok, who went on to assume the Council's chairmanship.

The Council's legitimacy, already in question, was further undermined by its inability to convene legal meetings. The Council's regulations stated that only the oldest or second oldest of the nine members could legally convene a meeting. At least seven members of the Council had to be present for meetings to be considered valid. Chau Sen Cocsal Chhum, 92, was the eldest member and therefore the "dean" of the Council. Son Sann, 86, was the second eldest. On May 20, Son Sann sent a letter to the King questioning the validity of the SCM's membership and meetings, and, by extension, the validity of its three nominations to the Council. The letter spoke directly to the Council's lack of independence, asking, "How can an illegal Constitutional Council proclaim the legality of these legislative elections?"¹⁰ On June 2, Chau Sen Cocsal Chhum left Cambodia and issued a statement from Bangkok declaring that he would refuse to convene meetings until all its members were legally appointed. (See Appendix I.)

For these reasons, Son Sann and Chau Sen Cocsal refused to be sworn in as members of the

⁹Law on the Organization and Functions of the Supreme Council of the Magistracy, December 22, 1994.

¹⁰Letter to His Majesty King Norodom Sihanouk from His Excellency Son Sann, May 20, 1998.

Council, leaving Pung Peng Chheng, at 81 the next oldest member, in an extremely difficult position. Pung proceeded to be sworn in with the six other members in mid-June but then refused to attend any subsequent meetings, thus paralyzing the Council. Pung requested that he be replaced, and the appointment of Say Bory, the well-respected head of the Cambodian Bar Association and a frequent critic of the Council, was approved in late July. With King Sihanouk's approval, Son Sann passed his nomination on to his son, GSSP President and former MP, Son Soubert, in early August.

Because of the controversy and confusion surrounding the Council's membership, it had little or no public confidence as it began to hear the growing list of election complaints it received from the NEC in early August. Its membership was seen as biased and, in some cases, unqualified to rule on complex legal issues.

Domestic Monitors

The primary purpose of an independent monitoring operation is to promote the integrity of an election process. In most cases, nonpartisan civic organizations are more interested in the process than the outcome of an election. Consequently, if nonpartisan civic organizations develop an effective monitoring apparatus, their evaluation of an election process will be considered more reliable than one offered by a government-dominated election commission or by the political contestants. Moreover, domestic monitoring groups provide a neutral vehicle for organizing and engaging sectors of society that are otherwise unwilling to assume a partisan role in an election process. In 1993, UNTAC performed most of these functions, but in 1998 Cambodian groups were left to assume these responsibilities in the absence of a large international effort.

Domestic NGOs organized a monitoring effort unprecedented in Cambodia for the 1998 elections. Three major groups emerged, beginning in early 1996 with the formation of the Committee for Free and Fair Elections (Comfrel) and the Coalition for Free and Fair Elections (Coffel). Comfrel's membership included human rights organizations with strong provincial networks. Social development, democracy promotion and research-oriented organizations made up most of Coffel's membership. A third group, the Neutral and Impartial Committee for Free Elections in Cambodia (Nifec), had organized students from the College of Fine Arts to perform voter education plays around the country in 1993. In March 1998, Nifec revived its organization to develop a program to monitor the elections using its students and expatriates living in Cambodia.

In the aftermath of the July 1997 coup Comfrel and Coffel faced a series of challenges. For months it was unclear whether there would be elections at all. The political environment was one in which people feared the ramifications of criticizing the government. The dramatic increase in work investigating and documenting violence, intimidation and murders consumed the human rights organizations. In September, Licadho, Cambodia's largest human rights group and a pillar of Comfrel, withdrew from the coalition, citing its inability to properly undertake both human rights and election monitoring efforts. Licadho also was concerned that monitoring an election would inherently

confer legitimacy on a seriously flawed process. The coalitions also faced uncertainty about their funding, as some bilateral aid packages intended to support their programs continued to be suspended.

With the passage of the election law in December 1997 and the subsequent return of exiled politicians, the coalitions quickly reorganized and began to implement their programs. Throughout the spring of 1998, Comfrel and Coffel revived the civic education programs they had begun a year earlier. They launched national voter awareness campaigns and began to coordinate with international observer organizations. Both groups began to issue regular public statements evaluating the NEC's administrative efforts, recommended methods of improving the procedures, cited individual and party violations of the regulations and called upon all political actors to respect the laws.

Comfrel and Coffel trained thousands of volunteers to monitor voter registration and election day, and Comfrel also developed its plans for a parallel vote tabulation (PVT), a method for monitoring the official tabulation of votes whereby election monitors record results obtain from a scientifically representative sample of individual voting stations and project the outcome of the elections. Through these efforts and their increasingly bold statements, which indicated a growing level of confidence in challenging the NEC and the political parties, Comfrel and Coffel had by early July earned recognition from Cambodian citizens, parties, election officials, international observers and the international community in general.

For election day, Comfrel fielded about 12,000 pollwatchers, Coffel 7,000 and Nicfec 2,500 throughout the country. The observers checked on polling stations the day before the election, monitored throughout polling day, some sleeping with ballots throughout that night, and continued on through the counting process. The groups also monitored the grievance process, and offered to assist the NEC with recounts and investigations of fraud and intimidation.

All three monitoring coalitions recognized the importance of maintaining their neutrality. In private conversations, representatives of each group admitted to having to dismiss staff members or volunteers suspected of trying to advance a political agenda. The coalitions were careful to consult regularly with representatives of all parties and were at times critical of actions by each political party. No candidates, electoral administrators or other monitoring groups publicly accused Comfrel, Coffel or Nicfec of political bias.

Immediately before the elections, the coalitions also had to cope with the emergence of last-minute, party-backed observer groups. Following the close of voter registration, Comfrel, Coffel and Nicfec, which had been slow to submit lists of observers, began to complain about the NEC's even slower accreditation process. After a week of investigations, NEC representatives revealed the cause of this problem: over 25,000 domestic observers not affiliated with Comfrel, Coffel or Nicfec had been accredited. The legitimate coalitions, donors and diplomats immediately raised questions about

these observers' organizational affiliations, their training and whether their presence in polling stations would prevent access by representatives of the other three groups. These organizations, which were seen to have ties to the military and/or the CPP, included the Buddhist Association for the Relief of the Poor, the Khmer Youth Association for Development, Farmers and Human Rights and the Cambodian Coordination Committee.¹¹ Acting in part on recommendations from the domestic observers, the UN and international observer groups, the NEC invalidated 30,000 of these groups' credentials and expedited those of the recognized groups -- but not until July 24.¹²

The establishment of Comfrel, Coffel and Nicfec rather than a single coalition can in part be ascribed to longstanding personal rivalries between some members of the leadership. The strong personalities running the member NGOs also held dramatically different views of the government and opposition political figures. Although this did not appear to effect the coalitions' work, it made the formation of a single monitoring organization impossible.

Comfrel and Coffel faced substantive and organizational challenges throughout the two years leading up to the elections. Both coalitions wanted to implement nationwide civic education and election monitoring programs. Despite extensive discussions about coordinating efforts between the two groups, no clear delineation between their efforts was ever established.

Funding also caused problems within and between the groups. The Cambodian NGOs expected foreign donors to fund all their activities. Some individual NGOs were already recipients of foreign funds while others were not. When the individual groups came together as coalitions, there was considerable disagreement over whether the member organizations would solicit funds individually and contribute that money to the coalition or the coalition itself would seek funding. Simply managing the funds was one of the most significant challenges each organization had to overcome.

Donors such as the EU, the Netherlands, the US (through NDI and The Asia Foundation), Sweden and Australia showed interest in funding activities as early as the beginning of 1996 and, throughout the election process, made funds and technical assistance available to the groups. Donors that had pre-existing grant relationships with coalition member NGOs opted to provide money for coalition activities through the individual organizations. Newer donors agreed to fund the coalitions themselves. Although donors met regularly throughout 1998 to discuss funding, no common standards for providing assistance were ever established.

On the whole, the Cambodian coalitions made a significant contribution to the election. In

¹¹"Local Observer Groups May Be in CPP's Pocket," Post Staff, Phnom Penh Post, July 17-23, 1997, p. 3.

¹²"NEC Boots 2 National Observer Groups at Last Minute," Daily Staff, The Cambodia Daily, July 26, 1998, p. 1.

difficult and often threatening political environments they demonstrated a commitment to supporting democratic processes. Their activities reflected civil society's desire to assert a role for itself in governing the country – perhaps one of the most important aspects of the election as a whole.

International Observers

The presence of hundreds of international observers and peacekeeping troops in the 1993 UN-run election generated confidence among Cambodians about the safety and legitimacy of the election. Hun Sen, on the other hand, blamed UNTAC for the CPP's loss and resisted international observation of the 1998 elections. In the post-coup environment, however, the demand for international observers was even stronger as opposition MPs, NGOs, citizens and members of the Cambodian government called on other countries to provide as many monitors as possible. In an October 1997 letter to UN Secretary-General Kofi Annan, Hun Sen and Ung Huot issued an open invitation to the international community and welcomed observers to the elections. Article 27 of the Law on the Election of Members of Parliament further guaranteed international representatives' right to observe all aspects of the process.

Many Cambodians and members of the international community saw the UN's involvement in the 1998 elections as critical to establishing a level of confidence and legitimacy in the process. The UN decided in early April that it would not supervise, or pass judgment on, the election itself; rather, it would coordinate observers from other countries and organizations. In a letter to the Royal Cambodian Government, UN Secretary-General Kofi Annan stressed that the UN would suspend its support for the elections if observers' movement was restricted, if parties or candidates were prevented from registering or participating, if intimidation persisted, if media access continued to be limited or if the Constitutional Council was unable to function properly.¹³

The United Nations' Office of the Secretary-General's Personal Representative in Cambodia (SGPRC), headed by Indian diplomat Ambassador Lakhan Mehrotra, was charged primarily with a diplomatic role. In an effort to provide greater guarantees of security for political figures who had returned from exile, the SGPRC organized about 15 "safe return" monitors. They accompanied opposition candidates to rallies, campaign events and meetings throughout the pre- and post-election period. Most of the monitors had either experience in Cambodia or in other difficult environments such as Haiti or Bosnia. Although the monitors were not allowed to intervene if problems arose, they reported incidents or threats regularly to Ambassador Mehrotra. These were subsequently conveyed to the government in Phnom Penh and the Secretary-General's office in New York. This information was not made available to other domestic or international monitoring groups.

¹³"United Nations Electoral Assistance to Cambodia: Lessons Learned and Reflections for the Future," September 29, 1998, Excerpts from Reports by the Special Representative of the UN Secretary-General for Human Rights in Cambodia, Ambassador Thomas Hammarberg, article (viii).

The UN's Cambodia Office for the High Commissioner for Human Rights (COHCHR) was established at the request of the Royal Cambodian Government in 1993 to provide training and education on human rights, and document abuses. It was headed by former Unicef official Rosemary McCreery and was represented in Geneva by the UN Secretary General's Special Representative on Human Rights, Ambassador Thomas Hammarberg. The COHCHR maintained a central office in Phnom Penh and six provincial offices.

The nature of the COHCHR's work necessarily made its relationship with the government an adversarial one. On a number of occasions the government has threatened to withdraw the request for the COHCHR's assistance. Although the COHCHR's mandate runs through 2000, there is always an implied threat by the government that if its reports are too negative or too public it will simply be asked to leave the country. The government has in the past objected to individual staff members. In the run-up to the elections, the COHCHR added six provincial-based mobile monitors to its regular staff. These monitors, many with extensive experience in working on human rights concerns in Cambodia, established relationships with local authorities and party activists in an effort to monitor and investigate politically motivated instances of violence and intimidation related to the elections. Their biweekly reports were regularly made available to other observers and the press.

Despite Cambodia's failure to meet at least three of the Secretary General's conditions, in April the UN established the Electoral Assistance Secretariat (EAS) to coordinate a so-called Joint International Observation Group (JIOG). This group was intended to support observers sent as part of bilateral arrangements between individual governments and the UN, but was open to virtually anyone who wished to participate.

All JIOG observers were expected to sign on to a common statement assessing the conduct of the polls. By early June, the JIOG delegation included observers from Australia, Canada, the EU, India, Indonesia, Japan, Malaysia, New Zealand, Norway, the Philippines, Russia, South Korea, Thailand and the United States. In addition, the JIOG delegation also included government representatives from nondemocratic countries, including Brunei, Burma, China, Laos, Singapore and Vietnam. Given the dramatically different perspectives these countries had on Cambodia and democratic elections, other observers feared that JIOG would produce an uncritical assessment of the elections regardless of their conduct. Anticipating this, the US government decided in mid-June that its 25 long-term observers would remain within JIOG but not contribute to its final statement.

The UNDP established a trust fund to which countries could donate money for observers or make other contributions to the electoral process. The EAS provided logistical support, security, briefings, deployment plans and materials for JIOG observers. The JIOG members selected a chief spokesperson, who also presided over the JIOG's drafting committee. On June 8, at its second meeting, the JIOG unanimously chose Ambassador Sven Linder, a Swedish diplomat also serving as the head of the European Union's Observation Unit, to serve as its chief spokesperson.

The JIOG managed long- and short-term observers (LTOs and STOs, respectively). LTOs were based in provincial capitals and charged with monitoring all of the key phases of the electoral process. They were to establish relationships with provincial and local authorities and report on any problems that arose. The LTOs were therefore expected to have experience in election monitoring and knowledge about Cambodia. Some of these observers had been involved in the UNTAC-run elections. The US funded 25 LTOs, who were recruited through The Asia Foundation. In their case, far more emphasis was placed on their ability to live in rural areas of Cambodia than on their experience in election observation or political analysis. About 55 LTOs were deployed from mid-May through mid-August. Despite repeated requests, no reports from these observers were made public or shared with other observer groups before or in the weeks after the elections. One report was leaked to the press in early July. (See Appendix J.)

STOs, who would be charged with assessing the final days of campaign, balloting and early stages of counting, were ostensibly required to at least have experience monitoring in other countries, although one EAS official admitted that some would inevitably have "... no [electoral] background" and would be "... an odd tourist."¹⁴ About 450 STOs arrived between July 12 and 22 for training and briefing and were then deployed through August 3.¹⁵

Although the EU had agreed to participate in the JIOG, it reserved the right to issue its own statement, causing in advance the impression that the two entities would disagree in their analyses of the election. Ultimately, the EU did issue its own statement, which was considerably more critical of the process than that of the JIOG.

Fourteen EU LTOs were deployed to provincial capitals in late May and reported regularly to their headquarters in Phnom Penh. The results of the EU's LTO observations were only made public once before the elections in a late June press conference focused on voter registration. Ambassador Linder cited a host of concerns about intimidation of citizens by village chiefs, restricted media access and impunity for those who had committed acts of election-related violence, but he refused to discuss what impact these conditions might have on the election. Linder repeatedly refused to answer questions about the political environment, implying that it had no connection to the technical problems and no bearing on the remainder of the process.¹⁶ He described registration as

¹⁴"Foreign Observers Gagged Until After Polls," Matthew Grainger, Phnom Penh Post, June 19-July 2, 1998, p. 4.

¹⁵"United Nations Electoral Assistance to Cambodia: Lessons Learned and Reflections for the Future, Joint International Observer Group Final Report," September 29, 1998, Section 1.2.

¹⁶Press conference on the European Union's assessment at the close of voter registration, remarks by Ambassador Sven Linder, June 23, 1998.

forming “. . . the satisfactory foundation for free, fair and credible elections.”¹⁷ Three weeks after this press conference, the EU’s STOs arrived, as did British Member of the European Parliament Glenys Kinnock, who was to head the EU delegation.

NDI had re-established its presence in Cambodia in April. NDI and IRI had conducted international assessment missions during voter registration and the immediate pre-election period and together fielded a multinational delegation of 60 observers, including staff members, with funding from the US Agency for International Development (USAID). Delegation members from the United States and seven other countries had diverse backgrounds, though all had experience in elections and politics. Many also had considerable experience working in the region. This delegation was jointly headed by James Lilley, the former US Ambassador to China and Korea, and Stephen Solarz, a former US Congressman.

Just 12 days before the election a joint NDI-IRI mission had characterized the pre-election environment as seriously flawed and warned that acceptance of elections held under such circumstances “. . . will only contribute to a deterioration of the political environment and undermine genuine efforts to advance Cambodia’s democracy.”¹⁸ Consequently, many journalists and others in the international community expected the NDI-IRI delegation to be particularly critical in its analysis of the election itself. Following the decision that the US-funded LTOs would not contribute to the JIOG statement, some politicians and observers considered the NDI-IRI observers to be the *de facto* US delegation, despite the fact that 12 out of the 60 observers were non-Americans. The institutes were criticized in some circles as biased in favor of the opposition as a result of the support they had provided to the UCD in Bangkok the previous year.

Tony Kevin, the former Australian Ambassador to Cambodia, and John McAuliffe, Executive Director of the US-Indochina Reconciliation Project, organized a fourth international observer group -- Volunteer Observers for the Cambodian Elections (VOCE). Kevin, who had drawn fire during his diplomatic tenure for a statement declaring Hun Sen a “democrat at heart,” said in a pre-election statement that VOCE’s observers would “restrain the propensity of disappointed candidates to unjustifiably dispute poll results.” In the same statement, McAuliff explained that “an important reason for creating VOCE is concern that the elections not be discredited for reasons of international politics . . . whatever party or parties win the election, it is important that Cambodia quickly regain normal international standing . . . ”¹⁹ VOCE’s members, several of whom had worked for years in development projects in Cambodia, paid for their own trips and participated in some of the JIOG’s

¹⁷“EU’s Linder defends observation mission, praises registration,” Matthew Grainger, Phnom Penh Post, July 3 - 16, 1998, p. 5.

¹⁸ “Statement by the Pre-Election Assessment Mission,” July 14, 1998.

¹⁹Press Release: Volunteer Observers of the Cambodian Elections (VOCE), Undated.

briefing sessions.

The Asian Network for Free Elections (Anfrel) also sent international observers. Following a visit to Cambodia in August 1997, Anfrel was formed in November of that year specifically to show support for democratic elections in Cambodia. The Anfrel effort was coordinated by the Asian Forum for Human Rights and Development (Forum-Asia), a Bangkok-based NGO that promotes human rights and development throughout the region. Its members came primarily from human rights organizations in Thailand, Bangladesh, Indonesia, the Philippines, Sri Lanka and Cambodia. Anfrel conducted an assessment mission during the voter registration period and, in its public statement, noted its concerns about the lack of a Constitutional Council, confusion over citizenship and the dearth of media information about the electoral process. At that time, Anfrel also repeated a call for more international observers. A 44-member delegation visited Cambodia for the election itself.

V Pre-Election Period

Political Party Registration

Despite concerns about the NEC's biases or the poor environment in which to organize politically, 39 political parties registered by the NEC's May 8 deadline. Most were small, reconstituted versions of UNTAC-era parties and several were backed by the CPP. Only the CPP, Funcinpec and the SRP ran candidates in all 23 constituencies.

Two problems arose during party registration. Hun Sen had publicly insisted that Prince Ranariddh must sever his alleged ties to resistance forces in the northwestern part of the country, which generated concern about Funcinpec's ability to register up until the deadline. Ranariddh took no concrete steps to answer Hun Sen's complaints but was still allowed to register Funcinpec.

Only Chem Snguon, the CPP Minister of Justice, had his application as a candidate rejected because he had faxed a thumbprint to the NEC rather than providing them with an original. This decision was eventually reversed, though the basis for this judgment was unclear. The reversal also took place after the legal grievance period had ended, suggesting that exceptions would be made for powerful candidates.

The CPP ran 47 of its 51 incumbent MPs and added Hor Nam Hong, Ambassador to France, and Cham Prasidh, Minister of Commerce, to its list. In contrast, Funcinpec ran only 23 of its 58 former MPs and included seven members of the royal family in its candidate lists. Members of Funcinpec were critical of Prince Ranariddh and his advisors when they surprised party loyalists by removing eight incumbent members from their candidate lists. Some of these members learned that they were no longer candidates from the newspapers. Six former Funcinpec members ran for either the SRP or other small parties. The SRP had only three candidates with any name recognition. These were Sam Rainsy himself, his wife and former chair of the National Bank Tioulong Saumura, and former BLDP MP, Son Chhay. GSSP ran just three incumbents, party leaders Son Soubert and Kem Sokha, and Pol Ham.

Nguon Soeur, a former Funcinpec deputy secretary general and short-lived Sam Rainsy ally, formed the Khmer Citizens Party. Former Funcinpec MP and ostensible First Prime Minister Ung Huot started Reastr Niyum, while another former Funcinpec MP, Loy Sim Chheang, established Sangkum Thmei. Ten MPs who had been elected as Funcinpec members in 1993 ran for these other parties in 1998. Members of the opposition alleged that these three parties had taken money from and been created by the CPP to divert support from Funcinpec.

Breakaway factions of other parties also registered and ran candidates. National Assembly member Ieng Mouly had instigated the split of the BLDP in 1995, and although his faction had won the right to keep the party's name, his new party was registered as the Buddhist Liberal Party. Kong

Mony led a similar split from Sam Rainsy's original Khmer Nation Party. Although Kong Mony and Sam Rainsy took the dispute over the party name to court, the NEC disallowed both from using the name. Kong's party became the Khmer Angkor Party.

Former Communist leader Pen Sovann organized the Cambodia National Sustaining Party, which ran candidates in 22 constituencies. Pen, who had spent several years in prison in Hanoi, generated a surprising amount of support and was viewed as a challenge more to CPP than to the opposition.

Constituency Delineation

Cambodia's provinces serve as its constituencies, and the allocation of National Assembly seats is based on population. Between Cambodia's "baby boom" (children born at the end of the Khmer Rouge era) and the massive resettlement of refugees throughout the 1990s, the country's population had shifted significantly. This theoretically required consideration of reallocating the Assembly's 120 seats.

In early 1998, Cambodia's eligible voting population was estimated at about five and a half to six million people, an increase of at least half a million from 1993. Although the National Institute for Statistics and the Ministry of Planning, with funding from the UNDP, UNESCO and the UN Population Fund, conducted a nationwide census in March, the data were not processed early enough to clarify even obvious population shifts throughout the country. The Election Law simply stated that the Assembly have "at least one hundred and twenty seats." The NEC opted to use the 1993 census figures as a basis for voter registration.

Although the average constituency was about 40,000, Pailin and Kep, whose populations were less than half that number, were each given a seat. Pailin, an area inhabited largely by former Khmer Rouge, and Kep, a port town known for its extreme problems with corruption, were previously considered to be parts of other provinces. As a result of political deals with former Khmer Rouge leaders and others, each area was given individual representation. Thus the number of seats in the Assembly increased to 122.

Voter Registration

Voter registration was a test run for elections and a barometer of popular enthusiasm for the process. It was the election authorities' first chance to demonstrate their administrative skills and public education efforts. Registration was also an important gauge of the authorities' commitment to making the right to vote available to all eligible Cambodians.

The original scheme for registration entailed one team remaining at each polling station for 28 full days. The EU and NEC had estimated that approximately 600 to 700 people would vote at

each polling station and this amounted to 11,699 polling stations.

The EU, however, ultimately provided only 1,900 voter registration kits, forcing the NEC to dramatically alter its plans. In order to readjust the schedule to accommodate the smaller number of kits, the registration teams were only available in each village for two and half days. This contributed to confusion over when registration would take place in a given area. The entire process began on May 18, about a week late due to the late arrival of the registration kits. Given the already tight time constraints under which the NEC was operating, these were significant setbacks.

The NEC had also planned that people would register in the villages in which they lived. On May 8, the NEC issued a regulation stating that eligible voters could register wherever they chose but would have to return to that place to vote. This caused problems primarily for registration officials who were unaware of the change in regulations. Observers witnessed several instances in which eligible voters were not allowed to register because officials insisted that people had to register where they lived. This was particularly problematic in provinces with large communities of migrant workers.

Unlike the 1993 elections, Cambodians living overseas could not register and vote outside the country. If they wished to vote, they had to return to register and either stay or return again to vote. Moreover, the law's requirement that all eligible voters provide a "definite address" in Cambodia posed a challenge for those living outside the country. Opposition parties complained this was a step backwards from 1993, but officials felt they did not have the administrative capacity to undertake these additional efforts. Also, despite the Thai government's offers of assistance, none of the 65,000 refugees living in border camps were allowed to register. The NEC claimed that there was not enough time.²⁰

Various problems arose throughout the registration period. Citizens often had to endure long waits and confusing procedures. Some registration stations were located in village officials' homes. In more heavily populated areas, registration officials occasionally misunderstood the regulations and closed their stations if more than 700 people had registered there, forcing others to go to other stations. In a number of cases, ethnic Vietnamese who were eligible to vote were not allowed to register.

Intimidation took various forms. One entailed commune and village officials collecting registration cards from registered voters. Although all the cards were returned, this gave an impression that voters' behavior could and would be monitored. Comfrel's statement of June 18 also cited problems with village and commune chiefs "directly interfering with the registration process." In addition, "uniformed members of the police and army were seen loitering in the 200 metre

²⁰ Chris Fontaine and Chea Sotheacheath, "Voter numbers appear overestimated," Phnom Penh Post, July 3 - 16, 1998, p. 5.

exclusion range for unauthorized persons or within stations.”²¹

Foreshadowing future problems, the NEC also grappled with the grievance process for registration. Local officials rarely provided the required documentation to potential registrants they rejected, leaving affected citizens with no meaningful possibility of appealing. Without this paperwork, even sympathetic NEC officials were unable to assist the disenfranchised. It also raised concerns about the NEC’s ability to properly train its staff members. Political parties and other actors publicly criticized the press for the general confusion over the registration process, accusing the NEC of allowing, among other things, illegal Vietnamese residents to register. Most of these allegations were unsubstantiated, and one NEC official described the grievances brought forward as “. . . 10 written complaints, hundreds of verbal complaints and thousands of rumors.”

At the close of registration on June 18, the NEC’s computer center began three weeks of round-the-clock operations entering data. During this phase of the process, duplicate registries were to be eliminated and other data standardized. When quality control checks were completed on July 10, voter lists were copied and distributed for registrant scrutiny. The NEC reported that 5,485,424 people had registered, or 95 percent of the estimated population. Koh Kong, Phnom Penh, Preah Vihear, Sihanoukville and Pailin posted registration rates over 100 percent, likely indicating that the effort to use the 1993 census data to estimate 1998 figures had not accurately reflected the population.²²

Opposition parties filed complaints that more than 6,000 illegal Vietnamese immigrants had been allowed to register. The NEC claimed that most of these cases were unsubstantiated. Individuals filed only a few hundred complaints and were successful in their efforts to register.

Eligible citizens turned out in large numbers during the registration, demonstrating a clear interest in casting ballots. Security throughout the process was satisfactory, and large numbers of NGO and political party observers were present at registration stations throughout the country. Local-level officials were remarkably innovative when they ran short of materials. The NEC was open at this point about accepting criticism, trying to address its shortcomings and making an effort to see that regulations were properly implemented. However, an NDI team cautioned that, “Although voter registration . . . is proceeding moderately well . . . an election that is technically well administered cannot be considered credible when a competitive environment is lacking.”²³

²¹“Statement at Conclusion of Voter Registration,” June 18, 1998, Comfrel.

²²Table of Registration, June 16, 1998, European Commission Support for the Democratic Electoral Process in Cambodia.

²³“Preparations for Elections in Cambodia: Statement of the National Democratic Institute,” June 12, 1998.

Voter Education

UNTAC's voter education programs for the 1993 elections focused largely on the importance and mechanics of registering and voting, and on ballot secrecy. These programs were popular with Cambodians and earned high praise from elections experts for their practicality and ability to clearly address issues specific to that context. Initial discussions about voter education programs for the 1998 polls began in 1996 and yielded a general consensus to update old UNTAC materials. Unfortunately, very few posters, pamphlets or video tapes could be located, so much effort went into recreating many of these materials.

Although one of the 11 NEC members was responsible for civic education, the Committee placed little emphasis on the effort, opting instead to turn most of the responsibility over to the EU's voter registration component. This part of the EU developed and distributed thousands of posters, leaflets, banners and audio cassettes. It also produced newspaper advertisements and radio and TV spots. Finally, the NEC also provided funding for Nifec's popular *sael' la' pak*, or traveling theater groups.

Comfrel and Coffel also made a significant contribution in this area and undertook a wide variety of voter education programs. Beginning in 1996, the two groups helped to develop a training manual for civic and voter education. This manual outlined basic information about conducting training programs and conveying concepts related to democracy and elections. Much of this information was incorporated into the member organizations' pre-existing village human rights or skills training courses. Through national networks of trainers, Comfrel and Coffel ultimately reached hundreds of thousands of prospective voters. By the spring of 1998, both groups began to produce pamphlets, cartoon booklets, posters, and radio and TV spots.

None of the NEC or EU materials addressed the grievance processes for either registration or election day complaints. In order to file a complaint, an eligible voter simply had to describe his or her grievance to the polling station committee, fill in a form and submit it to the CEC. If the CEC's decision required appeal, it went through a logical sequence of offices: the provincial election committee, the NEC, and the Constitutional Council, if necessary. When challenged about the lack of information on the procedures for filing complaints, one EU official explained in May that it had advised the NEC not to address this issue because the grievance processes were too complicated to explain to voters.

Moreover, the NEC appeared to be restricting the domestic monitoring coalitions' efforts by exercising control over the content of their voter education programs. In March, the NEC issued a list of approved topics around which Nifec could develop its plays. The group was forbidden to address any other issues.²⁴ For example, Nifec wanted to stress ballot secrecy but was only

²⁴“Voter Ed Highlights – Registration,” European Commission, March 17, 1998.

approved to use the phrase “no one will know unless you tell.” They were prohibited from discussing the real scenarios that had arisen, such as the confiscation of voter registration cards or forced oaths of party allegiance, which would have made the programs more realistic and effective. Thun Saray, the Chairman of Comfrel’s Board of Directors, took the innovative step of chairing a series of roundtable discussions with candidates at the provincial levels. The NEC initially objected to these forums as campaigning outside the designated time period, but ultimately Comfrel persuaded the NEC that these programs were for the purpose of educating voters and was allowed to continue.

In May, the NEC issued a directive stating that all radio and television programs designed to educate voters had to be submitted to the NEC for approval before they could be broadcast.²⁵ (See Appendix K.) This effectively gave the NEC the opportunity to alter or censor programs. The NEC would not allow the Center for Social Development, a Coffel member, to broadcast multiparty roundtable discussions. The NEC provided no explanation. The Cambodian Institute for Human Rights, another Coffel member, was forced to revise a number of general election-related programs. The NEC insisted that they needed to be more focused on civic education. The NEC also demanded that the Women’s Media Center revise a radio segment in which a passing reference was made to commune elections which at that point were not scheduled.

Finally, Article 74 of the election law guaranteed that all media “. . . shall make their services available to the NEC at no cost for the purpose of . . . conducting voter education.” After securing a letter from Ministry of Information Secretary of State, Khieu Khanarith, in May saying that NGO-produced TV and radio spots would be broadcast for free, the NEC insisted that the monitoring coalitions purchase air time. This was prohibitively expensive for most of the organizations and several ultimately withdrew their spots due to a lack of funding.²⁶ Some Comfrel members complained that their work relieved the government of a responsibility and demanded that the NEC follow the law. This complaint went unanswered. Some organizations managed to find funds, but it placed an added burden on their limited resources.

Overall the domestic coalitions successfully reached large numbers of voters and conveyed basic information about the elections. The NEC’s work helped broaden these efforts, but the Commission itself prevented the implementation of more effective programs.

Access to Media

Although Cambodia’s press is diverse in its political affiliations and boisterous in its reporting, at least a half dozen journalists critical of both government and opposition political figures were

²⁵“Notification: The National Election Committee’s Directives About the Production of Spot Elections,” National Election Committee, May 4, 1998.

²⁶Voter Education Grantee Meeting, convened at The Asia Foundation, May 6, 1998.

murdered between 1993 and 1998. Since July 1997, the CPP had enjoyed exclusive control over TV and radio, both of which play a critical role in informing the public. Although all the major parties owned at least one newspaper, few people outside Phnom Penh depended upon the print media for information.

In negotiating for the return of opposition politicians, the international community strongly emphasized the importance of media access. The government nominally agreed, and Article 75 of the Election Law states that the NEC is responsible for disseminating information about political parties "based on equal and orderly access to the media." Despite this, access to the broadcast media for the opposition proved to be an elusive goal.

The NEC's media regulations were published in late May and allowed each of the political parties one five-minute spot per day to be aired on TV throughout the official campaign period. The regulations barred all other radio, TV or newspapers coverage of political figures, events or issues outside of these five-minute spots. The same 39 spots aired every day for a month and served as the only access for all parties to national broadcasting. Several opposition leaders voiced concerns that the NEC would censor their five-minute videos, but this proved not to be the case. Even the Sam Rainsy Party's spot, which included graphic footage of the March 1997 grenade attack on a peaceful demonstration, was aired in its original form.

Funcinpec had owned and operated radio (FM 90) and TV stations since 1993, but the offices and equipment were looted during the coup. Despite numerous Funcinpec attempts to regain the radio equipment, which had been located at the Ministry of Information, or the licenses to broadcast, FM 90 was only allowed to reopen under the control of the Ministries of Information and Commerce, not of Funcinpec. After diplomats weighed in on Funcinpec's behalf, the party obtained permission on June 19 to start a new, low-wattage station and began to import equipment. Given the amount of time required for the station to become operational, and that the NEC's media regulations banned all political advertising after the start of the campaign period on June 25, Funcinpec gained little from these developments.²⁷

The GSSP, which had operated a radio station before the 1997 coup, was granted a new license in early 1998 but did not have its equipment returned and could not afford new gear. The SRP applied and was rejected for radio licenses six times between May 30, 1996 and June 12, 1998 on the grounds that no frequencies were available.²⁸ Hun Sen had promised Rainsy in December 1998 talks that permission would be granted, but it never was.

²⁷"Report of the Special Representative of the Secretary-General for Human Rights in Cambodia on Access to Media," June 25, 1998, p. 8.

²⁸*Ibid.*, p. 10.

The NEC published a directive on May 4 that stated that before the beginning of the official campaign period on June 25, media coverage “shall not take picture [sic] of or interview with any political party, including any round-table interview.”²⁹ This appeared to contradict Article 75 and gave the impression that journalists could only interview candidates during the month-long campaign period every five years. The directive also gave the NEC the power to determine what coverage could be considered news as opposed to campaign coverage. CPP members and events were continuously deemed to be news and received extensive media attention. Opposition parties’ activities, however, were considered campaigning. A COHCHR study showed that in the month of May, Hun Sen appeared on radio and TV a total of 170 times, while Prince Ranariddh and Sam Rainsy were mentioned five times each.³⁰ (See Appendix L.) Prince Ranariddh’s return to Cambodia on March 30 received no TV coverage in Cambodia but was CNN’s lead story.³¹

The Voice of America (VOA) and Radio Free Asia (RFA) were popular in Cambodia. Many Cambodians citizens, particularly in rural areas where VOA and RFA are the only sources of news, viewed them as nonpartisan sources of information. Both these stations provided a small amount of coverage of opposition parties and figures in the course of their election-related broadcasting. This ensured that at least some information about the CPP’s competitors was being heard nationwide.

Campaign Period

The official campaign period lasted from June 25 to July 24 with a “silent” day before the elections on July 26. Opposition parties were able to open offices and draw large crowds at rallies, and Funcinpec and the SRP appeared to have regenerated support. Suddenly, the CPP victory most people had assumed just a few short months earlier was now in doubt, and hopes for a real contest began to rise. Unfortunately, reports of violence and intimidation in the countryside also rose, creating the impression that the campaign period would be neither peaceful in nature nor fair.

Campaigns kicked off with party rallies and speeches in Phnom Penh and across the country. All the major parties distributed rice, sarongs, MSG, food, watches and t-shirts throughout the month to help gain voters’ support. At one rally in mid-July, Prince Ranariddh attracted a crowd of several thousand people. Demonstrating particular enthusiasm for the campaign trail -- and citing his inability to reach supporters through the electronic media -- Sam Rainsy crisscrossed the country making speeches. Hun Sen, who had made a promise not to campaign in a self-described effort to minimize the possibility of violence, kept a low profile and spent the last week of the campaign in the hospital

²⁹“Notification: The National Election Committee’s Directives About the Production of Spot Elections,” May 4, 1998.

³⁰“The Special Representative of the United Nations Secretary-General for Human Rights in Cambodia on Access to the Media,” June 25, 1998, p. 3.

³¹*Ibid.*, p. 4.

for an emergency appendectomy.

The ability of opposition party activists to campaign at the local level was limited. Village and commune officials, many of whom served as voter registration and polling day staff members, were accused by villagers and primarily opposition parties to be responsible for much of the grassroots-level intimidation. In one instance, observers traveled to a province south of Phnom Penh to observe a GSSP rally in an MP's home district. Although the MP had visited the district several times and had been in regular contact with his local supporters, not a single supporter appeared for the rally. Several monks from a nearby temple and a few villagers eventually told the observers that the village chief had warned the MP's representative that he would keep a register of and punish all the people who supported opposition parties. Monitors heard similar reports throughout the month.

According to news reports and human rights organizations, the CPP undertook nationwide efforts to encourage – or enforce – support, ranging from forced oaths of allegiance to threats that supporting the opposition would renewed civil war. As the campaign period progressed, concerns over ballot secrecy had mounted. In the 1993 election, this issue had been of such great concern that it was the major theme of UNTAC's voter education program. During the 1998 campaign period, the CPP fueled voters' fears by collecting and recording the numbers of voter registration cards and lists of opposition party supporters. CPP officials in rural and urban areas admitted conducting mock elections in which they demonstrated to villagers or co-workers how to check the CPP's box on the ballot. The party defended these as voter education sessions. While none of these techniques could actually prevent citizens from casting ballots, they certainly suggested that people's votes could be known.

The period also continued to be marked by violence. On July 17, the Khmer Rouge made its only appearance during the electoral process. It attacked a group of election workers near Anlong Veng in the northern part of Cambodia. Two workers were killed, and five were injured trying to deliver ballots, boxes and other materials.

In a report released about a week before the election, the COHCHR reported that since late May it had been investigating a variety of abuses it determined to be directly related to the electoral process in general and the campaign period in particular. It cited “. . . a total number of 13 killings, 4 alleged killings, 3 attempted killings, 7 illegal arrests and detention, 6 instances of physical abuse, 1 attempted abduction and over 150 credible allegations of harassment and intimidation. . .”³² In a similar statement, Comfrel pointed to “. . .the recent spate of political killings with eight cases reported during the first three weeks of the campaign.”³³

³²“Monitoring of Intimidation and Violence: Report, 10-17 July 1998,” Special Representative of the United Nations Secretary-General for Human Rights in Cambodia, released July 18, 1998.

³³“Statement: Third Week of Campaign,” July 20, 1998, Comfrel.

Twelve days before the election, an NDI-IRI delegation noted that "citizens continue to express their interest in the election and the desire to cast their votes for the candidates of their choice if given the opportunity in an environment free from intimidation."³⁴ Although a wide variety of politicians and activists agreed that the 1998 campaign period was considerably less violent than that of 1993, the delegation pointed to CPP domination of the electoral machinery and cautioned that "... elections alone will not bring reconciliation and stability to the country."³⁵

Comfrel's assessment of the pre-election was equally critical and reflected its commitment to judge the process despite the risks involved for its members. (See Appendix M.) On July 24, Comfrel stated that:

... the general environment has not been satisfactory with continued killings, intimidation and other serious violations. Preparations for the polls have been marred by interference from ruling party-aligned government officials in many areas... Any possibility for an assessment... as reasonably credible is contingent upon a high level of integrity in the polling and vote counting process.³⁶

Anfrel echoed these concerns in a statement released that day, noting a familiar litany of problems: political killings, intimidation, impunity, coercion of voters and unequal media access. (See Appendix N.)

Unlike other monitoring groups, the JIOG offered a rather different view of the campaign period in its first public statement on July 24, just two days before the election. Although the JIOG briefly touched upon many of the same problems as other observer groups, its conclusion was notably different. (See Appendix O.) The statement's final formulation shifted away from the JIOG's original standard of a "free, fair and credible" election. The July 24 statement concluded that the JIOG "... today feels justified in anticipating that reasonable conditions exist for an election on Sunday 26 July that can be broadly representative of the will of the Cambodian people."³⁷ The shift to more defensive rhetoric and lower standards indicated that the JIOG was likely to give its approval to the election regardless of commonly recognized problems.

On the eve of the elections, the mood was one of anticipation and suspense. The opposition parties had gained support, and the CPP itself had made public statements continuously reducing the

³⁴"Statement by the Pre-Election Assessment Mission," The National Democratic Institute for International Affairs and The International Republican Institute, July 14, 1998.

³⁵*Ibid.*

³⁶"Statement: Pre-Election Assessment," Comfrel, July 24, 1998.

³⁷"Statement of the Joint International Observer Group," July 24, 1998.

number of seats it expected to win. Fears of widespread violence on July 26 had largely dissipated, and turnout was predicted to be high.

VI Balloting and Vote Count

Election Day

Despite continuing problems with intimidation and violence in the pre-election period, Cambodians showed clear enthusiasm for the elections by turning out in large numbers to vote on July 26. In many places, voters had formed lines long before the 7 am opening of the polling stations, and the atmosphere was remarkably upbeat and peaceful. When the polls closed late in the afternoon, more than 90 percent of the eligible voters had cast ballots.

During the first few hours of balloting, stations in more densely populated areas were overwhelmed by the numbers of people turning out to vote, but election officials largely smoothed out any difficulties throughout the morning. Officials generally conducted their tasks with efficiency. More than 20,000 Comfrel, Coffel and Nicfec observers and party agents turned out to watch the balloting in many stations. International observers also fanned out throughout the country.

Throughout the day there were isolated reports of intimidation and some opposition party complaints about party agent access to polling stations. The most common complaint was that village chiefs were present at the polling stations throughout the day.³⁸ No incidents of violence were reported on the 26th.

The polls closed at 4 p.m., and at that point officials proceeded to seal ballot boxes, reconcile the unused ballots and prepare to move the boxes to the appropriate commune counting centers if that could be accomplished before dark. Boxes that could not be moved on the 26th were moved on the morning of the 27th. Significant concerns had been raised that the transport of the boxes would be an opportunity for box theft or tampering, but given the pre-election objections to counting at the village level, the law required that the boxes be moved.

The high turnout, consistent with that of 1993, indicated Cambodians' enthusiasm for voting. On the whole, the administration of the balloting appeared to run smoothly to most observers.

Counting

Counting began at the commune level on the morning of the 27th. According to the procedures, PSCs mixed together the ballots from at least three boxes, counted the votes in front of observers, recorded the numbers and filled in tally sheets. This was the first opportunity for party

³⁸“Preliminary Report of Coffel on the Elections of July 26, 1998,” Coffel, July 26, 1998.

agents or monitors to note or lodge complaints about improper procedures or counts. Very few did so at the time.

When the count finished at the commune level, the tally sheets were either brought or transmitted via telephone, radio or fax to the PEC offices. The actual ballots, reconciliations and other paperwork were moved to the PEC later. All these materials were then transported to Phnom Penh, though it took almost two weeks for the last bags of ballots to arrive.

Consistent with the experience of polling day, observers were impressed with the election officials' efficiency and efforts to accommodate observers.

Consolidating results at the PEC level appeared to cause problems as results came in sporadically or unclearly as a result of poor communication systems. Officials, under pressure to relay results to Phnom Penh as soon as possible, tried to compile information as quickly as they could. Some chose to report results to Phnom Penh by commune rather than wait for all provincial results to come in. The NEC scheduled, then abruptly canceled, a press conference on evening of the 27th to announce preliminary results.

In more than 100 counting centers across the country, opposition party members complained that only one party agent per counting center, rather than the regulation one party agent per party per counting center, was allowed access. In other counting centers, party agents had to try to follow the counting at eight to 10 tables.

Late that evening, Comfrel, Coffel and Nicfec all declared the polling and early counting acceptable. (See Appendix P.) Comfrel commented that irregularities were minor and "resulted more from technical problems due to the complexity of the counting reporting process."³⁹ The other groups echoed these conclusions.

Partial and unofficial results from the NEC and Comfrel on the evening of the 27th showed a CPP victory. At that same time, complaints about the counting process began to gain momentum. Rumors of opposition party supporters fleeing their home villages for fear of retribution began to make their way to Phnom Penh. Attention in the capital, however, was focused largely on the international observers' assessments – whether the election would be deemed "free and fair."

³⁹"Press Briefing - 28 July 1998," Comfrel, July 28, 1998.

VII International and Domestic Observers' Assessments

The international observers were under pressure to comment quickly. Their opinions were expected to serve as the definitive pronouncements on the process and therefore the legitimacy of the victors' mandate to govern. Although the Cambodian observer groups had reached assessments similar to those of the international groups, the Cambodian government, the domestic and international press and international community in general were not as interested in analyses by Cambodian monitoring organizations.

About 800 international observers were present for election day, the commune-level count and PEC consolidation in all 23 provinces. The EU, NDI-IRI, VOCE and Anfrel extensively debriefed their respective observers before commenting on the process. The NDI-IRI and Anfrel delegations also discussed their impressions extensively with the Comfrel, Coffel and Nicfec before commenting publicly. The short-term nature of the international observers' missions and the vicissitudes of the international news coverage also drove the groups to comment within 48 hours of the election.

Consistent with its pre-election stance, the JIOG authored the most positive analysis of all observer groups. (See Appendix Q.) Just before midnight on July 27th, before counting was completed and before it had debriefed its observers, the JIOG declared that:

... what could be observed by us on Polling Day and Counting Day was a process which was free and fair to an extent that enables it to reflect, in a credible way, the will of the Cambodian people. In the end efforts to intimidate sections of the Cambodian population appear not to have significantly influenced the conduct or climate of polling day itself.⁴⁰

Although the JIOG was careful to note that its final conclusion would be reached only when the results were accepted, its early and positive report was portrayed in the international press as a passing grade on the process. Moreover, JIOG also proceeded to finalize an equally positive comprehensive report on August 6, which was weeks before the grievance process had been completed and months before acceptance of the results.

VOCE's observers issued a statement on July 28th declaring that it "found that the . . . election and count . . . were conducted freely and fairly, and according to the rules of the National Election Commission."⁴¹ (See Appendix R.) The group denied the existence and effects of

⁴⁰Joint International Observer Group Press Release, July 27, 1998.

⁴¹"Volunteer Observers of the Cambodian Election (VOCE) Finds the Election Free and Fair," July 28, 1998.

intimidation and recommended that:

... all governments which claim to have the best interests of the Cambodian people at heart should now accept the results of this election without any qualification, and should welcome whatever new Royal Government of Cambodia emerges from this election back into normal international economic, aid, and diplomatic relations.

The EU's analysis, which Glenys Kinnock delivered on the morning of July 29, was portrayed by the international press as critical largely as a result of her terse delivery. (See Appendix S.) It did cite problems with harassment and pressure on party activists, impunity, human rights abuses and concerns over the counting. The statement also strongly endorsed the EU's financial and political support for the elections. The opening lines of the statement read:

The assistance given by the European Union to the Cambodian election has been vindicated by the response of the electors on July 26th. The technical and logistical support which was given by the European Union at the time of registration and polling was both critical and necessary. The decision to opt in to the process was not an easy one, but it has now been generally acknowledged that it was both a correct and appropriate course of action.⁴²

Later in the statement, Ms. Kinnock addressed the actual elections, stating that "The polling and counting has been assessed as credible by our EU observer teams."⁴³

Other groups were positive about the conduct of election day but critical of the overall process. The NDI-IRI delegation, which noted sound administration of the polling and preliminary counting and a positive atmosphere on election day, stated on July 28 that:

... the relative success of the balloting and counting thus far cannot negate the violence, extensive intimidation, unfair media access and ruling party control of the administrative machinery that characterized the pre-election period ... That we do not currently have evidence to challenge the legitimacy of the elections should not obscure our very real and continuing concerns over the fundamental flaws ... We caution that final judgment on the entire process is premature.⁴⁴

⁴²"Statement by European Union Special Representative, Glenys Kinnock MEP," July 29, 1998.

⁴³*Ibid.*

⁴⁴"Preliminary Statement of the IRI-NDI Delegation to the July 26, 1998 Elections in Cambodia," July 28, 1998.

During the press conference, delegation co-leader Solarz hypothesized that if the grievance process and the formation of the government proceeded smoothly, the election could be considered “the miracle on the Mekong.” The CPP and some members of the international press took Solarz’s off-hand comment, which was not part of the delegation’s statement, as an endorsement of the election process. This was an unfortunate interpretation and Solarz later regretted making the comment.

Anfrel also offered up a tentatively positive assessment but pointed once again to the effects of “. . . grave human rights violations including murder of several opposition figures during the period of the campaign . . .”.⁴⁵ The group noted problems with unexpectedly canceled registration cards of some ethnically Vietnamese voters, polling station chairmen blocking access of party agents and domestic observers, isolated incidents of violence and drew attention to parties’ claims of irregularities. Anfrel called on the NEC to thoroughly investigate all complaints and on Cambodia’s leaders to follow through with a peaceful transition to power.

Comfrel, Coffel and Nicfec had already declared the election day process acceptable but issued a number of statements over the days immediately following the election calling for judgments to be withheld. (See Appendix T.) They cited concerns about intimidation and minor irregularities and stated that their final assessments would be determined by the success of the grievance process.

Some international observers’ assessments were more conclusive. The JIOG, EU and VOCE said that the results should be accepted. The JIOG defended the UN’s role in Cambodia and the EU defended its funding of the election process. VOCE devoted most of its statement to a justification of its own recommendation to resume international recognition of and aid to Cambodia.

Almost immediately following this volley of statements, the opposition criticized the international observers for having commented too quickly on the process. They pointed to the observers’ unfamiliarity with Cambodia and their inability to speak Khmer or see the kinds of irregularities going on around them.

⁴⁵Anfrel Statement on Voting and Vote-Counting Days Observation, 28 July, 1998.

VIII Post-Election Period

In the post-election period, opposition parties filed hundreds of complaints, the NEC and the Constitutional Council failed in some of their most important tasks and positive views about election day faded rapidly. Cambodian monitors, party leader, international observers and some members of the NEC had agreed that only a properly implemented grievance process would resolve the disputes and when this failed to materialize, the situation became violent.

Throughout the last few days of July the NEC continued to delay releasing preliminary results, citing a host of problems verifying PEC reports of commune-level counts. Partial results, however, were released starting on July 27. Comfrel's early parallel vote tabulation results, released on July 28, showed the CPP winning 41 percent and 59 seats, Funcinpec with 32 percent and 45 seats, and the SRP with 14 percent and 18 seats. (See Appendix U.)

At the same time, human rights groups and the COHCHR began to report that a number of opposition party supporters had fled their home villages after receiving threats. The COHCHR reported that it had received about 150 complaints, though the SRP and Funcinpec ultimately made almost twice that. Analysts at the COHCHR recounted that in at least three areas where the CPP fared poorly, the village chiefs had fled, fearing they would be targeted for failing to deliver CPP votes. Anfrel released a statement on July 30 calling for peace, and on August 2 Hun Sen made a public appeal that there be no post-election retribution.

The Grievance Process and the NEC

The experience of the pre-election period should have alerted the NEC to prepare for an onslaught of post-election complaints. Because the integrity of the election process had been called into question and the electoral authorities were considered biased, it was not surprising that the opposition and others would complain if they lost and if complaints were not handled expeditiously and fairly.

The NEC had not yet announced preliminary results but had begun to release partial results on July 27. According to the NEC regulations, appeals against the preliminary results should have been made to the NEC or the Constitutional Council within 72 hours of the results' announcement, or from August 2 to 4. The NEC was then to respond to these complaints within 48 hours, or by August 6. But the NEC itself appeared to confuse the difference between partial and preliminary results, and despite its not having released the latter, it began to count the two-day period on July 27.

The SRP's first "election incident report" of irregularities was circulated less than an hour after the close of the polls. The list cited intimidation, violations of ballot secrecy, interference of local officials and a means of pre-marking ballots referred to as "telegraphing." Funcinpec began to issue similar complaints throughout the following day. On the day after polling day, Funcinpec and

SRP leaders held a press conference to announce that they refused to accept the elections, claiming widespread fraud and limited counting center access for party observers. Both refused to accept the results without a recount and a re-polling in the areas they charged experienced serious irregularities.⁴⁶

While the original allegations focused mostly on the lack of party agent access to the commune-level counts and concerns about numbers being changed or improperly recorded by the PECs, over the next few days Funcinpec and the SRP also accused officials of unfairly declaring ballots spoiled, accepting ballots that should have been declared invalid, covering up for missing ballots, not sealing ballot bags properly, intimidating voters and ignoring instances of “telegraphing,” a process of casting pre-marked ballots. None of the observer groups and only a few party agents cited significant problems of this type during the election.

In response to the opposition’s complaints, the NEC agreed to conduct a limited recount of ballots. The Committee formed a Re-Count Sub-Committee responsible for implementing the recount procedures – which were drafted during the first days of August – and for ruling on cases of possible irregularities. The Sub-Committee was headed by Kassie Neou. Comfrel, Coffel and Nicfec publicly offered to assist the NEC investigate the parties’ complaints, an idea the opposition supported, but the coalitions’ offer was not accepted by the NEC. Procedures for the recount were drafted on August 1 and finalized on August 2. This left little time for the Sub-Committee to train its staff. The NEC was scheduled to begin recounting ballots from selected communes on August 3 but had to postpone for a day because it took so long to find the correct bags.

The NEC began recounts on August 4 for several communes it had selected from four provinces where parties’ complaints appeared to be the most serious. Each political party and each domestic election monitoring group was allowed to have one representative in each of the rooms. The NEC also welcomed international observers to attend. These observers watched NEC staff members review the reconciliations, open the bags and recount the spoiled, invalid and valid ballots. They then adjusted the numbers and announced the corrected figures. No major discrepancies were found.

The NEC and its staff were unprepared for the recount. The procedures were drafted quickly and the staff had little time to master them. A tense and chaotic atmosphere prevailed as the exhausted NEC staff members struggled to implement the process and observers tried to understand it.

The NEC stopped its recounts on August 8 and issued a statement on August 11 rejecting all complaints. The Committee instructed all parties who wished to file further complaints that they had

⁴⁶“CPP Boasts Big Win, Rivals Yell Fraud,” Jeff Smith and Kay Johnson, *The Cambodia Daily*, July 29, 1998, p. 1.

48 hours to do so with the Constitutional Council. The NEC also declared that all of its operations would cease immediately.⁴⁷ The NEC would later claim its statement served as official notice of complaints' rejection.⁴⁸ Despite the clear procedural guidelines, the NEC issued no written rejections to any of the complainants.

The opposition objected strenuously to these actions and attributed the NEC's failure to properly administer the grievance process to its political bias. International observers, including representatives of NDI and IRI, also criticized the NEC for its inadequate response.

Given that most of the complaints appeared to have been generated in the days following, rather than the day of, the election, and that many dealt with minor irregularities, it seemed unlikely that the problems could have materially effected the outcome of the election. Nevertheless, the problems and the response to them affected the overall integrity of the electoral process. Moreover, the opposition, which was entitled to a legitimate grievance process, was forced to accept the NEC's ineffective investigations. A recount could provide an opportunity for party agents to observe counting and contest ballots declared invalid or spoiled, but it could not reveal evidence of telegraphing, coercion, missing ballots or improperly sealed bags. Moreover, parties could not choose the specific communes they thought had the more serious kinds of problems. Complaints related to violence or intimidation received little attention.

The grievance process generated little confidence. The NEC's recount was poorly implemented and not designed to address the parties' complaints. Even Kassie Neou cited "administrative and management difficulties" in his letter resigning his position on the Sub-Committee on August 5, just one day after the recounts had begun.⁴⁹ The NEC's dismissed the parties' complaints without explanation and failed to provide them with rejection notices. Not only did this demonstrate a blatant disregard for due process, it also jeopardized the parties' ability to take complaints to the Constitutional Council. These actions further damaged the NEC's credibility and called into question the integrity of yet another key aspect of the election process.

Controversy over the Seat Allocation Formula

The means by which the NEC selected, then changed, then adopted different formulas for allocating seats in the National Assembly raised further questions about the NEC's decision making processes. The lack of transparency and failure to provide a satisfactory explanation on the formula

⁴⁷Decision on the end of the recount, Statement by NEC Chairman Chheng Phon, August 11, 1998.

⁴⁸Notes from meeting with His Excellency Thor Peng Leath, Secretary-General of the Constitutional Council, August 18, 1998.

⁴⁹"Ballot count ignites feuding within the NEC," Chris Fontaine, *Phnom Penh Post*, August 7-20, 1998.

exacerbated post-election tensions. More important, it was the change in formula that provided the CPP with a majority of National Assembly seats.

At the same time the recounts were being conducted, a furious debate began over the correct formula for allocating seats based on the election results. When the NEC finally released its preliminary results on August 5, its numbers of votes for each party in each province essentially corresponded to the numbers from Comfrel's parallel vote tabulation. Their respective analyses, however, of how many seats this earned each party differed dramatically.

Article 118 of the election law stated that the distribution of seats was to be made through proportional representation, and that "... [a]ny remaining seat(s) shall be allocated to the political parties according to the formula of the highest average."⁵⁰ This meant that seats were determined initially by calculating an electoral quota in each province based on the number of votes cast and the number of National Assembly seats assigned to that province. Seats would then be allocated to each party depending on the number of times it had obtained the quota. Any remaining available seats are assigned to parties with the highest remaining number of votes.

While the formula's basic principles and effects are clear, there are differing methods of allocating remaining seats when no party has earned a full quota. One method involves a single-step calculation, others employ different multiple-step calculations. The tables below illustrate the difference between the single-step and multiple-step versions of the formula as applied to Svay Rieng Province, where a total of 217,263 valid votes for five seats yielded a quota of 43,452.

Single-step:

Party	Votes	First seats	Remaining votes	Seats earned by remainder	Final seat allocation
CPP	117,353	2	30,449	1	3
Funcinpec	52,627	1	9,175	1	2
SRP	17,605	0	0	0	0
Total	217,263	3		2	5

⁵⁰Law on the Election of Members of Parliament, Article 118, December 19, 1997, National Assembly of the Kingdom of Cambodia.

Multi-step:

Party	Votes	First seat	Added seat	First average	Second seat	Added seat	Second average	Final seat
CPP	117,353	2.7	3	39,117	3	4	29,338	4
Funcinpec	52,627	1.2	2	26,313	1	2	26,313	1
SRP	17,605	0.4	1	17,605	0	1	17,605	0
Total	217,263	3			4			5

The election law did not specify which method was to be used. Early drafts of the NEC regulations published on May 6 and May 25 indicated that a single-step version of the highest average formula would be applied. These regulations were not marked as drafts and were widely circulated to parties and NGOs, primarily so that these groups had proper information to train their observers on election-day procedures. Another version of the regulations, dated May 29, was officially distributed to party representatives in early June, and it was this version that included a multi-step version of the highest average formula. The NEC undertook no particular effort, such as a letter or press statement, to highlight this change. When Comfrel, parties and other observers made their calculations in the days following the election, they assumed the single-step formula was the applicable one.

Using the second formula earned the CPP an additional five seats, which gave the party a simple majority in the National Assembly. When the discrepancy became clear, the opposition and some observers charged the NEC with manipulating the formula to favor the CPP. The opposition charged that this change required National Assembly approval and that the NEC had therefore superseded its authority in making the decision. The opposition also claimed the NEC had failed to follow its own due process because a quorum was not present at the meeting in which the change was adopted. Moreover, Funcinpec and SRP accused the NEC of withholding this information from them and other observers.

The NEC correctly insisted that it had the power to select any formula consistent with the election law. In a tense press conference on August 8, the NEC claimed it had met to discuss and adopt the change, had distributed the information to all interested parties and that a failure to notice and comprehend this change was not its fault. The NEC also blamed the opposition and observers for acquiring and relying on early drafts of the regulations. Theo Noel, the Canadian-funded technical advisor to the NEC responsible for developing the formula, insisted at the same press conference that the formula had not been changed but had simply been clarified. He stated he had made a mistake in the earlier versions by omitting the second steps in the example of the formula, and that in later

drafts had corrected it by including these steps. (See Appendix V.) Noel also insisted that the single-step version is not used anywhere in the world, though he did not explain why it could not be employed in Cambodia.

In an August 9 letter to the Canadian government explaining his version of events, Noel also stated that: "The opposition parties . . . should now accept the results of the election gracefully and should stop identifying scapegoats to cover up their divisions and weaknesses . . . Ranarith [sic] should acknowledge his half-defeat and should help to confirm the next government."⁵¹ Noel's comments further fueled opposition charges of NEC bias.

The NEC was never able to produce minutes of the May 29 meeting to prove that the change had been duly made, and conversations with individual commissioners made clear that there had neither been a discussion nor a vote to adopt the change. Once again the NEC's actions disregarded its own procedures and due process and reflected a serious lack of transparency. The opposition vowed to take the formula issue to the Constitutional Council.

The Grievance Process and the Constitutional Council

According to the regulations, a party or candidate could file an appeal against an NEC decision within 48 hours of receiving written notice from the NEC. Anyone who wished to contest the NEC's preliminary election results had 72 hours from the announcement to do so. The Constitutional Council then had 10-20 days to reply to these complaints.⁵² The Council deemed the NEC's August 11 press statement the point at which all complaints were rejected, therefore giving parties until August 13 to file complaints.

The NEC's final actions had two effects: it gave the Council the opportunity to reject all complaints for lack of proper grievance rejection notices and blurred the exact deadlines for filing complaints and appeals. On August 14, the Council, whose credibility was already in question because of its membership and formation, refused to accept all but one of the hundreds of SRP complaints, citing a lack of proper documentation and the failure to meet appropriate deadlines. Only 15 of Funcinpec's equally large number of complaints were accepted. Again, none of the complaints accepted addressed the problems threatening the legitimacy of the elections: the controversy surrounding the seat allocation formula, alleged fraud and intimidation, restricted access of party agents, requests for further recounts or reelections.

After conducting cursory investigations, the Council announced on August 30 that it found no reasonable grounds for further consideration of any of the 16 cases and summarily dismissed them

⁵¹"Foreign poll aide's 'bias' under attack," Phnom Penh/AFP, The Bangkok Post, August 18, 1998, p. 5.

⁵²Law on the Organization and Functioning of the Constitutional Council, passed on March 19, 1998, by the 8th Ordinary Session of the National Assembly.

all. This amounted to a denial of due process, further eroding public confidence in the integrity of the election. The opposition parties, who continued to refuse to accept any results until the more serious issues had been addressed, began to call for public demonstrations to pressure the election authorities into reexamining their decisions.

On September 1, the NEC announced its official results. Despite the ongoing controversy over the seat allocation formula, the NEC showed the CPP's 41 percent of the vote translating into 64 seats, Funcinpec's 31 percent into 43 seats and the SRP's 14 percent into 15 seats.⁵³

Forming a new government required a two-thirds, or 82 seat, majority vote of confidence. Although the CPP had through the formula change gained a simple majority in the National Assembly, it still needed to gain the support of at least 18 opposition MPs to reach the two-thirds threshold.

Demonstrations

Large demonstrations and street violence erupted in the immediate post-election period. Unidentified assailants attempted what appeared to be an assassination against Sam Rainsy on August 20 outside the entrance to the Ministry of Interior, killing a bystander instead. The opposition employed blistering anti-Vietnamese rhetoric, often referring to Hun Sen and the CPP as *yuon* (a derogatory Khmer term for Vietnamese) "puppets" or "lackeys." Throughout this time, King Sihanouk, diplomats and others made numerous attempts to help negotiate a new government.

During the last week of August and first two weeks of September, unprecedented street demonstrations and protests rocked Phnom Penh. What originally began as a peaceful vigil led by Sam Rainsy, and later joined by Prince Ranariddh and GSSP leader Kem Sokha, outside the National Assembly to insist on a fair investigation into alleged electoral fraud turned into a mass protest against the CPP, Hun Sen and then the Vietnamese in general. By the end of the first week at "Democracy Square," as the area outside the National Assembly came to be called, crowds had grown to several thousand people. In their speeches, the opposition leaders called for Hun Sen to step down, and, at one point, Sam Rainsy went so far as to suggest that American anti-terrorism efforts should include bombing Hun Sen's home.⁵⁴ The demonstrations seemed to generate more popular support for the oppositions' claims of electoral fraud than had existed shortly after the close of the polls.

Hun Sen, Prince Ranariddh, Sam Rainsy and other party leaders individually visited the King in Siem Reap during this same period. From September 5 to 7, King Sihanouk summoned all three parties and representatives of the NEC and Constitutional Council to try to help broker a solution to the post-election deadlock. These efforts proved unsuccessful.

⁵³NEC Official Election Results, National Election Committee, September 1, 1998.

⁵⁴ "Cambodia's wanted Sam Rainsy at U.N.," Robert Birsell, Reuters, September 7, 1998.

On September 7, as the negotiations seemed to be failing, unidentified assailants threw three grenades into Hun Sen's compound in Phnom Penh. Although no one was hurt in this incident, Hun Sen immediately returned to the capital and blamed the attack on demonstration leaders. In these remarks, he suggested the demonstration leaders should not be allowed to leave the country and implied that he intended to have them arrested.⁵⁵ Sam Rainsy took refuge in the offices of the UN SGSPR, located in the Cambodiana Hotel.

On September 8, the government issued the first of two orders that prohibited about 300 people, including all the new opposition MPs, all outgoing opposition MPs and several Funcinpec senior civil servants from leaving the country. The government claimed the ban was justified as a means of keeping suspects in the alleged grenade attacks and demonstrations in the country. Kem Sokha, the outgoing Chairman of the National Assembly's Human Rights Commission and opposition leader, was prevented from leaving on September 10. Saumura Tioulong, an SRP member-elect, was not allowed to leave the country throughout that week.

That same day, the national police cleared demonstrators from outside the Assembly, using water cannons, electric cattle prods, shots in the air and occasional shots into the crowd. Later that afternoon, one man was killed as police cleared a crowd away from the Cambodiana Hotel.

Over the next few days, protestors congregated in the streets outside the US Embassy where police and soldiers fired into crowds that included monks and students. The CPP trucked in supporters from outside the city and violent street fights took place between rival political factions' supporters. Mobs beat several ethnic Vietnamese to death, and at least 29 demonstrators, mostly university students, were detained in the wake of the protests. The COHCHR reported that 16 bodies, including two thought to be monks, were found floating in rivers or buried in shallow graves since the government crackdown began.⁵⁶ Thomas Hammarberg, the UN's Secretary General's Representative for Human Rights, stressed that those and other killings and disappearances were being investigated by the COHCHR.

Although the government clearly responded to the demonstrations with unnecessary and disproportionate force, opposition leaders also tried to eschew responsibility for the growing unrest when crowds swelled and their supporters began to roam the city in small bands. Prince Ranariddh described the demonstrations as ". . . a child [Rainsy and I] have given birth to . . . Rainsy and I are

⁵⁵"Grenade attack lights fuse of crackdown," Beth Moorthy and Samreth Sopha, Phnom Penh Post, September 12 - 17, 1998, p. 3.

⁵⁶"UN raises alarm as more bodies are uncovered," Phnom Penh Reuters, The Bangkok Post, September 17, 1998, p. 1.

not able anymore to control that child.”⁵⁷

With demonstrations getting larger and street fighting worsening, the CPP leadership remained focused on ensuring that the National Assembly would convene and otherwise stayed in the background.

Negotiations

Throughout this chaotic period, negotiations had begun and continued throughout the middle of September. International pressure for the opposition to form a government grew rapidly. ASEAN released a statement encouraging the opposition to accept its 48 seats and call off the demonstrations. King Sihanouk, the UN, Thailand and the US tried to help broker an agreement between the parties such that new National Assembly could be sworn in on the appropriate date, September 24.

In mid-September, Hun Sen publicly proposed reconvening the outgoing National Assembly and voting to change the Constitution's two-thirds requirement to a simple majority. Two opposition members claimed privately that they had been approached by CPP members to negotiate payoffs for opposition attendance to ensure a quorum should such a vote arise.

In addition to imposing the travel ban, the CPP also threatened those who considered not attending the swearing in of the National Assembly by publicly reminding the opposition that they would not have immunity and therefore would be subject to arrest if they were not sworn in as members of parliament. When the opposition offered to form a coalition government with the sole demand that Hun Sen not be a part of it, the Second Prime Minister replied, according to the Cambodia Daily that “If the opposition thinks I'm going to step down they're dreaming. And if they try to dissolve the present government by other means they will face military action.”

After five days of street battles and intense pressure, Ranariddh agreed on September 15 to call off the demonstrations and form a coalition government in exchange for permission to leave the country. This privilege was not extended to other Funcinpec members. Sam Rainsy reluctantly agreed to attend the swearing in ceremony, though he made it clear he was doing so because he could not leave the country and only in order to maintain his parliamentary immunity. King Sihanouk convened another round of talks from September 22 to 23 at which no progress was made on any substantive issues, such as the travel ban or the seat allocation formula dispute. Hun Sen repeatedly rebuffed suggestions of an interim government until the issues were resolved, stating that he would construe such proposals as “. . . a coup and I would be forced to respond by military force. Do not

⁵⁷“ Demonstrations spread through capital,” Matthew Grainger and Christine Chameau, Phnom Penh Post, September 12 - 17, 1998, p. 1.

doubt me.”⁵⁸ The only agreement reached was that all involved agreed to attend the inauguration of the National Assembly.

On September 24, 121 members of the National Assembly traveled to Siem Reap to be sworn in at Angkor Wat. SRP member Son Chhay had not returned from Australia to participate. En route to the ceremony, rockets exploded near Hun Sen’s convoy just after it passed. No MPs or other politicians were hurt, but a child was killed when a rocket ripped through a house. Although it is unknown who was responsible for these attacks, Hun Sen publicly accused the opposition of trying to assassinate him, declaring that “This was clearly an attempt to kill me. . . If the opposition leaders don’t . . . advise their people to stop their attempts to kill me, they will be killed.”⁵⁹ A few weeks later, Rasmei Kampuchea, a pro-government newspaper, published an article stating that two English-language newspapers, *The Cambodia Daily* and the *Phnom Penh Post*, and a journalist for the German Deutsche Presse Agentur had made “serious professional mistakes” for suggesting that the assassination attempt was staged. The article quoted Khieu Kanharith, a government spokesman, suggesting that the two papers be closed and the journalist expelled.⁶⁰

The travel ban was lifted immediately after the swearing-in ceremony, and many members of the opposition, including Prince Ranariddh and Sam Rainsy, left the country that day. Other opposition members were not so fortunate, and, immediately after losing his parliamentary immunity on September 24, charges were filed against Kem Sokha. These alleged that he was guilty of inciting violence during the demonstrations. Kem Sokha, fearing for his safety if taken into government custody, refused to answer the summons and went into hiding in the care of the US government.

In a barrage of press statements issued jointly and individually from Bangkok, Paris and New York, both Funcinpec and the SRP refused to attend further negotiations inside Cambodia or return to actually begin a new Assembly session, citing security concerns and fears of being arrested. The opposition’s original demands had included an impartial investigation into the formula controversy, a full recount, the reconciliation of all unused ballots and a prohibition against Hun Sen participating in the new government. By late September, the opposition scaled back these demands and declared it would participate in a coalition government if all election-related disputes were resolved and if they were given a meaningful role in the new government. The CPP refused to participate in negotiations outside the country, stating flatly that the problems were those of a sovereign nation that should be solved inside the country without international involvement.

⁵⁸“Talks, rockets and a brand new parliament,” Matthew Grainger and Samreth Sopha, *Phnom Penh Post*, October 2 - 15, 1998, p. 6.

⁵⁹“Cambodian Leaders Safe After Attack,” Chris Seper, *Washington Post*, September 25, 1998.

⁶⁰“Cambodian papers face closure,” Associated Press, *The Nation*, October 5, 1998.

While the opposition had considerable leverage through their ability to prevent a vote of confidence and the formation of the government, Hun Sen and the CPP simply moved to assume control over the government, preparing themselves to rule by decree. Opposition members outside the country continued to express hope that the newly demonstrated "people power" would force concessions from the CPP, but this was simply not realistic given CPP control of the army and police. CPP correctly anticipated the international community's disinterest in negotiating another settlement, and, during this period, effectively portrayed themselves as hostages to unreasonable opposition demands. This left Ranariddh and Rainsy with two choices: negotiate some sort of role for themselves and their parties or remain outside the country permanently.

IX International Responses

From late September through mid-November, Cambodia remained in a state of political paralysis. Opposition leaders made numerous trips to foreign capitals to elicit support for their complaints but found little sympathy from weary and frustrated donors. Japan, France, Australia, the Philippines, Canada and the Association of South East Asian Nations had already endorsed the elections and continued to push the opposition to return to Cambodia and participate in the government.

The United States was alone among the major donors in hesitating to recognize the election results or engage what would be the new government. The US Embassy in Phnom Penh and the State Department continued to stress the importance of properly resolving disputes related to the elections and issued a number of statements deploring the post-election violence.

US assistance to Cambodia has focused largely on humanitarian work, human rights protection and democracy promotion. Some argued in the post-election period that, in light of the poor electoral process, the continued rule of the CPP and the plight of the opposition, all US aid to Cambodia should be cut. Others contended that the aid had never gone to the Cambodian government and that cutting it, while perhaps sending a diplomatic sign, would harm the efforts to improve human rights, education and health care. The 1999 foreign aid bill, drafted in August and passed by Congress on September 17, reflected Washington's resistance to fully reinstating bilateral aid

The bill outlined a series of conditions that the Cambodian government would have to meet before it was to once again receive US aid. These required that Secretary of State certify the Cambodian government had: "thoroughly and credibly resolved all election-related disputes and complaints filed by all political parties to the National Election Commission and the Constitutional Council," "discontinued all political violence and intimidation of journalists and members of opposition parties," and had "been formed through credible democratic elections."⁶¹ Given the level of concern over the formation of a government in Phnom Penh, the legislation implied that the third condition might not be realized until a more acceptable election process had taken place in 2003. The legislation did, however, state that funds could continue to be provided to nongovernmental organizations for humanitarian, human rights, de-mining and election-related programs.

The Asean Troika (the Philippines, Thailand and Indonesia), which had tried to help negotiate in the aftermath of the 1997 coup, disbanded out of frustration and a lack of consensus over how to handle the situation. In late September 1998, the UN repeated its September 1997 ruling and once again deferred a decision on who could occupy Cambodia's seat at the General Assembly until a new

⁶¹"Cambodia," Conference Report on H.R. 4328, *Congressional Record*, US House of Representatives, October 19, 1998.

government constituted by a legitimate election had been formed. As negotiations wore on through October, the Association of South East Asian Nations also expressed its reservations about admitting Cambodia to the regional grouping at the December 1998 Hanoi summit.

The IMF and World Bank stated in October that discussions on new loans would be postponed until a new government was in place, which further eroded confidence in the economy. The economic effects of prolonging the stalemate were extremely serious: members of the international community could not make crucial decisions about foreign aid, and this in turn caused prices to rise and the exchange rate to drop. Tourism, a crucial source of revenue for the government, had decreased dramatically since the July 1997 coup, and the Asian economic crisis and Phnom Penh's political instability discouraged further investment from previous supporters such as Malaysia, Singapore, Taiwan and South Korea. Civil servants and members of the police force complained in September that they had not been paid in several months and emergency rice shipments had to be provided by the World Food Program when the government announced its stocks had been exhausted. Popular discontent slowly began to focus more on economic issues than political ones and blame was meted out in equal proportions to the opposition and the government.

The CPP's frustration with the situation became increasingly clear. Instead of assuming control over the country with the foreign aid pipeline once again providing crucial financial backing, the party now stood to preside over increasing poverty and growing popular discontent. The CPP tried to portray the opposition as responsible for these problems but was unsuccessful. In a moment of frankness, Hor Nam Hong, a senior CPP official, wondered if the opposition sought "[A] confrontation at all costs?"⁶² This statement implied that violence continued to be an option in trying to settle the post-election standoff. The CPP once again tried to muster support for a Constitutional amendment which would allow them to form a government with a simple majority vote, which they could meet with their own members, but was unsuccessful.

⁶²"CPP's patience wearing thin with opposition," Christine Chameau, Phnom Penh Post, October 16 - 29, 1998, p. 1.

X Breaking the Deadlock

By early November, the opposition was under tremendous pressure from the international community, the CPP and King Sihanouk to return to Phnom Penh and form a government. The King, widely seen as the only force commanding enough respect and authority to broker an agreement, stated flatly that a solution must be reached before he returned to Beijing on November 14 for medical treatment. In a surprising about-face, Prince Ranariddh abruptly returned to Phnom Penh from Bangkok on November 12 for talks on November 13. Sam Rainsy was in Paris at the time and did not attend the talks. Upon arrival, Ranariddh announced his intention to form a coalition government with the CPP, stating his confidence in Hun Sen's promises not to pursue criminal cases against demonstration leaders and to guarantee the safety of all opposition politicians. Although Rainsy publicly endorsed Ranariddh's actions after the fact, Ranariddh had in fact chosen to pursue a separate arrangement for himself and his party.

In exchange for supporting a CPP-led government with Hun Sen as sole Prime Minister, Prince Ranariddh secured for himself the position of president of the National Assembly. Each party would assume control of four of the Assembly's nine committees and one would go to the SRP. The National Assembly presidency position, however, was stripped of part of its power as the role of acting head of state in the King's absence was transferred to the chairman of a new Senate. Despite the fact that the Cambodian Constitution made no provision for a second chamber, creating an upper house, or Senate, was the crucial part of the settlement. Although the functions, number of seats, membership or terms had not been clarified, chairmanship was awarded to CPP stalwart Chea Sim, the outgoing president of the Assembly.

Much attention had focused on the division of ministries, and in particular six key ministries. In an arrangement that appeared to overlook the inefficiencies and entrenched rivalries of the past, co-ministers would once again be appointed to the Ministries of Defense and Interior. CPP General Tea Banh and former Ambassador to the UN Prince Sisowath Sirirath would share the Defense portfolio, while the CPP's Sar Kheng and Funcinpec's You Hockry would retain their positions at the head of the Ministry of Interior. Funcinpec was awarded the Ministries of Justice (Ouk Vithun) and Information (Lu Laysreng), while the CPP retained Finance (Keat Chhon) and gained Foreign Affairs (Hor Nam Hong). The repeated use of shared positions and a promise to divide all government posts equally led Thailand's *Nation* to warn that there remained ". . . a strong indication of lingering mutual distrust. . . Using force to topple each other [cannot] be ruled out."⁶³

Most other ministries were seen as either potentially financially lucrative areas or as social welfare development agencies. The CPP took the Commerce, Environment, Industry and Agriculture ministries, while Funcinpec now headed the Ministries of Rural Development, Health, Education, Culture and Religion. The deal also allowed for the appointment of co-deputy prime ministers, and

⁶³"Cambodian government needs to be carefully assessed," Editorial, *The Nation*, November 26, 1998.

about 10 days later the CPP co-Minister of Interior Sar Kheng and Funcinpec Secretary General Tol Lah were named to these positions.

The CPP also agreed to clear the way for pardons of three senior Funcinpec officials who had been dubiously charged with a variety of crimes against state security. This included Generals Serey Kosal and Nhek Bun Chhay, who fled Phnom Penh in the wake of the July coup and continued to direct military actions in Ranariddh's name along the Thai-Cambodian border. It also included Prince Norodom Sirivudh, Funcinpec's former Foreign Minister who was charged with conspiring in 1995 to assassinate Hun Sen and subsequently sent into exile. In addition, pardons were granted to 1994 coup plotters Prince Norodom Chakrapong and Sin Song.

In addition to helping form the government, Funcinpec called an official end to the armed resistance's struggle in the northwest. On December 3, General Nhek Bun Chhay announced that the few remaining troops in his command would reintegrate with the Royal Cambodian Armed Forces as soon as possible. The following day, Khmer Rouge chief of staff Khem Nguon announced that later that afternoon the final unit of about 500 Khmer Rouge soldiers would also lay down their weapons.⁶⁴

Speculation persisted as to the motivations behind Prince Ranariddh's return. Although some believed his interests truly lay in breaking the deadlock and helping move the country forward, others, including prominent opposition politicians, immediately leveled charges of bribes and other material rewards for helping form the government. It is worth noting that in his position as president of the National Assembly, Ranariddh will have the right to sit on the Throne Council, the body that will choose King Sihanouk's successor. The Council will also include another senior National Assembly representative, two senior Senate leaders and the leaders of Cambodia's two Buddhist sects.

On December 1, Hun Sen addressed the National Assembly before its formal vote on the formation of the government. In this speech, he promised to introduce what the *South China Morning Post* described as "a laundry list of concerns voiced by foreign donors and investors."⁶⁵ These included new laws protecting human rights and the environment, economic and judicial reforms, anti-corruption efforts and a reduction in the civil administration and the armed forces. He also emphasized his hopes that the formation of a government would lead to quick acceptance into ASEAN and the UN. Immediately following Hun Sen's speech, the Cambodian Assembly voted 99 to 13 to elect him sole Prime Minister.

⁶⁴"The KR ends its 47-year war," Bou Sarouen and Peter Sainsbury, *Phnom Penh Post*, December 11 - 24, 1998, p. 1.

⁶⁵"Triumphant Hun Sen vows reform," Associated Press, *South China Morning Post*, December 1, 1998.

XI Epilogue

In the weeks following the formation of the government, Cambodia did indeed regain its seat at the United Nations and, after intense wrangling at the Hanoi summit, acceptance into Asean. The Consultative Group, the international body charged by the Paris Peace Accords with coordinating foreign aid to Cambodia, met in Tokyo in February 1999 to begin channeling new funds as quickly as possible. The government has asked for \$1.3 billion in foreign assistance over the next three years and obtained pledges of \$470 million for the coming year. Two of the three remaining senior Khmer Rouge leaders, Nuon Chea and Khieu Samphan, have also abandoned their movement. Ta Mok, the third leader known as "The Butcher," was arrested in northwestern Cambodia and is being held for trial. Talk has already begun about organizing commune elections.

During the same weeks, Hun Sen showed his disinterest in keeping his commitment to the UN and dismissed the idea of trials for former Khmer Rouge leaders. A member of the human rights group ADHOC was shot and killed while trying to defend villagers against a militia unit trying to occupy their land. When a waste dump in Sihanoukville proved to contain toxic quantities of mercury, public protests erupted against local officials widely thought to be responsible for the waste's importation. Two investigators from Licadho were illegally arrested for observing the demonstrations and were held for a month. They are awaiting a court date. All election-related disputes have gone unaddressed and the government has still taken no steps to investigate the 1997 grenade attack against Rainsy, the murders in the wake of the coup, the murders of opposition supporters during the campaign period or the deaths of demonstration participants.

The current political situation in Phnom Penh appears to be calm, but there is little reason to believe that it is sustainable unless serious political reforms are instituted. The new government was formed as a result of overwhelming military power and through a political process it controlled. Without considerable efforts to reform institutions and make them truly independent, it is unlikely that the Cambodian leadership will choose to govern by other principles.

The international community, and in particular the signatories of the Paris Peace Agreement, should strive to achieve and maintain policy consensus and redouble its efforts to help build genuine democratic institutions. To do less is to squander an unprecedented effort and investment.

The effects of intimidation and violence on the 1998 elections may never be known, but the serious flaws in the process must be rectified if commune elections, now expected in 2000, are to be an improvement over the national elections in 1998.

Appendices

A. Four Pillars of a Political Solution for Cambodian Issues

February 1998

Four Pillars of a Political Solution for Cambodian Issues

1. Prince Ranariddh should abandon any military cooperation with the Khmer Rouge.
2. Both the Royal Cambodian Armed Forces and the forces loyal to Prince Ranariddh should implement an immediate cease-fire on the basis of the principle that Cambodian territorial integrity should be respected and that former soldiers of the Royal Cambodian Armed Forces be incorporated into the Royal Cambodian Armed Forces with their original status and safety guaranteed.
3. The Cambodian legal authorities are highly expected to conclude Prince Ranariddh's trial as soon as possible and the King is supposed to bestow amnesty immediately to the Prince on the basis of a petition from his family.
4. The Cambodian government should guarantee Prince Ranariddh's security and safety in Cambodia and should not bar him from participating in the election so far as he observes Cambodian law.

B. Statement of Eric Bjornlund, Senior Associate and Regional Director For Asia, National Democratic Institute for International Affairs, before the US House of Representatives, Committee on International Relations, Subcommittee on Asia and the Pacific, February 26, 1998



**NATIONAL
DEMOCRATIC
INSTITUTE**
FOR INTERNATIONAL AFFAIRS

1717 Massachusetts Avenue N.W.
Fifth Floor
Washington, D.C. 20036
(202) 328-3136 Fax: (202) 939-3166
E-Mail: demos@ndi.org
Home Page: <http://www.ndi.org>

STATEMENT

of

ERIC BJORNLUND

SENIOR ASSOCIATE AND REGIONAL DIRECTOR FOR ASIA

NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

before the

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON INTERNATIONAL RELATIONS

SUBCOMMITTEE ON ASIA AND THE PACIFIC

February 26, 1998

Mr. Chairman, members of the subcommittee, thank you for inviting me here today to comment on the current situation in Cambodia and the prospect for credible and meaningful elections this year.

I am here today in my capacity as Senior Associate and Regional Director for Asia of the National Democratic Institute for International Affairs (NDI). NDI is a nonprofit institute working to strengthen and expand democracy worldwide. Calling upon a global network of volunteer experts, NDI provides practical assistance to civic and political leaders advancing democratic values, practices and institutions. The Institute works with courageous democrats who are struggling to promote peaceful political reform. It establishes partnerships with political leaders who have begun the difficult task of building stable pluralistic institutions and creating better lives for their citizens. NDI receives funding from the United States Agency for International Development (USAID), the National Endowment for Democracy and private sources.

Since 1992, NDI has actively supported the development of Cambodia's democratic institutions through work with civic organizations, political parties and the National Assembly. Since the July 1997 coup, NDI has continued to support Cambodian democrats both inside and outside the country. NDI, in conjunction with the International Republican Institute (IRI), sent missions to Cambodia in August and October to assess the political climate and prospects for elections. These missions were co-led by former House members Tom Andrews of Maine and Chet Atkins of Massachusetts along with Sichan Siv, former Deputy Assistant to President George Bush. The findings of these missions were published in reports that helped focus attention on the illegitimacy of the National Assembly's purported ratification of the ouster of the First Prime Minister, the continued use of violence and the climate of intimidation that has persisted since the coup. I offer for the record the most recent NDI-IRI report on *The Continuing Crisis in Cambodia: Obstacles to Democratic Elections*.

I will be returning to Cambodia in two weeks to reassess the political climate in the wake of the expected return of First Prime Minister Prince Norodom Ranariddh.

In my testimony today I would like to focus on the challenge of building democracy in Cambodia, the current political environment, the prospects for meaningful elections and the critical role for domestic and international monitoring. I will conclude with some specific recommendations for the international community.

The Challenge of Building Democracy in Cambodia

Mr. Chairman, Cambodia is at a crossroads. It can follow the path of Asian democracy as paved by some of its Southeast Asian neighbors, such as Thailand and the Philippines, or it can follow the authoritarian path of Indonesia and Burma. The direction Cambodia goes will affect the freedom and well being of its people, the strength of its government, the development of its economy, and its standing in the international community as well as the stability of the region. While ultimately it is the Cambodian people and their leaders who will determine Cambodia's course, the US and the international community have a unique responsibility to speak out in favor of and actively support the struggle for democracy in Cambodia.

NDI believes that supporting democracy and human rights -- in Cambodia and elsewhere -- needs no justification. But in the case of Cambodia, it is also an obligation of the US, Japan, China and the other signatories of the 1991 Paris Accords. These required Cambodia to respect human rights as enshrined in the Universal Declaration of Human Rights and in other international instruments on human rights. The Paris Accords called for Cambodia to follow "a system of liberal democracy on the basis of pluralism." The Accords also mandated "periodic and genuine elections . . . with a requirement that electoral procedures provide a full and fair opportunity to organize and participate in the electoral process."

Lest anyone think that it was only the international community that agreed to these principles, it is important to remember that, in 1993, more than 90 percent of Cambodia's registered voters cast ballots in a stunning demonstration of their desire for peace and democracy. And following the elections, the principles enunciated in the Paris Accords were incorporated in the constitution adopted by Cambodia in September 1993.

At the same time, we should have no illusions: the struggle for democracy in Cambodia is an uphill battle. Income and literacy levels are low, and most of Cambodia's better educated citizens were murdered by the Khmer Rouge or fled the country. Cambodia's political culture is shaped by a history that includes just about every form of authoritarianism possible to imagine. And only a small portion of Cambodia's current political leadership has demonstrated its commitment to democracy.

As a result, Cambodia's democratic development since 1993 has been decidedly mixed. Cambodia did make some progress in the early part of its experiment with democracy, such as promulgating a constitution and establishing a National Assembly, which passed much-needed laws that spurred foreign investment and improvements to the country's infrastructure. There was significant development in Cambodian civil society, marked by the growth of independent media and the emergence of strong and numerous civic organizations. A number of these NGOs have actively sought to strengthen human and labor rights, improve the legal system, enhance the status of women, and educate the public about democracy.

Despite these important gains, senior Cambodian officials never demonstrated any acceptance of genuine political competition. In fact, Second Prime Minister Hun Sen shrewdly used money, co-optation, intimidation and violence to weaken any real or imagined opposition. In 1995, Hun Sen's Cambodian People's Party (CPP) backed a new faction of the Buddhist Liberal Democratic Party (BLDP). Finance Minister Sam Rainsy was expelled from the royalist party, Funcinpec, and from the National Assembly, and Funcinpec Foreign Minister Prince Sirivudh was forced out of the parliament and into exile. Sam Rainsy subsequently founded the opposition Khmer Nation Party (KNP). The same year, a grenade attack disrupted a BLDP party congress. In March 1997, an apparent assassination attempt on Rainsy at a public rally in Phnom Penh killed 19 people and injured more than 100. Since 1993, about a dozen journalists have been killed.

In violation of the Paris Peace Accords, the parties never merged their military forces into a single national army and maintained large armed militias and "bodyguard units." Both the CPP and Funcinpec competed to recruit defecting Khmer Rouge soldiers to their sides. Independent judicial institutions mandated by the Constitution were never established. Even before the July 1997 coup, many Cambodian citizens questioned their government's commitment to democracy, had lost faith in the democratic process and doubted the possibility for meaningful elections. Despite these trends, however, the principles of a multiparty government stood.

On July 5, 1997, Second Prime Minister Hun Sen staged a coup d'etat against Cambodia's democratically elected First Prime Minister, Prince Ranariddh. This military action effectively ended Cambodia's fledgling experiment with democracy. The CPP quickly consolidated its power after the takeover by disarming and detaining military, police and intelligence forces loyal to Prince Ranariddh and his Funcinpec party and by dismantling the political infrastructures of opposition political parties throughout the country. Forced to flee the country in the wake of the coup, democratic leaders in exile formed an alliance, the Union of Cambodian Democrats (UCD), which includes the First Prime Minister and leaders of all major parties opposed to Hun Sen.

The Current Political Environment

The level of fear and intimidation in Cambodia has not lessened since the coup. The Hun Sen government's well-organized intimidation continues to prevent the restoration of a nonviolent and democratic political environment. Opposition party supporters, particularly in the countryside, have received death threats and have experienced other forms of intimidation. The CPP controls the nation's civil service, judiciary, police and armed forces. Notwithstanding pledges to High Commissioner for Human Rights Mary Robinson during her visit to Cambodia last month, Cambodian authorities have failed to investigate and prosecute the dozens of extrajudicial killings that took place during and after the coup. Just one week ago today, three more Ranariddh supporters were murdered in Banteay Meanchey province.

While a climate of intimidation persists, most of the National Assembly members and political leaders who had been in exile have taken the risk of returning to Cambodia. Khmer Nation Party leader Sam Rainsy returned to the country in late November. Leaders and supporters of Funcinpec, the BLDP and the KNP returned in January and February. These have included BLDP leaders Son Soubert, Second Vice President of the National Assembly, and Kem Sokha, chair of the Assembly's Human Rights Commission. Funcinpec leaders Prince Ranariddh and Prince Sirivudh, however, have not yet been able to return.

Hun Sen has threatened Prince Ranariddh with prosecution for smuggling weapons and colluding with the outlawed Khmer Rouge. If convicted, he would be ineligible to stand for election. Under the terms of a Japanese-brokered agreement, the prince will be tried in absentia, receive a royal pardon at the request of a family member, and then return to Cambodia. Prince Ranariddh has said he plans to return home by the March 20 deadline to register as a candidate. Hun Sen, however,

seems already to have backed away from his ostensible agreement, made only last week, to allow Prince Ranariddh to return in time to register for the elections.

In early February, Sam Rainsy threatened that he would pull his party out of the election unless several conditions were met, including the return of Prince Ranariddh, a cease-fire in the northwest, fair access to broadcast media and the dismantling of pro-government militia in the provinces. Senior Funcinpec officials have also considered boycotting the election.

The Prospects for Meaningful Elections

Where do we go from here? Are elections the solution? Can meaningful elections be held? The 1993 UN-administered elections set important precedents, both positive and negative. But 1998 will differ from 1993.

One positive precedent is that many Cambodians, with the support and backing of the international community, actively promoted human rights and educated citizens in order to help make the 1993 elections as democratic as possible. A second precedent is that, again in large part because of the international presence, the vast majority of Cambodians were willing to risk personal danger to vote -- and a plurality voted against the entrenched Hun Sen regime.

The 1993 experience established two unfortunate precedents as well. One is that Hun Sen did not accept the outcome and threatened renewed civil war. A second is that the election did not resolve the competition for power between Cambodia's rival factions; it merely transferred it to an unstable power-sharing arrangement that eventually broke down in 1997.

How will the upcoming elections be different?

First, the 1998 elections will, in almost respects, be the first elections actually run by Cambodians. The 1993 elections were carried out by the UN. Little physical or administrative infrastructure was left. Cambodians have no other experience in administering elections. Local elections have not been held, and planning could only really begin after the enactment in December of an election law and the establishment in January of the National Election Committee (NEC).

For the upcoming elections, there will be no presence comparable to the United Nations Transitional Authority in Cambodia (UNTAC), which was so critical to minimizing election-related violence and giving Cambodians confidence in the process. At present, as I will discuss more in a moment, the international presence in Cambodia, other than the diplomatic community, is limited to a small number of UN monitors and a handful of technical advisors. As the election nears, the UN may add election monitors, and the US and other countries may fund or send small numbers of observers, but there is simply no comparison to the massive UNTAC operation.

Second, there is less time and much less in the way of resources to organize the elections. The National Assembly did not enact the election law until December 1997 and set the date for

national polls, previously expected in late May, for July 26, 1998. The legislature chose to postpone the elections until July in part to allow the government time to complete its preparations, although some government officials publicly argued to postpone the elections until November. In a very short period of time, the CPP government must still procure funds to organize the elections, and the recently established NEC must train more than 5,000 election officials and register several million voters.

The European Union is providing funding and technical assistance to the NEC. Under the circumstances, this funding sends an unfortunate signal about the international community's ability to maintain consensus about pre-conditions for electoral assistance to the government. The EU team has indicated, however, that in mid-March it will assess the credibility and performance of the NEC and evaluate whether other pre-conditions for elections have been met before it provides the balance of the available funding.

Even if the NEC is committed to organizing competitive elections, it seems highly unlikely -- given the limitations of funding, experience and time -- that it could organize and administer effective elections by July 26. It will take more than foreign aid and technical assistance to overcome the serious obstacles that exist.

Third, the legal and institutional framework for the elections is fundamentally flawed. The way the members of the NEC were selected raises serious questions about its independence and credibility. Under the new election law, to ensure broad participation, the 11-member NEC was to include representatives from each of the parties represented in the National Assembly and from the NGO sector. But party seats were given to CPP-backed factions of Funcinpec and BLDP, and the selection of the NGO representative was seriously flawed.

The Constitutional Council, which is supposed to function as the final arbiter of constitutional and election-related disputes, has never been convened. The absence of this body, provided for in the Constitution, makes it impossible to resolve disputes about who controls existing political party names and resources, including the right to participate on the NEC. It is essential that the Constitutional Council be established to address issues such as the constitutionality of the party and election laws and to resolve election-related disputes, such as appeals by citizens or potential candidates found ineligible to participate or control of party names and assets. Like the NEC, the Constitutional Council must be unbiased and independent from political control.

Moreover, the election law includes problematic provisions on voter registration. It may be read to exclude members of religious or ethnic minorities. Its requirement of a "fixed address" also seems to prevent the participation of Cambodian refugees or other citizens outside the country.

Because of these differences from 1993 -- the absence of a large-scale international presence, the lack of time and other resources, and an inadequate election framework -- the Cambodian public and political parties lack confidence in the election process. Moreover, in 1993 Hun Sen refused to accept the election results and bullied his way into a coalition government. Since last July, more

than 40 extrajudicial killings have yet to be investigated, and Hun Sen has consolidated control over the government and security apparatus.

The Importance of Domestic and International Observers

Since the 1993 elections more than 120 Cambodian civic organizations have emerged. Many of these NGOs seek to monitor the upcoming elections. The current political space in which civic groups operate is, however, extremely limited, and these organizations face significant harassment. The CPP, for example, has recently established an internal committee to monitor NGOs, and authorities have targeted international and domestic NGOs for aggressive enforcement of taxation and labor regulations.

In 1995, with assistance from NDI and The Asia Foundation, two coalitions of Cambodian civic organizations were formed to monitor elections: the Coalition for Free and Fair Elections (COFFEL) and the Committee for Free and Fair Elections (COMFREL). In the past, COFFEL and COMFREL have drafted and published materials, trained volunteers, conducted civic education programs and monitored the political conditions throughout the country. The coalitions have worked together to conduct civic and voter education programs, to participate in the development of the electoral framework, and to create a communications and reporting network throughout the country. But they have found it extremely difficult to proceed with these activities in the current environment.

It is critical that the international community support the efforts of domestic civic organizations to resume monitoring activities. Even in a flawed environment, election and political monitoring can help groups committed to democratic and peaceful political reform remain viable. If a more credible process should emerge, such groups are positioned to engage in more traditional monitoring activities, such as voter education, poll watching, vote count verification and promoting public confidence. More broadly, the activities of independent NGOs reinforce the importance of civil society in Cambodia, provide citizens with skills useful for active and effective participation in the political process, and contribute to the development of a democratic, pluralistic civil society.

Despite sharp criticism from Hun Sen, the United Nations Human Rights Center in Phnom Penh has continued to document human rights violations and maintains six provincial offices around the country. The UN has also sent representatives to monitor the safe return and political participation of the political leaders coming back from exile. The EU and USAID are providing funding for a small number of additional human rights monitors, including mobile teams. The UN is currently considering whether to organize monitors for the election itself.

Notwithstanding the fact that the elections seem destined to be seriously flawed, many Cambodian NGOs and political leaders have asked for international monitoring and other assistance. Not surprisingly, they have expressed their desire for as large and engaged an international presence as possible.

Conclusions and Recommendations

Permit me, Mr. Chairman, to conclude with several general observations and recommendations.

First, it must be remembered that the signatories of the 1991 Paris Peace Accords and the international community in general have a special responsibility to ensure that Cambodians have the right to participate in a peaceful and democratic political process. It is therefore critical that the international community continue to support the Cambodian people's struggle for democracy and help reconstruct a political environment and electoral process conducive to meaningful elections.

Second, in the wake of the violent overthrow of the democratically elected First Prime Minister in July and the subsequent executions and intimidation of party supporters, conditions for democratic elections do not exist in Cambodia. Extraordinary steps are therefore required to establish a more normal, secure political environment in which Cambodian citizens feel free to participate. Further measures must be taken to guarantee the safety of all political leaders, including those who have returned from exile, and to ensure the ability of political parties to contest the election.

Third, US assistance has helped to build civil society in Cambodia since 1993, and US leadership has played a major role in denying Hun Sen the international legitimacy he has sought since the July coup. The US therefore should not relegate itself to the sidelines. It should take the lead in establishing clear and meaningful benchmarks for the elections and in securing international agreement on and support for those benchmarks. It should make clear to the authorities in Phnom Penh the consequences of a noncompetitive election. The US should build international support for a unified international response in the event that the election is seriously flawed or the results are once again rejected.

Fourth, we need to be wary of narrowly legalistic or technical assessments of the electoral environment in Cambodia. We also should not accept the proposition that if Prince Ranariddh returns, the elections are then competitive. Instead, we should watch to see if all elements of the Cambodian political spectrum are able and willing to actively campaign, if unfettered domestic and international monitoring is possible, and if the average Cambodian feels secure enough to vote his or her conscience. American governmental and nongovernmental organizations should continue to engage with their counterparts in Asia's democracies -- and particularly in Japan, Thailand and the Philippines -- to ensure that these key countries remain committed to genuinely democratic and credible elections in Cambodia.

Fifth, it is important to remember the extent to which Hun Sen has co-opted, coerced and intimidated his political opponents. Since the July coup, opposition political parties have been eviscerated, and competing, shadow factions of pre-existing parties have been formed. Therefore, in the run-up to the elections, particular attention needs to be paid to the extent to which the regime's opponents are able to build or re-build their parties and campaign actively and freely.

Sixth, international and domestic monitoring should be stepped up immediately. Traditional human rights monitoring, including monitoring by the UN Center for Human Rights and by Cambodian NGOs, is essential. But equally critical is monitoring of the political environment, including the public's sense of personal security and the freedom of party activists to participate in the political process. Experts from outside Cambodia are needed to address questions about the political environment, political parties, the legal framework, the military situation, the judiciary and the media. They must make their findings public, for the benefit of both the Cambodian people and the world community. Outside experts can also help Cambodian NGOs to increase their own efforts to monitor the political environment. Given the CPP's repeated use of violence and intimidation, and its flagrant disregard for constitutional principles and the rule of law, it is imperative that the international community focus its attention on the political climate in Cambodia and pressure the CPP government to take concrete, verifiable steps.

Finally, elections in Cambodia remain a critically important goal, but unfortunately it is unrealistic to expect that elections, by themselves, can bring peace and stability to the country. We all need to recognize that there are no quick fixes in Cambodia -- including elections. Building democracy is a long-term process that requires a long-term commitment. Credible elections could move the democratic process forward, but acquiescence in the face of seriously flawed elections will not only contribute to the further deterioration of the political environment but will also send a dangerous signal in the region and beyond.

Thank you, Mr. Chairman, for the opportunity to share with you some of my observations on Cambodia.

C. "Preparations for Elections in Cambodia," Statement of the National Democratic Institute,
June 12, 1998



1717 Massachusetts Avenue N.W.
Fifth Floor
Washington, D.C. 20036
(202) 328-3136 Fax: (202) 939-3166
E-Mail: demos@ndi.org
Home Page: <http://www.ndi.org>

PREPARATIONS FOR ELECTIONS IN CAMBODIA
STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE
June 12, 1998

Although voter registration for elections in Cambodia scheduled for July 26, 1998 is proceeding moderately well, other requisite conditions for a competitive election do not yet exist.

Voter registration began on May 18, 1998 and is scheduled to continue until June 15, 1998. Several aspects of the voter registration process are encouraging:

- Many of Cambodia's citizens have displayed considerable enthusiasm by enduring long waits, congested registration stations and confusing procedures in order to participate;
- The National Election Commission (NEC) appears to have been receptive to complaints and willing to consider improvements to the registration process; and
- The presence of independent Cambodian election monitoring groups and political party observers has enhanced the transparency of the process.

Although the registration process has been reasonably effective thus far, its ultimate success will depend on the number of eligible citizens contained in the final official voter list. Several problems have lessened the opportunity for citizens to register:

- Decreasing registration from 28 continuous days to just 2 ½ days per village can only have resulted in a reduced number of registrants;
- A late change in regulations as to where citizens could register has caused confusion and is also likely to have resulted in reduced registration;
- Administration of the registration process was disorganized during the initial days of the process; while administration has improved considerably, problems had not been entirely eliminated by the end of the third week;
- In places where NDI observed, persons rejected by the registration process were almost never provided with the required documentation or informed of the appeals procedure, leaving affected citizens with no possibility of favorable resolution; and
- In most cases registration officials were not well trained in the prescribed grievance process and other procedures.

To further enhance the quality of the electoral administration, NDI encourages the NEC to:

- improve transparency by identifying cases of potential duplicate registration through publishing a list of "near-match" registrants;
- continue to investigate and resolve all written complaints;
- prepare and publish the final voter list as soon as possible; and
- begin immediately to recruit and train nonpartisan election day staff members.



Other essential elements of a competitive election -- described in detail in a series of NDI reports issued over the last year -- are yet to be realized:

- The CPP continues to dominate every major facet of the political environment, which has diminished expectations that the election will be conducted in a competitive manner;
- The CPP also continues to retain control of electoral administration, as evidenced by the composition of the national, provincial and commune election committees, and of the Constitutional Council;
- Opposition political parties have no access to the broadcast media;
- Intimidation of opposition parties, their supporters and nonpartisan domestic organizations continues;
- The CPP's exercise to enroll supporters by use of a thumbprint-verified party identification card has had a chilling effect on the political climate; and
- No one has been charged or otherwise held responsible for the murders of opposition supporters during and after the July 1997 coup, further contributing to a climate of intimidation.

An election that is technically well administered cannot be considered credible when a competitive environment is lacking.

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Representatives of the National Democratic Institute for International Affairs assessed voter registration and preparations for the election throughout the registration period. The team included NDI Senior Advisor Glenn Cowan, Project Director of the Electoral Assistance Bureau in Guyana Lawrence Lachmansingh, and NDI Program Officer Sophie Richardson. During its assessment, the NDI team met with members of the NEC, voter registration officials, political party representatives and domestic nongovernmental observers, representatives of the European Union, the United Nations and others. The team visited registration stations and observed the registration process in Phnom Penh, Kandal, Kompong Speu and Kompong Cham.

NDI has worked since 1992 with Cambodian political parties, nongovernmental organizations and members of the National Assembly to promote the development of democratic institutions. Based in Washington, DC, NDI is a nonprofit organization working to strengthen and expand democracy worldwide. Calling on a global network of volunteer experts, the Institute provides practical assistance to civic and political leaders advancing democratic values, practices and institutions. NDI conducts programs in more than 80 countries around the world, including 12 countries in Asia.

For more information, contact:

Sophie Richardson
National Democratic Institute
House 140, Street 51
Boeung Keng Kang
Phnom Penh
012-802-862
ndi.cambodia@bigpond.com.kh

Glenn Cowan
National Democratic Institute
1717 Massachusetts Avenue, NW
Fifth Floor
Washington, DC 20036
1-202-328-3136
glennc@ndi.org

D. Statement by the Pre-election Assessment Mission, National Democratic Institute-
International Republican Institute, July 14, 1998

**Statement by the Pre-Election Assessment Mission
July 14, 1998**

Following a fourth assessment of Cambodia's political environment since the coup of July 1997, a delegation from the National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI) has concluded that:

- The process leading up to the elections scheduled for July 26 is fundamentally flawed, and, under the prevailing circumstances, the delegation would not normally recommend sending international observers to monitor the elections. However, political parties and prospective voters, despite serious obstacles, are actively participating in this election. The outcome of the election is not a foregone conclusion and it merits international attention.
- Any objective evaluation of the upcoming elections must not be confined to the official campaign period and the technical aspects of the poll. Such a limited perspective gives a distorted view of the elections as a whole. Any accurate assessment must take into account the larger political environment within which the elections are taking place and the effects of that environment on the electoral process. Acquiescence to seriously flawed elections will only contribute to a deterioration of the political environment and undermine genuine efforts to advance Cambodia's democracy.
- The delegation encourages Cambodians and the international community to deploy as many observers as possible.

The delegation's chief observations and findings are:

- Political violence and intimidation continue, especially in the countryside.
- No arrests have been made despite pervasive political violence; a culture of impunity impedes the ability of candidates and domestic monitoring groups to recruit workers and supporters.
- Citizens continue to express their interest in the election and the desire to cast their votes for the candidates of their choice if given the opportunity in an environment free from intimidation.
- The international community, which encouraged the exiled political opposition to return and participate in the campaign, should closely monitor the entire election process. This should include monitoring the post-election period.

The Cambodian People's Party (CPP), which overthrew its coalition partner and reversed the results of the UN-sponsored elections of 1993, continues to enjoy exclusive control over the military, security forces, civil service, electronic media and electoral administration. There is no independent judiciary to provide a check on governmental power. United Nations reports document approximately 100 executions and disappearances, as well as other apparently politically motivated killings, since July 1997. Cambodian political parties, election monitoring groups, human rights organizations and the UN have documented chronic intimidation of opposition party supporters through threats or physical harm and imprisonment.

In its assessment of the pre-election environment, the delegation found that systematic and widespread political intimidation and violence have affected the ability of opposition parties to fairly compete in the campaign. Opposition parties have not been given sufficient time nor the resources to rebuild their party membership networks since their organizations were dismantled last summer. The resources of the CPP dwarf those of the opposition parties. Some candidates state that voters are hesitant to openly show their support for them, fearing harassment. This atmosphere of repression affects the voters' confidence in the secrecy of the ballot.

Although opposition candidates have been able to open offices and have sometimes drawn large crowds at rallies, there are reliable reports that local officials and police have often unlawfully restricted campaign activities. Limited access to broadcast media impedes the ability of opposition parties to reach voters and potential supporters and gives the CPP a substantial advantage. Each of the 39 political parties is allowed one five-minute slot per day, but news coverage of rallies, speeches or other campaign events is heavily biased toward the CPP. A recent UN study showed that during the month of May, Hun Sen was mentioned 170 times on state-run TV while Prince Ranariddh was only featured five times.

The delegation heard several persons express the concern that the government might not accept the results of the election. Given the events following the 1993 elections, it is critically important that the international community carefully monitor the post-election period, including the seating of the National Assembly.

IRI and NDI intend to assemble a joint multi-national delegation to observe the elections. We believe that international and domestic election observing in the coming elections is important because the outcome of elections in some provinces may be affected if voters are permitted to cast their ballots freely and fairly. We also believe that international observation is important for the following reasons:

- It may deter further violence and intimidation of those who want to freely cast ballots.
- It provides international support to candidates who courageously decided to contest despite enormous obstacles and threats of violence.
- It helps to strengthen civil society (e.g., monitoring and human rights groups) who in spite of intimidation have decided to proceed with their efforts.
- It strengthens the hands of democratic forces in each political party who want to move the country in a more democratic direction.
- It may lead to improved electoral administration, which would have long-term benefits for the nation.

Cambodia remains badly divided. The delegation stresses that elections alone will not bring reconciliation and stability to the country. Building democracy is a long-term process and will require a sustained commitment by Cambodians and the international community.

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The NDI-IRI delegation assessed the pre-election environment from July 6 to 13. The delegation consisted of former US Ambassador to Thailand and former President of the Carnegie Endowment for International Peace Morton Abramowitz; former member of the US Congress Thomas Andrews; Executive Director of Bangladesh's Fair Election Monitoring Alliance Tarikul Ghani; IRI Southeast Asia Program Director Elizabeth Dugan and NDI Senior Consultant and former NDI/Cambodia Field Director Peter M. Manikas. NDI/Cambodia Field Representatives Sarah Malm, Lawrence Lachmansingh and Sophie Richardson also participated in this assessment.¹

The IRI-NDI delegation met with political party leaders, candidates, members of the National Election Commission, representatives of domestic election monitoring and human rights groups, members of the domestic and international press, diplomats, and officials from the United Nations and the European Union. The delegation observed campaign activities in Phnom Penh and Takeo, and staff members have also observed activities in the provinces of Kandal, Kompong Thom and Prey Veng. The delegation also reviewed documents and reports by Cambodian and international organizations.

NDI and IRI have worked since 1992 with Cambodian political parties, members of the National Assembly and nongovernmental organizations to promote the development of democratic institutions. Based in Washington, DC, IRI and NDI are nonprofit organizations working to strengthen and expand democracy worldwide.

For more information, contact:

Sophie Richardson
National Democratic Institute
House 140, Street 51
Boueng Keng Kang
Phnom Penh
012-802-862
ndi.cambodia@bigpond.com.kh

Elizabeth Dugan
International Republican Institute
89 Sothea Street
Tonle Bassac
Phnom Penh
012-804-473
iri@camnet.com.kh

Glenn Cowan
National Democratic Institute
1717 Massachusetts Avenue, NW
Suite 503
Washington, DC 20036
1-202-328-3136
glenncc@ndi.org

Jeff Crouse
International Republican Institute
1212 New York Avenue, NW
Suite 900
Washington, DC 20005
1-202-408-9450
jcrouse@iri.org

E. Preliminary Statement of the IRI-NDI Delegation to the July 26, 1998
Elections in Cambodia, July 28, 1998

July 28, 1998

NATIONAL DEMOCRATIC INSTITUTE
FOR INTERNATIONAL AFFAIRS

INTERNATIONAL REPUBLICAN
INSTITUTE

**PRELIMINARY STATEMENT OF THE
IRI-NDI DELEGATION TO THE JULY 26, 1998
ELECTIONS IN CAMBODIA**

Despite a tense and violent pre-election period, on July 26 the Cambodian people turned out in overwhelming numbers to exercise their right to vote for members of a new parliament. The balloting and counting processes were generally well administered, and the atmosphere on the balloting and counting days was largely peaceful and upbeat. Nevertheless, the relative success of the balloting and counting thus far cannot negate the violence, extensive intimidation, unfair media access and ruling party control of the administrative machinery that characterized the pre-election period. To their credit, the Cambodian people appear to have overcome these obstacles and to have made possible a successful exercise in national self-determination.

An election, of course, is much more than an administrative process or what happens on election day itself. Elections can be divided into four distinct phases: (1) the pre-election phase, which includes the campaign environment and voter registration and other technical preparations for balloting; (2) the balloting on election day; (3) the counting and consolidation of results; and (4) the investigation and adjudication of complaints and the formation of a government.

In their statement on July 14, 1998, the National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI) expressed serious concerns about the pre-election environment, including (1) widespread intimidation, violence and a climate of impunity that might prevent people from voting for the parties of their choice, (2) flaws in the institutional framework – including the makeup of the National Election Commission (NEC), ruling party control of the election administration, and the failure of the Constitutional Council to be properly constituted – that might contaminate the balloting and counting, and (3) a denial of equal access to the electronic media by opposition parties and politicians in violation of established international covenants. Our concerns were based on the fear that millions of people could be intimidated into voting for a party they did not really support. We also feared that the ruling party's control of the electoral machinery might result in manipulation of the balloting and counting processes.

In contrast to the campaign period, voting on polling day went remarkably smoothly. The participation of more than 90 percent of the eligible voters compares more than favorably with far lower turnouts in many long-established democracies. The incontestible determination of millions of Cambodians to take the future of their country into their own hands, in spite of efforts to discourage them from doing so, should lay to rest the discredited notion that only those who are heirs to the traditions of western civilization, or who have achieved middle class status, have an interest in the benefits of democracy.

The prevailing election-day atmosphere was the antithesis of what we would have expected had our fears about effective intimidation on polling day actually materialized. Virtually all voters queried assured us that they were confident about the secrecy of their ballots. Moreover, polling stations were organized in a way that enabled voters to cast their ballots in private, which lent credibility to their assurances. While some members of our delegation believe they witnessed instances of intimidation during the balloting, the great majority did not.

Unlike 1993, when Cambodian elections were administered by the United Nations, these elections were organized by Cambodians themselves. Whatever the political affiliations of election officials may have been, these officials generally conducted themselves in an impartial and efficient manner and seemed committed to a legitimate process. Despite problems in some locations, the administration of the balloting appears to have been carried out with commendable effectiveness.

Domestic observers and political party representatives were present in virtually every polling station and counting center our observers visited. The NEC responded to the concerns of legitimate domestic and international observers by acting swiftly to ensure that members of well-established and trained observer groups received credentials and had priority to monitor the polls. The NEC also disqualified thousands of observers from groups that had misused credentials, had not trained their observers, or had failed to establish their credibility.

As for the counting of ballots on July 27, we were impressed with the apparent efficiency and transparency of the count at the commune level, where we observed it. National observers and party agents reinforced our tentative assessment that the count has proceeded thus far without significant problems. However, reports have been received of a number of counting stations in which only one party agent was permitted inside to witness the count, even though there were several separate tables where counting was under way, thus depriving them of the ability to effectively monitor the counting process. This needs to be investigated and a determination made of the number of counting centers in which this violation of the proper procedures took place in order to determine the extent to which it may have affected the overall results. We are also concerned by the unexpected decision of the NEC to postpone the release of results last evening. Indeed, given the claims of opposition leaders concerning irregularities and improprieties at an undetermined number of counting places throughout the country, we believe it is essential that the NEC conduct an immediate and thorough investigation of these allegations in order to determine whether they were of such a magnitude as to call into question the legitimacy of the entire process.

We commend the members of parliament and political leaders in exile for their great courage in returning to contest these elections. We also commend the national election monitoring groups, including COMFREL, COFFEL and NICFEC, for their ambitious and effective programs to educate voters and for their vigilance during the balloting and counting processes. We note as well the important contribution of the Voice of America to broader, more fair media coverage of the parties and their campaigns. Most of those responsible for administering the balloting and counting at the village and communal level, as we have observed it thus far, deserve credit for putting their responsibility as election officials ahead of their partisan preferences and affiliations. The international

community, including ASEAN, the United Nations, the Friends of Cambodia and multilateral as well as bi-lateral donors, performed an essential role in the aftermath of the violence of last July by insisting on a return to a multiparty electoral process. Finally, we congratulate the Cambodian people once again for demonstrating their commitment to democracy.

Several days before polling day, Prince Norodom Ranariddh told leaders of the delegation that if there were no major incidents of violence in the remaining days, if voting was carried out without serious problems, and if the ballots were counted accurately, then he would accept the results as the will of the people. Hun Sen has also pledged to delegation leaders that he will respect the election results. Should our preliminary conclusion about the absence of violence in the last days of the campaign and the transparency of the balloting and counting hold up in the course of post-election investigations, we call upon all political leaders to respect the results of the elections and to peacefully resolve their differences.

NDI and IRI will continue to monitor the resolution of complaints and the process of forming a new government. In light of what happened five years ago when the current ruling party refused to accept the results of the election and threatened civil war, we feel compelled to register our view that any effort to reject or reverse the results of the election through the use of force or other extraconstitutional means would be a grievous blow to the cause of democracy in Cambodia. An election in which the winners are denied by the losers the offices that they have won is just as bad as no election at all. We trust that regional and international organizations, as well as individual countries assessing these elections in terms of their own policy toward Cambodia, will insist that the results of the elections be reflected in the composition of the next government.

That we do not currently have evidence to challenge the legitimacy of the elections should not obscure our very real and continuing concerns over the fundamental flaws that emerged during the pre-election period. It is precisely for this reason that we strongly recommend that the next government take steps to guarantee all parties fair access to the media, to prevent intimidation and punish those who engage in it, and to establish a fully independent and nonpartisan electoral administration so as to allay fears that the ruling party will use its control of election machinery to influence the outcome of future elections.

We caution that final judgment on the entire election process is premature. This statement is being released before preliminary election results have been made public. NDI and IRI will continue to monitor the post-election period, including the final tabulation of the results, the processing of complaints and the organization of the next government on the basis of the elections' results. Should we receive information calling into question the judgments contained in this statement, we will not hesitate to revise our preliminary conclusions and make them public.

* * * * *

Former United States Congressman Stephen Solarz and former United States Ambassador James Lilley led this multinational NDI-IRI observer delegation. The delegation includes 60 members, including IRI and NDI staff members, and comprises international election experts, political leaders, democracy activists and regional experts from the United States and seven other countries. Delegation members have previously participated in numerous election assessments and international election observer delegations throughout the world.

NDI and IRI work to promote democratic institutions and processes worldwide. The Institutes have conducted comprehensive international observer programs for about 100 elections during the past 15 years, and they have established a reputation for independence, impartiality and professionalism in conducting electoral assessments.

NDI and IRI have worked in Cambodia since 1992. Through work with political parties, nongovernmental organizations and the National Assembly, IRI and NDI have sought to support a peaceful and democratic political process. Since the violent ouster of the First Prime Minister in July 1997, the two institutes have closely monitored the political environment in the country. The two institutes have conducted four joint missions to Cambodia to assess the political environment and electoral preparations over the last year, and NDI and IRI representatives have visited Cambodia on a number of other occasions. The institutes established a monitoring presence in Cambodia for the July 26 elections beginning in late April.

The delegation conducted its work in accordance with international standards for democratic elections and in accordance with Cambodian law. The delegation did not seek to interfere with or to certify the election process. Ultimately it will be the people of Cambodia who will judge the legitimacy of these elections.

Members of the delegation arrived in Cambodia during the week before polling day and participated in a series of meetings with government and election officials, political party representatives, democracy activists and the institutes' long-term observers. Before election day, the delegation was divided into 20 teams that were deployed to 15 provinces around the country. Each team then met with local election officials, international and domestic monitoring groups, political party representatives and others.

On polling day the teams visited numerous polling stations in their assigned areas to observe the opening of polling stations, balloting and where feasible, the transportation of the ballot boxes. On counting day, the teams observed the process of counting the ballots at the commune level.

For further information, please contact Lynn Heller (NDI) at 202-328-3136 (tel) or Mike Mitchell (IRI) at 202-408-9450 (tel).

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F. Second Post-Election Statement on the Cambodian Election Process,
National Democratic Institute, August 22, 1998



1717 Massachusetts Avenue, N.W.
Fifth Floor
Washington, D.C. 20036
(202) 328-3136 Fax: (202) 939-3166
E-Mail: demos@ndi.org
Home Page: <http://www.ndi.org>

National Democratic Institute for International Affairs

Second Post-Election Statement on the Cambodian Election Process

August 22, 1998

The National Democratic Institute for International Affairs (NDI) continues to monitor the post election process and political events generally in Cambodia. NDI has worked in Cambodia since 1992, has organized five missions to Cambodia over the last year and established a monitoring presence for the July 26 elections beginning in late April. NDI has maintained its field office in Phnom Penh and is committed to continuing to monitor post-election developments.

In a Preliminary Statement, issued jointly on July 28 with the International Republican Institute (IRI), NDI commented that the voting process was "generally well administered" and the atmosphere on election day was largely "peaceful." At that time, the Institute also reiterated its serious concerns regarding "violence, extensive intimidation, unfair media access and ruling party control of the administrative machinery that characterized the pre-election period." The statement applauded the Cambodian people for turning out in such high numbers on election day.

In that July 28 Preliminary Statement, NDI and IRI cautioned that a final assessment of the entire election process was premature pending the final tabulation of results, the processing of complaints, and the formation of the next government based on the results of the elections.

Regrettably, post-election developments point once again to systemic problems with the election process. It was these problems that led NDI and IRI, in a statement on July 14, 12 days before polling day, to describe the process leading up to the elections as "fundamentally flawed."

Since the vote, NDI's pre-election concerns about the credibility of the bodies responsible for administering the elections and adjudicating disputes have proved well founded. As NDI pointed out in public reports in January and March, the way the members of the National Election Commission (NEC) were selected raised serious questions about its independence and credibility. Under the new election law, to ensure broad participation, the 11-member NEC was to include representatives from each of the parties represented in the National Assembly and from the NGO sector. But party seats were given to ruling party-backed factions of opposition parties, and the selection of the NGO representative was seriously flawed. The makeup of the Constitutional Council was also controversial. Accordingly, the NEC and the Constitutional Council lack credibility in their responses to election-related complaints and post-election controversies. Unless election-related complaints are addressed expeditiously, thoroughly and impartially, there can be little public confidence in the integrity of the overall process.

- **Arbitrary Rejection of Complaints**

In the weeks following the election, political parties submitted in excess of 800 complaints to the NEC. Rather than investigating these complaints, the NEC dismissed them outright on the grounds that the complaints were not substantiated. In addition to its failure to undertake even cursory investigations, the NEC also refused to provide official rejection notices to the complainants. This, in turn, has jeopardized the parties' ability to take complaints to the Constitutional Council.

- **Lack of Appeals Process**

The Constitutional Council, which is the final arbiter of electoral disputes, has yet to hear any cases. The Council has refused to accept complaints about intimidation of opposition party agents, alleged electoral fraud, and the formula by which seats are allocated on the grounds that these complaints had either not been formally rejected by the NEC or had not been filed before the deadline. This refusal to even accept, let alone hear, such complaints by the Constitutional Council, coupled with the NEC's failure to follow due process in providing the required rejection notices has eliminated any meaningful opportunity for appeal.

- **Seat Allocation Formula Controversy**

The means by which the NEC selected, then changed, then adopted different formulas for allocating seats in the National Assembly has raised further questions about the NEC's decision making processes. The lack of transparency and failure to provide a satisfactory explanation has exacerbated the seriousness of these questions. What is certain is that the formula currently in effect advantages the Cambodian People's Party (CPP); in fact, it is the change in formula that provides the CPP with a majority of National Assembly seats.

- **Intimidation of Opposition**

Directly following the election there were numerous complaints of threatened violence toward local opposition party activists throughout Cambodia. Many activists fled their communities.

On August 20, while one of the opposition party presidents, Sam Rainsy, was inside the Ministry of Interior, unknown persons fired shots and threw a grenade at the front gates of the compound, killing one individual. Inside the compound, Sam Rainsy and several journalists were reportedly pushed at gunpoint to the ground, kicked and threatened. One shot was fired. Sam Rainsy and others were detained for three hours. These events certainly send a chilling message to the opposition, as well as to the general population.

A demonstration outside the National Assembly is planned for August 23. Given recent violence, NDI calls upon authorities to ensure that the rights of peaceful assembly and expression are respected.

The election process has yet to be completed, and the post-election situation continues to evolve. How the post-election problems are resolved will influence greatly the legitimacy of the next government and the prospects for democracy in Cambodia.

NDI will continue to monitor events and will issue further statements as warranted. The Institute plans a post-election mission at the time of the seating of the new National Assembly in September, and NDI and IRI will issue a final assessment of the entire process soon thereafter.

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For further information, please contact:

Sophie Richardson
Field Representative
National Democratic Institute for International Affairs
#140 Street 51
Sangkat Boeung Keng Kang I
Phnom Penh
T: 012-802-862
F: 023-213-329
ndi.cambodia@bigpond.com.kh

Eric Bjornlund
Senior Associate and Regional Director, Asia Programs
National Democratic Institute for International Affairs
1717 Massachusetts Avenue, NW
Washington, DC 20036
T: 1-202-328-3136
F: 1-202-332-5576
eric@ndi.org

G. National Election Committee Members

LIST OF THE NEC MEMBERS

29-Apr-98

No	Name	Rank	Nominated by	Sub-Committee Chaired	Room	Contact Phone #	Address
1	H.E CHHENG, Phon	Chairman	National Assem		C 01	015 839 045; 023 3605 61	Takdol Vil, Mitapheap Com, Takhoe Municipal, Kandal
2	H.E KASSIE, Neov	V Chairman	National Assem		C 014	015 912 607; 015 839 035	# 30 St.57, Bang Keng Kang, Chamkamon Dist, PNH
3	H.E DO, Kong Nguon	Member	Citizen	Administration	C 08	015 839 044; 023 211 255	# 36 St.310, Bang Keng Kang, Chamkamon Dist, PNH
4	H.E YOU, Kan	Member	Citizen	Training and Civic Education	C 10	018 811 826; 015 839 036	# 4 St.312, Tonle Basak, Chamkamon Dist, PNH
5	H.E TEA, Chamrath	Member	FUNCINPEC	Security	C 23	012 809 090; 015 839 040	# 28, St.334, Bang Keng Kang, Chamkamon Dist, PNH
6	H.E PHOM, Nhean Vichieth	Member	CPP	Media	C 25	015 839 043; 015 832 465	# 19 St.215 Samdech Pann, PNH
7	H.E KEO, Lundy	Member	BLDP	Logistics	C 24	015 839 037; 023 368 245	# 50 St.578, Bang Kak 2, Toul Kork Dist, PNH
8	H.E CHANG, Kim Eng	Member	MOLINAKA	Operations and Computer Center	C 22	015 839 041; 018 817 606	Tul Krasang Vil, Svay Rolum Com, Srang Dist, Kandal
9	H.E TIP, Janvibol	Member	HE You Hokry	Legal Services and Disputes	C 09	015 839 043; 015 832 521	# 56 St. Sothearos, Chaktomouk, Don Penh Dist, PNH
10	H.E CHHAY, Kim	Member	HE Sar Kheng	Finance	C 07	015 839 039; 018 813 725	# 57 St.99, Beng Trabek, Chamkamon Dist, PNH
11	H.E CHEA, Chamroeun	Member	NGOs	Inspection and Monitoring	C 02	015 839 038; 018 817 606 023 982 851	# 105 St.105/350, B.Keng Kang, Chamkamon Dist, PNH

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H. National Election Committee Budget



National Election Committee

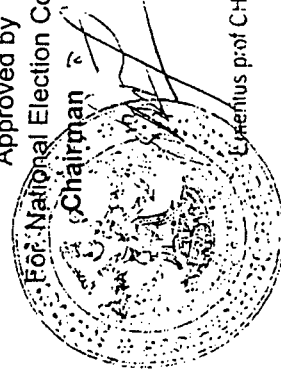
No: 07-1159/NEC
1998

BUDGET 1998 ELECTION

Chapter	Article	Paragraphe	Sub-paragraph	Spending Classification	Total in US\$	RGC's budget	EU	JAPAN	AusAid	Other Donors	Not funded
1	2	3	4	5	6	7	8	9	10	11	12
				Grand Total							
				Current Expenditure	\$ 26,996,618.00	\$ 5,000,000.00	\$ 8,088,032.00	\$ 5,868,267.00	\$ 260,000.00	\$ 2,211,000.00	\$ 5,569,319.00
				First Category: Services	\$ 26,257,394.00	\$ 4,260,776.00	\$ 8,088,032.00	\$ 5,868,267.00	\$ 260,000.00	\$ 2,211,000.00	\$ 5,569,319.00
				Salary - fees	\$ 25,231,642.00	\$ 4,260,776.00	\$ 8,088,032.00	\$ 5,868,267.00	\$ 260,000.00	\$ 2,211,000.00	\$ 4,543,567.00
				Public remuneration	\$ 5,909,180.00	\$ 3,917,103.00	\$ 1,638,853.00		\$ 25,000.00		\$ 328,224.00
				Salary of NEC's members (11)	\$ 363,000.00	\$ 363,000.00					
				Salary - fees for the staff	\$ 363,000.00	\$ 363,000.00					
				Basis annual salary	\$ 5,525,305.00	\$ 3,554,103.00	\$ 1,638,853.00		\$ 25,000.00		\$ 307,349.00
				NEC's staff salary	\$ 5,525,305.00	\$ 3,554,103.00	\$ 1,638,853.00		\$ 25,000.00		\$ 307,349.00
				PEC's members salary	\$ 1,163,655.00	\$ 1,024,750.00	\$ 113,905.00		\$ 25,000.00		
				PEC's staff salary	\$ 335,650.00	\$ 160,212.00	\$ 175,438.00				
				CEC's members salary	\$ 750,000.00	\$ 443,950.00	\$ 306,050.00				
				CEC's staff salary	\$ 2,988,000.00	\$ 1,925,191.00	\$ 872,960.00				\$ 189,849.00
				Salary - fees for short term employees	\$ 288,000.00		\$ 170,500.00				\$ 117,500.00
				Salary - fees and bonus	\$ 20,875.00						\$ 20,875.00
				Fees for NEC's short term staff	\$ 5,000.00						\$ 5,000.00
				Fees for PEC's short term staff	\$ 5,875.00						\$ 5,875.00
				Fees for CEC's short term staff	\$ 10,000.00						\$ 10,000.00
				Second Category : Administration and operations							
				Administration process and operations	\$ 19,322,462.00	\$ 343,673.00	\$ 6,449,179.00	\$ 5,868,267.00	\$ 235,000.00	\$ 2,211,000.00	\$ 4,215,343.00
				Office supplies and administrations	\$ 15,902,600.00	\$ 343,673.00	\$ 5,436,248.00	\$ 4,751,655.00	\$ 235,000.00	\$ 2,140,000.00	\$ 2,996,024.00
				Office equipment and furniture	\$ 3,419,862.00	\$ 1,000.00	\$ 3,419,862.00	\$ 1,116,612.00	\$ 20,000.00	\$ 20,000.00	\$ 2,317,920.00
				Office renting	\$ 341,000.00		\$ 34,000.00	\$ 69,900.00		\$ 20,000.00	\$ 217,100.00
				Maintenance	\$ 39,222.00			\$ 19,530.00			\$ 19,692.00

03	Water supply	\$ 20,000.00				\$ 20,000.00				0
04	Electricity supply	\$ 83,500.00				\$ 83,500.00				0
02	Furniture and office supplies	\$ 3,289,532.00				\$ 3,289,532.00				0
03	Communication	\$ 1,397,890.00				\$ 1,397,890.00				0
04	Printing and stationery	\$ 62,000.00				\$ 62,000.00				0
05	Books and other document (for reading)	\$ 3,815,000.00				\$ 3,815,000.00				0
06	Conference and meeting	\$ 1,500,000.00				\$ 1,500,000.00				0
07	Vehicles (not include 13 car from REC)	\$ 343,673.00				\$ 343,673.00				0
01	Maintenance and processing	\$ 27,648.00				\$ 27,648.00				0
02	Fuel, oil, filter	\$ 575,778.00				\$ 575,778.00				0
03	Expenses over car renting	\$ 75,000.00				\$ 75,000.00				0
12	Civic education and fees for PSC staff	\$ 600,000.00				\$ 600,000.00				0
01	Training	\$ 964,658.00				\$ 964,658.00				0
04	Fees for PSC staff (for 5 days)	\$ 1,860,000.00				\$ 1,860,000.00				0
13	Media and promotion	\$ 600,000.00				\$ 600,000.00				0
02	Mission fees	\$ 3,419,862.00				\$ 3,419,862.00				0
01	Domestic mission fees	\$ 3,419,862.00				\$ 3,419,862.00				0
01	Transportation	\$ 1,494,500.00				\$ 1,494,500.00				0
02	Perdiem	\$ 1,875,362.00				\$ 1,875,362.00				0
04	Lodging	\$ 50,000.00				\$ 50,000.00				0
Third Category : Social affairs (public intervention)		\$ 25,752.00				\$ 25,752.00				0
01	Intervention in social affairs and culture	\$ 25,752.00				\$ 25,752.00				0
01	Social affairs and cultural intervention	\$ 25,752.00				\$ 25,752.00				0
01	Social affairs	\$ 25,752.00				\$ 25,752.00				0
02	Remuneration for sickness staff	\$ 5,752.00				\$ 5,752.00				0
03	Remuneration for incident in working time	\$ 20,000.00				\$ 20,000.00				0
Fourth Category : Contingencies		\$ 1,000,000.00				\$ 1,000,000.00				0
Total expenditure in capital		\$ 739,224.00				\$ 739,224.00				0
Fifth Category : Capital for construction and investment		\$ 739,224.00				\$ 739,224.00				0
01	Local financial investment	\$ 739,224.00				\$ 739,224.00				0
01	Construction and material equipment	\$ 739,224.00				\$ 739,224.00				0

Approved by
Chairman



President p/of CHHENG PHOM

Verified and approved
Treasurer to the NEC

Signature

CHHAY KIN

Controlled by
Secretary General &
DEPUTY

Signature

HUOY SOPHORN

Verified by
Chief of Finance Department

Signature

Sivilay HAVAN

Phnom Penh, July 02nd, 1998

Made by
Planning officer

Signature

SAN CHANTHAN



I. Letters from His Excellency Son Sann and His Excellency Chau Sen Cocsal Chhum

ROYAUME DU CAMBODGE
NATION, ROI, RELIGION.

Phnôm-Penh, le 20 mai 1998

A Sa Majesté Preah Bat Samdech
Preah NORODOM Sihanouk Varman
Roi du Cambodge
Palais Royal
SIEM REAP

Sire,

J'ai l'honneur de venir soumettre très humblement à la très Haute information de Votre Majesté, l'avis de juristes sur la procédure du choix des trois membres du Conseil Supérieur de la Magistrature pour le Conseil Constitutionnel.

Une réunion du Conseil Supérieur de la Magistrature est prévue le 20 mai 1998. Cette réunion pose deux types de difficultés: celles relatives à la validité de la réunion et celles relatives à la nomination par le Conseil Supérieur de la Magistrature de trois membres du Conseil Constitutionnel.

La question de la validité de la réunion du Conseil Supérieur de la Magistrature le 20 mai 1998 se pose de la manière suivante:

A- Les faits: Mr. Sok An, Co-Ministre du Conseil des Ministres, a convoqué le Conseil supérieur de la Magistrature (CSM) pour une réunion devant se tenir le 20 mai 1998.

B- Les problèmes posés sont que:

1- Selon la loi du 22 décembre 1994 sur l'organisation et le fonctionnement du CSM, le Ministre de la justice a le droit de convoquer une réunion du CSM (après consultation des Présidents de la cour suprême et de la cour d'Appel).

La convocation par Mr. Sok An de cette réunion paraît très contestable. En l'absence du Ministre de la Justice, c'est le Secrétaire d'État à la justice qui devrait agir pour le compte et au nom du Ministre (aucune loi ne pronait spécifiquement cette solution, mais cela découle implicitement de la loi sur le Conseil des Ministres et la loi sur le Ministère de la Justice).

Mr. Sok An a agi en tant que " Ministre de la justice Intérimaire " alors qu'il n'est pas Secrétaire d'Etat à la Justice.

Comment Mr. Sok An a-t-il pu convoquer cette réunion ? Etait-il formellement autorisé pour cette convocation ? Si oui, par qui et par quelle autorité légale ?

2. Le second problème risquant d'affecter la validité de cette réunion est le quorum. Selon la loi sur le CSM, le quorum doit être au moins de 7 membres sur 9.

Or à la réunion du 4 décembre 1997, le siège de Président de la Cour d'Appel au CSM aurait été laissé vacant en attendant une nomination future.

D'autre part, Ty Neng a été nommé illégalement, car il n'est pas juge (il est chef de la division criminelle et civile au Ministère de la Justice).

De même si Chen Sok et/ou Hengo Racken (tous les deux membres du CSM) sont candidats au Conseil Constitutionnel, ils ne pourront assister à cette réunion du CSM.

Il y a un risque important que 4 membres du CSM ne puissent assister à la réunion du 20 Mai et ainsi que le quorum de 7 membres sur 9 ne soit pas atteint.

Il y a donc deux motifs pour que cette réunion soit nulle.

La nomination par le CSM de trois membres du Conseil Constitutionnel se procède de la façon suivante:

A- Les Faits: le 6 Mai 1998, Mr. Sok An, co- Ministre du Conseil des Ministres, a rédigé un communiqué selon lequel le Ministère de la Justice (=MJ) recensait les candidatures pour le Conseil Constitutionnel jusqu'au 15 Mai 1998.

Ce texte a été rédigé par Mr. Sok An en tant que " Ministre de la Justice Intérimaire"

Ce texte a été publié par le *Reasmey Kampuchea* et aurait été, selon Ly Vuoch Leng (Sous-Secrétaire d'Etat au Ministère la Justice) diffusé sur T V K, Apsara et T V 3.

Selon ce texte:

- les candidatures doivent être déposées au Ministère de la Justice avant le 15 mai 1998 ce qui ne laissait que 9 jours à ceux qui auraient vu ou entendu ce communiqué.

B- Les problèmes posés sont que: La Constitution, en son article 118 dit que : " 3 Membres (du Conseil Constitutionnel sont désignés) par le CSM " .

Nulle part la Constitution, et encore moins la loi, ne fait état d'une procédure de candidature organisée par le MJ.

C'est au CSM, selon ses règles propres (et notamment celles contenues dans la Constitution et dans la loi du 22 décembre 1994 sur son organisation et son fonctionnement) de désigner les trois membres du Conseil Constitutionnel et non au Ministère de la Justice de dire au CSM parmi quels candidats il doit choisir ses trois membres..

Cette initiative de Mr. Sok An est triplement illégale :

- elle instaure une procédure prévue ni par la Constitution ni par la loi: elle viole donc ces deux textes en rajoutant une procédure à la procédure de nomination que ces deux textes ont instaurée.
- elle viole le principe constitutionnel fondamental de séparation des pouvoirs. en son article 109, la Constitution édicte: "Le pouvoir judiciaire est un pouvoir indé

pendant". En son article 111, elle édicte que: "Aucun organe du pouvoir exécutif ou législatif ne peut exercer un pouvoir judiciaire quelconque". Mr. Sok An, membre du pouvoir exécutif, a donc ouvertement violé ce principe.

- enfin, Mr. Sok An n'est pas Ministre de la Justice, mais Co-Ministre au Conseil des Ministres, il a donc pris au nom du Ministère de la Justice des décisions que le Ministre de la Justice ne pouvait pas, lui-même, prendre.

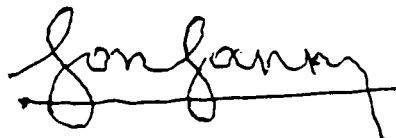
* * * *

Votre Majesté a daigné, en vertu de la Constitution du Royaume, nommer trois membres du Conseil Constitutionnel depuis plus d'un an, et demander au Gouvernement d'activer la nomination des membres représentant avec justice l'Assemblée Nationale et ceux représentant la Haut Conseil de la Magistrature.

On sait maintenant comment les membres de l'Assemblée Nationale et ceux du Haut Conseil de la Magistrature sont nommés. Ils appartiennent tous les six au même Parti Politique (C.P.P.)

Le Conseil Constitutionnel doit veiller au respect de la Constitution au Royaume, et en particulier aura à proclamer la légalité des prochaines élections législatives. La question se pose : - Comment un Conseil Constitutionnel illégal peut proclamer la légalité de ces prochaines élections législatives?.

*Daigne Votre Majesté, Sire, agréer l'expression des sentiments
du très respectueux et dévoué Serviteur de
Votre Majesté.*



SON SANN

Haut Conseiller Privé de Sa Majesté

le Roi du Cambodge.

Statement by
Samdech Chau Sen Cocsal Chhum

Member of the Constitutional Council
Appointed by His Majesty the King of Cambodia

Phnom Penh, June 2, 1998

In my capacity as the Dean of the Constitutional Council, appointed by His Majesty the King to uphold the Constitution of Cambodia, I must object to the irregular and illegal manner to which certain parties have resorted in attempting to create the Council.

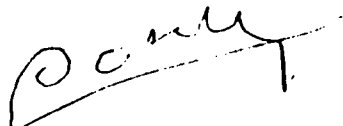
I have been invited to attend what is presented as the first formal meeting of the Constitutional Council on Wednesday, June 3, 1998. I have no plans to attend this meeting as I have determined that it is not a bona fide legal meeting of a legal body.

According to Article 39 of the Law on Organization and Functioning of the Constitutional Council, the first meeting of the Council is to be convened by the oldest member (the Dean). Therefore it falls to me to decide whether to convene the meeting.

I have not convened this June 3 meeting, and will not convene any meeting at least until sufficient members are appointed legally to the Council to achieve a quorum of seven. This is not possible now, as three of the claimed members of the Council are not legal members; they were supposedly appointed by the Supreme Council of Magistracy, but that body itself has never been formed legally. Furthermore, there seems to be insufficient evidence to support the claims of certain new appointees to the Council that they meet the education requirements set out in Article 119 of the Constitution.

Even if the Council were to be formed legally, the hasty manner in which it is being formed would impair its function. The formation of the Council would be already too late to rule on questions such as party registration, and given a polling date of July 26, there will be insufficient time for it to rule conscientiously on numerous questions that have arisen concerning the interpretation of the Law on Political Parties, the Law on Election of Members of the National Assembly, and the Law on the Organization and Functioning of the Constitutional Council, as required by Article 117 of the Constitution.

Details of these objections have been made clear in the statements I have made on March 27 and on May 20. Now I must follow my conscience and take a firm stand in favor of the proper formation of the legal institutions that must play a fundamental role in deciding questions of law and the Constitution, which are the basis for legitimate elections.



CHAU SEN COCSAL CHHUM
Dean of the Constitutional Council
President of the National Assembly, 1959 to 1968

J. Report for the JIOG on the Electoral Process for Period Ending June 25 1998

**REPORT FOR THE JIOG ON THE ELECTORAL PROCESS
FOR PERIOD ENDING JUNE 25 1998**

Executive Summary

This report is based on information obtained from 20 USFD/UNEAS and Australian and Canadian Long Term Observers, 20 European Union Long Term Observers, 20 UN Monitors from the Office of the Secretary-General's Representative in Cambodia, and the six teams of mobile monitors from the Cambodia Office of the High Commissioner for Human Rights. With one month left before polling day, there are serious issues to be discussed by JIOG, and consequently what action should be taken. As registration is over and the campaign period has begun, it appears the most important issue is the independence of the electoral commissions and the conduct of the political parties and how both affect the people's perception of the secrecy of the ballot.

1. Intimidation

Observers have reported widespread forms of intimidation including recent killings, the confiscation of voters' cards and the recording of details from those cards, and personal threats to individuals' security and property. All of which combine to create a climate which detracts from voters' ability to cast ballots according to their free will.

2. Voter Education

Under the election law, the NEC is tasked with voter education and awareness efforts through the media. Voter education on issues such as secrecy of the ballot, rules against intimidation and identifying party symbols are key to the possibility of success on election day and have so far not been adequate.

3. Access to Media

During an election campaign it is particularly important that freedom of expression is respected. For elections to be free and fair, the political parties must have equitable access to the media.

4. Freedom of Speech, Movement and Assembly

Political parties, generally, have had few problems opening offices, though some signs have been destroyed. The main problems stem from intimidation of individual party members and their fear of campaigning locally, and from inequitable access to media. A full report on the campaign will be presented next week.

5. Election Commissions

The prevalence of CPP members in the Election Commissions and their contact with local authorities do not inspire confidence in the neutrality of the elections. Polling station staff should be recruited fairly so people can feel that they are free to vote for who they want and believe their ballots will be secret during the count. The NEC should emphasize the importance of independence and neutrality to their staff as pivotal to the success of the elections.

6. State of Preparedness

There are concerns raised if the elections will be able to proceed on time. The recruitment and training of polling station staff, the arrival and the distribution of ballots and kits, the completion and the printing of the computerized electoral register are all under pressure to be ready for polling day. HE Kassie Neou, Vice-Chairman to the NEC, stated in the press today that the NEC is short of funds to complete the election process. Technical and financial difficulties may delay the date of polling day, and thus the deployment of international observers.

FULL REPORT

1. Political Intimidation

In general, there appears to be both subtle and direct forms of intimidation of the political opposition and voting population by local CPP officials at the provincial, district, commune and village levels.

The most serious manifestation of intimidation is politically motivated killing. The UN Centre for Human Rights has identified 12 potentially political killings since May, including six killings in the past twelve days which may have been politically motivated. There has been a perception that there has been an increase in the prevalence of such violence with the approach of the election, particularly in constituencies such as Prey Veng, Kandal and Kompong Cham where the electorate has the most seats in the National Assembly. Many cases which may be potentially political are dealt with as criminal ones. For example, in Stung Treng a FUNCINPEC member was shot at on May 19. The case was closed without investigation as the criminal police called it a case of robbery and not a political act.

Recent cases include:

Phin Phon, a former FUNCINPEC member who recently joined the Reastr Niyum Party, was summarily executed by his house by two unidentified men on June 14 1998 in Prey Veng. No valuables were taken. Reastr Niyum officials said Phon had recently been threatened by the local commune chief.

The body of Em Iem, a Sam Rainsy Party member, was exhumed by family members in Kompomg Cham on June 19 1998. His death followed several documented threats against him and other supporters of the Sam Rainsy Party by local officials.

Mrs. Neang Mom Yeng, the mistress of a local FUNCINPEC official in Prey Veng was shot dead by an unidentified assailant on June 14 (at the same time and in same district as Phin Phon) though it is not yet clear if it was a family dispute or politically motivated.

Local police in Kandal have identified Thong Sophal, a FUNCINPEC activist in Kandal, who was found dead on Sunday 28 June 1998. The body showed signs of severe torture.

Confiscation of voter registration cards by CPP commune and village chiefs is continuing. The CPP confiscates the cards and records the name and registration number which implies that with this knowledge of their voter registration information it is possible to ascertain how their votes were cast. High-ranking CPP officials have denied that the party has instructed local officials to record the voter registration information, and yet international observers have reported such cases in many provinces. This strategy is a serious concern not only because it is outside the local jurisdiction to confiscate the cards, but because of the very serious damage it is doing to belief in the secrecy of the ballot. Interference of this nature by local officials is creating a climate whereby voters are fearful that their ballot choices will be cross-checked with the information collected during the confiscation of voter registration cards. This could seriously detract from voters' confidence to cast ballots according to their free will.

Reports were received from party officials who alleged that threats of physical harm, property damage and imprisonment were made against those who indicate a preference for a non-CPP political party. For example USFD/JIOG observers have reported that in Takeo, Svay Rieng, Ratanakiri and Kandal at commune level there has been many cases of confiscation of voters' cards, thumbprints, conditional gifts, and threats to security and property. The Sam Rainsy Party activists in Svay Rieng reported threats by armed men to the PEC, but the PEC refused to investigate the claim because it had not been presented properly. Observers in other provinces have not reported such cases, which is probably due to whether they discuss these issues with political parties or COMFREL observers. The campaign carried out by CPP agents to pressure people to thumbprint and swear allegiance to the CPP appears to have tailed off, but the perceived threat remains that people are afraid that if they do not vote for CPP then they will have to leave the village or some harm will come to them. The consequence of these types of activity was perceived by political and international officials as creating a fear of reprisals.

Recommendation: JIOG should express its concern to the NEC about deficiencies in the campaign and election process which flow from the practice of intimidation and which threaten the perception of ballot box secrecy.

2. Voter Education

The level of intimidation throughout the country is so widespread that it must have a serious effect on the voters' confidence in the secrecy of the ballot. Village chiefs and CPP agents have lists of names. People have been threatened or coerced. Counting ballots in small communes may intimidate voters' free choice. While people have shown their will to vote by the high turn out of registration, it remains to be seen if they will be able to exercise that right to vote freely. So far voter education has been adequate for registration. Observers have reported that now there is no voter education program currently probably due to a "lull" between registration and the lead up to polling day. COMFREL and EU have plans to launch a voter education campaign.

Secrecy of the ballot is the key issue if the elections are going to be minimally free and fair.

As for voter education in the media, on June 8, seven election-related NGOs requested the NEC to amend the media regulation and to order radio and television stations to broadcast free of charge bona fide voter registration materials. The NEC has limited financial and technical resources to produce voter education material and has asked NGOs to produce radio and television spots and pay for the airtime. In addition, all NGO programming on state owned and privately owned television stations must be reviewed first by the TVK director.

Recommendation: JIOG should consider asking the NEC to emphasize the secrecy of the ballot through radio messages indicating that it is an offence under Article 95 of the Election Law to attempt to discover or reveal the manner in which a person has voted. In addition JIOG should publicize the number of observers coming to specifically observe the elections and deter irregularities or report on them. COMFREL should also publicize its national observation operation to try to instill some confidence in the process.

3. Access to Media

During an election campaign, it is particularly important that freedom of expression is respected. For elections to be genuinely free and fair, the political parties must have equitable access to the media. Reports were received from political party representatives that the electronic media was not giving enough coverage of non-Governmental political figures.

This lack of equitable access to the media is sharply pointed out in the media monitoring figures for May 1998 provided by the UN Centre for Human Rights. The main newscasts on TV stations – TVK, TV-3 and TV-5 – and national radio were systematically monitored. On a party basis, CPP (Hun Sen) had 448 appearances, Reastr Niyum (Ung Huot) had 91, FUNCINPEC (Ranariddh) had 9 and Sam Rainsy Party had 5. Impartiality is a critical factor in the pre-election period. On June 17 First Prime Minister Ung Huot stated on National Radio that "Hun Sen plus prince Ranariddh results in war, but Hun Sen plus Ung Huot results in street lamps." This kind of language flouts the code of conduct.

The issue of ownership of the electronic media is a central one for small or opposition parties. Since 1993, the Ministry of Information has established a policy of allowing only private individuals to receive licenses to operate radio and television stations. Sam Rainsy has applied five times for a radio and television license. The Secretary of State Khieu Kanharith sent a letter to Sam Rainsy on behalf of the Ministry of Information formally refusing the request, stating that the airwaves are too cluttered by existing stations. After a long delay, FUNCINPEC was given final approval to operate the station on June 19.

The NEC media regulations require political impartiality of all stations from the start of the campaign period on June 25, so the station is of little benefit to the party before the election. Both FUNCINPEC and Sonn Sann Party had lost their equipment to operate a station after July last year. Neither party has had time to regain the necessary equipment to operate a small new station. In contrast individuals acting on behalf of the Buddhist Liberal Party led by Minister of Information Ieng Mouly and the Reastr Niyum Party led by First Prime Minister Ung Huot received licenses without significant problems.

Returning politicians objected to the NEC regulation that each party would be allowed 5 minute spots on television during the campaign period.

For more details on the issue of media access please refer to Ambassador Hammarberg's report , 25 June 1998, from The Special Representative of the United Nations Secretary-General for Human Rights in Cambodia.

Recommendation: JIOG should request that the NEC approach national broadcasters to seek comparable coverage of significant opposition leaders to that of Government leaders during the course of the election campaign.

3. Freedom of Speech, Movement and Assembly

Observers report that political parties have been able to set up offices in the provinces they choose without any difficulty. There have been disputes in Banteay Meanchey for example about political offices which were set up within 250 meters of polling stations before the list of polling stations were announced.

In Sihanoukville, the Sam Rainsy Party feels that the approval to open new offices is being stalled. The Vice-Chief of City Hall stated that some parties do not understand NEC regulations and local law. For example, parties receive a license to open their headquarters but then open 4 or 5 offices without district authorization. He also stated that putting signs on a licensed office is legal but placing signs in front of private homes is campaigning which is not legal until 25 June. Parties complaining that their signs have been taken down may not have received the appropriate approval from local authorities. In cases where signs are shot at or destroyed deliberately, this is a clear form of intimidation.

Generally, the campaign started on 25 June without any disturbances. There has been good cooperation between the parties requesting permission for rallies and the PEC and provincial government. There seems to be general agreement on equal rights and respect for the rights of the other parties. However, practical matters such as how to avoid campaigning in the same areas at the same time was a concern of most parties and government officials.

Ranariddh organized a rally in Kompong Cham attended by 10,000 people without any apparent intimidation. CPP opened its campaign at its provincial headquarters in Stung Treng attended by 250-300 people and if attendance had been mandatory for all villagers, there would have been more people at the meeting. The Sam Rainsy Party submitted their party platform outline to the PEC for approval. The PEC sent the platform outline back requesting that they change the tone of the platform as it was against the campaign code of conduct which prohibits attacks on parties and candidates. In Kompong Cham, FUNCINPEC members reported to the international observers that they feared showing public support for their party.

Recommendation: While it appears that the campaign has started well and in accordance with the code of conduct, there are two issues which need to be addressed. First the intimidation of party members openly supporting their party and fearing reprisals if they do. Secondly if all parties are allowed political rallies, they should have the same equitable access to the electronic media.

4. Electoral Commissions

It has already been reported that there are concerns about the prevalence of CPP officials within the PECs and CECs. It is true that most members of the PEC and CEC were previously government employees in fairly non-political positions, such as teachers or administrators. Having the Electoral Commissions virtually controlled by the CPP gives a perception of the Electoral Commissions being party aligned and not necessarily neutral. The reality of neutrality may be different than the perception by the opposition parties. However, reports show that the independent electoral bodies are cooperating closely with the local

authorities. It is important that the maximum separation be maintained between those involved in the political process and those involved in the electoral process.

In Kandal, FUNCINPEC have reported that most CEC members were appointed based on their party membership (CPP). The PEC had a list of active CPP members at the commune level, and they selected applicants based on that list. Another concern raised in the recruitment of staff, if not party affiliation, is nepotism.

The CECs are currently recruiting 60,000 polling station staff throughout the country. Due to the people's doubt of the secrecy of the ballot and the sensitivity of counting the ballots at commune level, it is important that the polling station staff are seen to be independent and neutral, otherwise this could have a serious effect on the freedom of choice on polling day.

Recommendation: JIOG should recommend to the NEC that it ensures that the terms of Article 99 of the Election Law are fully implemented on election day so as to exclude those other than registered CEC officials from polling stations except for the process of casting their own ballot. In addition, CEC and polling station staff should be reminded of the penalties if they violate the code of conduct.

5. State of Preparedness

There are three areas of concern as weak points in the technical preparation for the election. The first is the recruitment and training of 60,000 polling station staff. According to the NEC the process of recruitment and training is slower than had been anticipated. The second is the possible delay in distributing all ballots and kits to each polling station in sufficient time for polling day on 26 July. The third is the completion and distribution of the computer generated final list of electors which is already behind schedule.

If there are serious delays it may have an effect on the whole electoral process. The JIOG should think about the possibility of keeping all its observers in country if the polling day is postponed due to technical reasons. For political reasons the NEC may not want to announce any postponement of the elections, also for fear of being accused of incompetence.

Recommendation: JIOG should ascertain from the NEC if the elections can be held technically on July 26. If not, JIOG will have to reschedule the arrival of the STOs, according to the first possible date given by the NEC.

K. National Election Committee Media Regulation

Kingdom of Cambodia
Nation Religion King

National Election Committee

Number : 05.705/98 N.E.C.

Phnom Penh, 21 May 1998

Media Regulation

The NEC, according to the Chapter 7 of the Election of the members of NA stating about the election Campaign, wishes to issue the follow instruction on Media:

1. All types of Media Systems concerning the election, in order to the political parties, candidates spread their political programs to the voters based on the Equality principle, shall be co.-operated and reconciled in advance with the NEC.
2. All run State-Media Systems shall publish all information (news) proposed by NEC, for free, relating to the election for the public, following the instructions organized by the NEC
3. All state and private Media shall respect the Constitution, Press Law, Law on Election of Members of NA, Law on Political Parties, Code of Conduct, and Regulation & Procedures of the NEC.
4. A political party has been registered by the NEC can produce :
 - A. Spot Radio and Video Tapes for the political programs of his political party, that for one Spot for a period of 5 minutes per day, then send it to the NEC, in order to make a show based on equality and numeric order, from June 25 to July 24, 1998.
 - B. The documents published in the national information is allowed for one computer typing A4-page, for one publication. The all above mentioned documents provided not on time, this considered that the party concerned maintains the same contain of campaign for its publishing in the next day.
 - C. All political parties can attend the round-table talk base on the equality principle and numeric order by drawing lots.
 - This discussion can be participated 2-3 to 5 parties for each time.
 - drawing lots shall be applied for each discussion ends.
 - There is 5 minutes allowed for each party to answer.
 - The NEC convene a meeting instructing all registered parties on points A-B-C, 15 days before the equal media access starts.

- D. The NEC will deduct the time limit to a normal, if any taking advantage to add extend period.
5. NGOs, Governmental Organizations and Institutions issued from the United Nations wish to participate and help in the Equal Access to Media or educate the people to understand about the election, please appoint your legal representatives to contact the NEC.
 6. All radios, TVs, cable TVs, private newspapers or in purpose of a political party, during the electoral campaign, from 25 June to 24 July 1998, shall absolutely cease the political activities directly or indirectly served the individual, group or political party interest, except if any props from the NEC until the election day is announced for final end.
 7. All activities of the electoral campaign shall be ceased 24 hours before the election day. All kinds of the electoral campaign activities have been detailed in the Regulation & Procedures on the Electoral Campaign Process. Shall be condemned as determined in the Penalty Provisions of the Law on the Election of the Members of NA, if any violation on the Access to Media and the Regulation & Procedures on the Electoral Campaign.

National Election Committee
President

Chheng Phon

L. Report of the Special Representative of the Secretary-General for Human Rights in Cambodia on Access to the Media (25 June 1998)

Report of the Special Representative of the Secretary-General for Human Rights in Cambodia on Access to the Media (25 June 1998)

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Article 19, Universal Declaration of Human Rights.

Freedom of expression is a basic human right. This right is essential for elections to be free. For them to be fair there is also a need for equitable access to the media. According to the United Nations publication, "Human Rights and Elections," "Unless all persons feel free to express themselves and are, in fact, able to disseminate, without fear, all legitimate political information into the national dialogue, there can be **no guarantee** that elections are a true manifestation of the will of the people."¹

The media is the principal means by which to disseminate such information. While it is widely understood that equitable access to the media is important for parties and candidates participating in an election, it is equally important for voters, who need and have the right to "receive" information so that they can make an informed choice when casting their ballots.

In the 1991 "Agreements on a Comprehensive Political Settlement of the Cambodia Conflict" (the "Paris Peace Agreements") "fair access to the media, including press, television and radio, for all political parties contesting in the election" was a key component of the election process.² UNTAC considered equitable access to the media to be so important that it created "Radio UNTAC" to undertake voter education and to offer equitable access to the competing parties.

In the long preparatory period for the July 1998 elections, which began in 1995 with the Ministry of Interior-sponsored seminar on "Election Systems and Preparations," there has been a consensus on the importance of equitable access to the media. In his 11-point speech on 25 October 1995, Co-Minister of Interior Sar Kheng stated that "during the election campaign, there must be equal access to the media in both broadcast and written forms." This principle has since been restated on many occasions by all Cambodian political leaders.

Press

Though limited in circulation, newspapers are likely to be a primary source of news and positive and negative political propaganda in the pre-election period. A wide variety of opinions and "news" is published in the Cambodian press. All major political parties have reasonable and regular access to the printed media. Each of the major political parties, including opposition parties, controls surrogate newspapers.

Newspapers continue to publish criticism of the government and opposition political parties in an environment of threats and occasional violence. Since 1993 five journalists have been killed. None of the perpetrators has been arrested, tried and convicted.

¹ "Human Rights and Elections," Professional Training Series No. 2, A Handbook on the Legal, Technical and Human Rights Aspects of Elections, Paragraph 39, Centre for Human Rights, United Nations, Geneva, 1994.

² Annex 1, section D, paragraph f. See also Annex 3, paragraph 9, which states that "All registered political parties will enjoy fair access to the media, including the press, television and radio."

The most recent attack against a journalist occurred on 8 June. Thong Uy Pang, editor of the pro-government "Koh Santipheap" newspaper, was shot and seriously injured at Wat Toek Tla. The assailants escaped. The motive for the shooting is unclear.

A serious concern is the recent publication of threats in newspapers. On 15 May "Chakraval," a newspaper aligned with the Cambodian People's Party (CPP), published a threat against Son Chhay, an MP and member of the Sam Rainsy Party, stating that "relative of the victims [of the July 1997 fighting] have requested to shoot Son Chhay" because of his support for an amnesty for FUNCINPEC General Nhek Bun Chhay. On 19 May "Chakraval" editorialized that "Cambodia cannot have peace until the King dies." On 1 June "Koh Santipheap" published an article which said that "Sam Rainsy cannot and must not make Cambodia 'swim in a sea of blood' like Indonesia ... If Sam Rainsy now provokes anarchy in Phnom Penh, we think that many people will be killed and among them will be the provoker, too. Do not think that he will be able to fly away then."

Another concern is the use of the press to incite violence against members of other parties or members of ethnic minority groups, such as ethnic Vietnamese. This is particularly worrisome given the many killings before the 1993 elections of ethnic Vietnamese persons and in light of the ethnically motivated attack in April in Kompong Chhnang in which 23 people were killed.

Of particular concern are newspapers controlled by the opposition and others with a long history of anti-Vietnamese bias. Since the beginning of the voter registration process, many opposition papers have published strong attacks on ethnic Vietnamese, claiming that such persons were illegally registering in large numbers and that the country was under siege by "foreigners." It must be noted that a large percentage of the ethnic Vietnamese community in Cambodia has the right to Khmer citizenship and therefore the right to vote. This is a volatile subject that, in the wrong circumstances, could lead to serious violence against persons of Vietnamese origin.

Electronic Media

Since July 1997, only the CPP and its allies have had access to the electronic media.

State and quasi-state television and radio are dominated by the CPP. The lack of equitable access to the media is sharply pointed out in the chart on the next page. During the month of May 1998 the main newscasts on state or quasi-state television stations – TVK, TV-3 and TV-5 – were systematically monitored. The chart shows the number of times that individual politicians (party affiliations are noted) appeared on the main newscasts of these stations. Hun Sen appeared on 170 occasions, Ung Huot 68 times, while Prince Ranariddh and Sam Rainsy each appeared just five times (all were negative references, except for their separate visits to the King, in which there was no commentary).

On a party basis, CPP had 448 appearances, Reastr Niyum had 91, FUNCINPEC had 9 and the Sam Rainsy Party had 5.

NUMBER OF APPEARANCES ON MAIN NEWS PROGRAMS OF STATE AND
QUASI-STATE³ RADIO AND TELEVISION -- 1 MAY-31 MAY 1998

NAME	TVK	TV5	TV3	Nat'l Radio	Total	Party
King Sihanouk	28			7	35	
Queen Monique	14		1	5	20	
King & Queen	17				17	
Chao Sen Kosal				2	2	Advisor to King
Hun Sen	60	22	19	69	170	CPP
Chea Sim	22	2	1	11	36	CPP
Heng Samrin	2				2	CPP
Sar Kheng	4		1	1	6	CPP
Ouch Kim Ann	2		1	1	4	CPP
Sok An	10	2	5	4	21	CPP
Cham Prasith	11	3	8	1	23	CPP
Kiet Chhoun	6		1		7	CPP
Chea Chanto	2		1	2	5	CPP
Chea Sophara		2	8	5	15	CPP
Tea Banh	1	1	1	2	5	CPP
Nhim Vanda	13				13	CPP
So Khun & Chan Sarun	40				40	CPP
Say Chhum	3				3	CPP
Sieng Nam	3	11		6	20	CPP
Ngoun Nil	6				6	CPP
Chea Song	10	3	1	3	17	CPP
Nut Narang	5	7	3	2	17	CPP
Khieu Kanharith	6			4	10	CPP
Hun Neng	7				7	CPP
Ma Chouen	5				5	CPP
Ho Noun	3	2		1	6	CPP
Hun Sen/Ung Huot	3	2	1	4	10	CPP/Reastr Niyum
Ung Huot	29	9	9	21	68	Reastr Niyum
Tao Seng Huor	12				12	Reastr Niyum
Pou Sothirak				1	1	Reastr Niyum
Ieng Mouly	8			1	9	Buddhist Liberal Party
Prince Ranariddh	3			2	5	FUNCINPEC
Ing Kiet			1		1	FUNCINPEC
You Hockry				1	1	FUNCINPEC
Kan Mann				2	2	FUNCINPEC
Ted Ngoy				4	4	Free Republican Development Party
Sam Rainsy	2			3	5	Sam Rainsy Party
Bou Hel	1				1	Cambodian Neutral Party
Ngoun Soeur				1	1	Khmer Citizen's Party
Son Soubert					0	Son Sann Party
Chheng Phon	4			4	8	NEC
Im Suorsdei	2			1	3	NEC
Ieng Sary				1	1	

³ TVK is state owned. TV3 is owned by the municipality of Phnom Penh. TV5 is a joint venture between the Ministry of Defense and a Thai company. National radio is state owned.

Newscasts

A critical factor in the pre-election period will be the impartiality of newscasts on radio and television. Access to information from relatively unbiased sources is critical in allowing voters to make an informed choice.

Newscasts on state and quasi-state radio and television follow a hierarchical protocol. Depending on the newsworthiness of the day's events, the King is typically shown first, followed by the President of the National Assembly, the First Prime Minister, the Second Prime Minister, etc. Private stations such as "Apsara" and "Bayon" focus on the Second Prime Minister and usually omit the activities or statements of the First Prime Minister.

News about Cambodian politics is almost entirely partisan in nature. A disproportionate amount of time is spent on the Second Prime Minister and his party allies. For instance, when Hun Sen ended his period of self-imposed silence after the death of his mother in late April 1998, all six television stations and most radio stations covered his two-hour speech live. The speech was repeated on a number of stations.

Since Second Prime Minister Hun Sen announced a new organization to fight poverty, almost all stations have played a steady stream of announcements about the program. Concerts featuring many of Cambodia's most famous singers and comedians are regularly televised, offering praise for the Second Prime Minister and his new anti-poverty effort.

In recent weeks television newscasts have regularly featured trips by CPP leaders and MPs to provincial centers. Announcers read out statements in which the campaigners routinely send their "greetings from Chea Sim, Heng Samrin and Hun Sen, who always think about the people." CPP officials are then shown handing out sarong, krama, rice and other gifts.

On 19 June Second Prime Minister Hun Sen made a long speech at the Faculty of Business in Phnom Penh in which he laid out his plan to fight poverty and focus on economic issues after the election. A student representative was then quoted as saying that "Hun Sen is the only man who the people have confidence in ... this is why the Cambodian people hope that they will have a good leader like Hun Sen to lead them into the 21st century with honor and prosperity." This speech has been broadcast repeatedly, in full, on all television stations and most radio stations. The speech was so long that some stations have canceled their regular news bulletins to show it.

Apsara and Bayon television and radio have campaigned aggressively for the CPP since their inception. For instance, on the weekend of 20-21 June, Bayon played a steady stream of election-related programming, urging support for the CPP.

For the most part, opposition politicians do not exist on Cambodian television and radio. For instance, when Prince Ranariddh returned from exile on 30 March 1998, there was no coverage on Cambodian television stations. News directors later stated that his return was not newsworthy.⁴

Campaign speeches by leading members of the opposition are never covered.

⁴ This was the first story on CNN that day.

Aside from neutral coverage of a few meetings with the King, the only coverage of the opposition has been negative. For instance, on the eve of the trial of Prince Ranariddh in February, all six television stations broadcast anti-Ranariddh messages, blaming him for the July 1997 fighting and the death, injury and damage which resulted. More recently, on 17 June First Prime Minister Ung Huot stated on National Radio that "Hun Sen plus Prince Ranariddh results in war, but Hun Sen plus Ung Huot results in street lamps." Sam Rainsy is also frequently criticized on television and radio. The National United Front has been mentioned only in a critical light.

Television and radio are also used to inhibit the activities of opposition parties. For example, in the days before the 21 June demonstration organized by the Sam Rainsy Party in Phnom Penh, state and private television and radio stations repeatedly broadcast messages discouraging the public from attending the meeting.

Ownership and Licensing of Radio and Television Stations

Of the twelve Cambodian language radio stations currently operating, eleven are pro-CPP and one is independent (see chart on next page).⁵ All six Cambodian language television stations are directly or indirectly controlled by the CPP.⁶ Any deviation from the standard content of newscasts must be cleared with state television or the Ministry of Information. Two of the biggest radio/television stations, "Apsara" and Bayon," are operated by the CPP and Second Prime Minister Hun Sen, respectively.

The issue of ownership of the electronic media is a central one for small or opposition political parties. Without such access they will be severely limited in their attempts to disseminate their messages and proposed policies to voters. It is for this reason that the attempts by FUNCINPEC, the Son Sann Party and the Sam Rainsy Party to open radio and/or television stations have become a litmus test of the government's resolve to ensure equitable access to the media and a free and fair election.

There is presently no law on broadcasting, no substantive government regulations which specify who may own a radio or television station, and no procedures for licensing, the strength of frequencies, content restrictions (if any) or governmental oversight, etc. Instead, the Ministry of Information has relied solely on administrative fiat to deny or approve licenses and allocate frequencies.

Since 1993, the Ministry of Information has established a policy of allowing only private individuals to receive licenses to operate radio and television stations. Officially, it has rejected or failed to respond to all requests for radio or television licenses from political parties, stating that political parties *qua* political parties may not receive such licenses.

However, this policy appears to have been implemented in a partisan manner, as other stations affiliated with the CPP or allied parties have been able to open

⁵ The Ministry of Information is in the final stages of opening a new station at FM106. The station will have 5KW of power and be part of the National Radio network. It is unclear if the station will operate before the election.

⁶ TVK is currently operating a new station (TVK-10) in Pursat province five hours per day as a "test."

Cambodian radio and television stations currently operating and their political affiliations, if any:

Radio

1. FM 88: Aligned with Ieng Mouly and his Buddhist Liberal Party.
2. FM 90: The former FUNCINPEC station (see more below), now apparently aligned with Ung Huot and his Reastr Niyum Party. The signal is 10 KW and covers approximately 120 kilometers.
3. FM 93.5 ("Voice of Peace"): Station of Son Sann faction of BLDP. No longer on the air.
4. FM 95 ("Bayon"): Station controlled by the Second Prime Minister. Located in the compound of the Second Prime Minister. The signal is 10 KW and covers approximately 120 kilometers.
5. FM 97 (Apsara): Quasi-official CPP radio station. Apsara's building is frequently used for party meetings and functions. The signal is 10 KW and covers approximately 120 kilometers.
6. FM 98 (RCAF): Owned jointly by a Thai company and the Ministry of Defense. Controlled by the CPP. The signal is 10 KW and covers approximately 120 kilometers.
7. FM 99: This is privately owned by a Cambodian national. Aligned with the CPP. The signal is 10 KW and covers approximately 120 kilometers.
8. FM 103: Owned by the Municipality of Phnom Penh and leased to a private company. Controlled by CPP. The signal is 10 KW and covers approximately 120 kilometers.
9. FM 105 ("Beehive"): Owned by Mom So Nando, leader of the "Beehive Social Democratic Party" ("Sombok Ka Mum Sangkum Prachea Thippadei"). The station has recently criticized the CPP for monopolizing the electronic media, stating that this would preclude free and fair elections.
10. FM 107: Owned by the same people who own TV-9. No news or politics. The signal is 1 KW.
11. 540AM, 740AM: National Radio. Controlled by CPP.
12. FM 91: Radio Battambang. Private station. Affiliated with CPP.
13. AM (frequency unknown): Battambang outlet of National Radio (state radio). Controlled by CPP. Operates intermittently because of funding problems.

Television

1. Channel 3: Operated by the Phnom Penh municipality. Controlled by the CPP.
2. Channel 5: Owned jointly by a Thai company and the Ministry of Defense. Controlled by the CPP.
3. Channel 7: TVK (and TVK Battambang). State owned and operated. Controlled by the CPP.
4. Channel 9: Former FUNCINPEC station. Broadcasts news supplied from TVK.
5. Channel 11 ("Apsara"): Quasi-official CPP television station. Apsara's building is frequently used for party meetings or functions.
6. Channel 27 ("Bayon"): Station controlled by the Second Prime Minister. Located in the compound of the Second Prime Minister.

stations through individuals acting as surrogates for their parties. Yet, from 1994 until the granting of a license to the Son Sann Party in May 1998, when opposition political parties have requested licenses, first as parties and then, after being told that this was not possible, through surrogates, their requests have been rejected.⁷

When asked about the failure to grant licenses, Secretary of State for Information Khieu Kanharith (CPP) has repeatedly stated that there are no available radio frequencies. According to Kanharith, all FM radio frequencies already have been assigned, with the majority being kept in reserve for the planned expansion of the national radio network into each province in the year 2000. However, there are large numbers of vacant frequencies on both FM and AM bands. Even if every planned provincial station were set up immediately, there would still be ample room for other stations, as low kilowatt stations in one province would have no effect on the use of the same frequency in another, distant province.

FUNCINPEC Radio

FUNCINPEC operated a radio station (FM 90) and controlled a television station (channel 9) until July 1997, when FUNCINPEC lost control of both stations.

Licenses to operate the two stations were granted during the UNTAC period. According to FUNCINPEC officials and documents, since its inception FM 90 has been officially licensed under the name of FUNCINPEC. The land, building and equipment of the station was bought by the party. The station director was the program director for FUNCINPEC radio at the border.⁸

During and after the coup the station was surrounded by government troops. After the staff and FUNCINPEC forces were disarmed and allowed to leave, the station was occupied by those troops. While at the time it was reported that the station had been looted, it appears that the station was systematically and methodically dismantled and the equipment, including the transmitter and antennae, was confiscated by the police and army under the supervision of the Ministry of Information, where it was apparently stored.

On 7 November 1997 the brother of the former station director sent a letter to Second Prime Minister Hun Sen asking for the return of the station's building and its equipment. The letter-writer identified himself as the station director. However, this person had been the deputy director of the station, responsible only for advertising. After July 1997 he switched allegiances to Ung Huot. According to FUNCINPEC, at the time of the request the deputy director was not a FUNCINPEC member and had no authority to make such a request.

On 27 November Second Prime Minister Hun Sen annotated the letter with a request to the Phnom Penh Municipal authorities to implement the request. On 28 November First Prime Minister Ung Huot endorsed the request.

On 2 December 1997 Second Prime Minister Hun Sen met a FUNCINPEC delegation led by Prince Sisowath and stated that the station and its equipment would be returned to FUNCINPEC. On 5 December 1997 Ly Lay Sreng, Secretary of

⁷ It should be noted that until the rupture between Prince Ranariddh and Hun Sen in 1996, both major parties colluded in blocking access to the media for other political parties.

⁸ Receipts and banking correspondence show that FUNCINPEC was at least the de facto owner of the station. Much of the correspondence was in the name of Long Sarin, a FUNCINPEC party member in the Bangkok embassy, who signed with the FUNCINPEC seal with the written authorization of Prince Ranariddh.

State for Commerce (FUNCINPEC) and representative of Prince Ranariddh, wrote to Second Prime Minister Hun Sen to formally request the return of FM 90. The letter attached a list of equipment which was being held in the official custody of the Ministry of Information and the commune authority. On 6 December 1997 Second Prime Minister Hun Sen responded to Ly Lay Sreng by referring to the November correspondence with the station's deputy director and suggesting that Ly Lay Sreng should "contact [the relevant person] directly on this matter." However, the deputy director has since made it clear to FUNCINPEC that he will neither return the station to FUNCINPEC nor allow it to be used for their purposes.

On 14 January 1998 Secretary of State Khieu Kanharith granted permission to the deputy director to reopen FM 90. Subsequently, most of the confiscated equipment was returned to FM 90 and the station resumed operations. The station's newscasts now support First Prime Minister Ung Huot and Second Prime Minister Hun Sen. Although the licensing process has taken years for other parties, in January 1998 a new license for FM 90 was issued in the name of "Reach Soi Company" by the Ministry of Information. Official ownership of the station has also been changed to this company by the Ministry of Commerce.

FUNCINPEC has thus lost the station and all of its assets.

After leading members of the party returned in March and began to reorganize the party, FUNCINPEC requested a new radio license. After a long delay, permission for the 10 KW station was given by the Ministry of Information and Ministry of Commerce. A "prakas" (government decision) giving final approval to operate the station was issued on or about 19 June.

The party is now shipping equipment from France and Thailand. FUNCINPEC will also need to secure land and a building for the station. One prospective landlord recently backed out of an agreement after receiving pressure from local officials.

For reasons of time and money, FUNCINPEC now says that it plans to operate only a 5 KW station before the elections. However, according to technical experts, it is highly unlikely that a new station with this capacity could become operational before the elections (based on the assumption that the necessary equipment is not now in the country).⁹ As the media regulations (see below) issued by the NEC require political impartiality of all stations after the beginning of the campaign period on 25 June, if established the station would be of little or no political benefit to the party before the election. This contrasts with existing party-affiliated stations, which have been broadcasting partisan political messages for a long period of time.

FUNCINPEC Television

The FUNCINPEC television station, TV-9, was begun in 1993 during the UNTAC period. Initially located in the residence of Prince Ranariddh, it moved to a private residence in August 1993 before moving in 1995 to its present site in the Tuol Kork district of Phnom Penh.

In late 1993 FUNCINPEC decided to privatize the station and operate it for commercial and political purposes. Shareholders included a close relative of Prince Ranariddh. Mr. Khun Haing, a co-owner, was named the Director. While some of

⁹ If the equipment arrives before the election, the possibility of broadcasting will be greatly affected by the cooperation or lack thereof of the customs department.

the station's equipment was purchased by FUNCINPEC, most was purchased by the new owners with their own funds.

Until July 1997, TV-9 openly supported FUNCINPEC and First Prime Minister Prince Ranariddh and opposed Second Prime Minister Hun Sen and the CPP. It continued to broadcast in support of FUNCINPEC until the night of 5 July, when it was surrounded by the army, police and other unidentified armed persons. On the evening of 6 July a loudspeaker informed the staff of the station that if they did not leave they would be arrested. Shots were fired into the air and most of the staff fled. Three staff who remained at the station were later arrested when they tried to leave and held for one night. On 6-7 July the station was apparently looted. According to staff, everything of value except the transmitter was stolen (this included a number of expensive automobiles). The value of this equipment is alleged by the owners to be more than \$1,000,000. The station has received no compensation.

According to TV-9 staff, on 7 July Secretary of State Khieu Kanharith came to the station and requested it to continue to operate. The staff asked for the removal of armed forces who were surrounding the station. Kanharith brought security forces of his own to protect the station, who remained until approximately the end of July.

Since July 1997, TV-9 has broadcast news supplied by TVK, as it has had no equipment or staff to produce its own newscasts. When Ministry of Information and TVK officials suggested that it broadcast TVK news, the TV-9 staff claimed that they had no choice but to agree. While TV-9 now has the technical ability to produce its own newscasts (with the return of staff and the purchase of some second-hand equipment), the owners and staff continue to practice self-censorship. According to TV-9 staff, the director of TVK often requests TV-9 to broadcast certain events, such as the denunciation of Prince Ranariddh before his trial in February or the April ceremony at Olympic Stadium featuring Second Prime Minister Hun Sen and recent Khmer Rouge defectors. TV-9 has not refused any such request.

TV-9 staff say that they are afraid to allow FUNCINPEC to again use the station as a party flagship. The station says it would consider selling air time to FUNCINPEC, although it is waiting for the approval of Second Prime Minister Hun Sen before broadcasting any pro-FUNCINPEC material, whether in the form of paid advertising or otherwise. The staff say that if TV-9 were to broadcast pro-Ranariddh or anti-Hun Sen material – or even stop broadcasting TVK newscasts -- the station might be attacked with consequent loss of life and/or property.

Son Sann Party (SSP)

Beginning in 1994, the BLDP made numerous requests to the First Prime Minister, the Second Prime Minister and the Minister of Information, Ieng Mouly, for permission to operate a radio and television station. Written requests were made in 1994 (one), 1995 (two), and 1996 (three). Beginning in 1996, these requests were made in the name of a private company. The final request in late 1996 was narrowed to a radio station. At this point, Prince Ranariddh agreed "in principle." Second Prime Minister Hun Sen did not respond.

In early 1997, the Vice-President of the Son Sann faction of the BLDP, Son Soubert, wrote to the Ministry of Information to inform them that from 1 March 1997, they would start operating a radio station on the basis of the approval from the First Prime Minister. In the absence of any response from the Ministry, Soubert requested the Minister of Posts and Telecommunications, So Khun (CPP), for the allocation of a frequency. So Khun informed him that BLDP could use 93.5 MHz, as it was not in use.

In early March 1997 the Son Sann faction of the BLDP began to operate a radio station at 93.5 FM called the "Voice of Peace." The station had a 3KW transmitter and a radius of approximately 50-60 kilometers.

However, on 13 March 1997 Secretary of State for Information, Khieu Kanharith, demanded closure of the station and threatened to use "preventive measures by the competent authority" (i.e., force) to close the station. In another letter dated 4 April 1997, Kanharith wrote to Son Soubert to inform him that the 93 MHz frequency had already been assigned to the Ministry of Defense in Kratie province and was "reserved for the sub-channels of the Ministry of Defense throughout the country ... All present FM broadcasting frequencies have already been legally authorized by the Ministry of Information. However, if you wish to make contact with authorized private companies to share or buy a station from them the Ministry does not have any objection."

"Voice of Peace" continued to operate. On 2 May 1997 Kanharith sent another letter to Soubert demanding closure of the station and again threatening to use "preventive measures by the competent authority" to close the station (no reference was made to any law or court order authorizing such action). At this point First Prime Minister Prince Ranariddh intervened, threatening to use force to protect the station against any attempts at closure.

During the coup, all Son Sann party and family members fled Son Sann's residence, where the radio station and transmitter were located. When they returned, all of the equipment, including the transmitter, was gone. It is unclear who took the equipment.

SSP renewed its request for a radio license in early 1998. On 6 May 1998 Khieu Kanharith, "on behalf of the Minister of Information," formally approved the request for a 10 kilowatt radio license at 93.5 FM. Maintaining the position that political parties do not own radio or TV stations, the request was granted in the name of Mr. Som Serey, a close associate of Son Soubert.

However, SSP states that without the return of its equipment it has neither the funds nor the time to establish a 10 KW station. Plans to open a limited-radius 500 watt station on the roof of its party headquarters have been put aside as uneconomical at this stage of the campaign.

Sam Rainsy Party (SRP)

On 30 May 1996, the Khmer Nation Party (the predecessor of the SRP) requested a radio license from the Ministry of Information in the name of the party, informing the Ministry that it intended to use FM102, one of the many frequencies still unused. On 3 June Secretary of State for Information Khieu Kanharith responded that there were no available frequencies.

On 10 September 1996 Sam Rainsy applied for a radio license in his own name. On 30 October 1996 Minister of Information Ieng Mouly refused the request.

On 5 March 1997 Rainsy wrote to both prime ministers to request a radio license in his own name. On 6 March Prince Ranariddh approved the request. Second Prime Minister Hun Sen asked the Ministry of Information for its advice. On 24 April Secretary of State Khieu Kanharith responded negatively, stating that Cambodia already had enough radio stations. In May 1997 Khieu Kanharith told a local

newspaper that the Khmer Nation Party could not have a radio license because "we have a plan to provide each of the 23 towns and provinces of Cambodia with a radio station by the year 2000. So there are not really enough radio frequencies for the KNP to have one."¹⁰

On 8 December 1997 Sam Rainsy met with Second Prime Minister Hun Sen. During the meeting the Second Prime Minister reportedly promised Rainsy that his request for a radio license would be granted and urged Rainsy to form a private company for this purpose. On 16 January 1998 a request was made to the Ministry of Information in the name of U.S.T.E. Company. No response was received.

On 25 May 1998, Sam Rainsy again formally applied to the Ministry of Information for a radio and television license.¹¹ Minister of Information Ieng Mouly was quoted on National Radio stating that no frequency is available and the advertising market is too small to accommodate new stations. On 8 June, Kassie Neou, Vice-Chairman of the NEC, announced that "Sam Rainsy's party will also receive a license if he submits a proper application."¹² On 12 June Secretary of State Khieu Kanharith sent a letter to Sam Rainsy on behalf of the Ministry of Information formally refusing the request. The letter stated that the airwaves are too cluttered by existing stations and the Phnom Penh advertising market is too small to allow additional stations to operate.

Such arguments do not appear to be sufficient to refuse this request and create the appearance of partisanship on the part of the Ministry of Information.

Other Political Parties

Individuals acting on behalf of the Buddhist Liberal Party led by Minister of Information Ieng Mouly and the Reastr Niyum Party led by First Prime Minister Ung Huot received licenses to operate radio stations without significant problems. Apparently because of the significant cost in starting new stations, it does not appear that any other parties, or individuals acting on behalf of parties, have applied for radio or television licenses. Concerns that every political party would ask for a radio or television license do not appear to be well-founded at this time.

¹⁰ Interview of 23-24 May 1997 with "Cambodia Today."

¹¹ The letter stated that "The date currently set for the election is exactly two months away and if the elections were to be free, fair and credible the opposition should have had equitable access to the media long since. Please note that the 'absence of equitable access to the media by the main political parties and candidates' is one of the conditions that UN Secretary-General Kofi Annan listed on April 2 that would undermine the holding of legitimate elections in Cambodia. So far it is clear that there has been no serious attempt to solve this problem."

¹² "Update by Kassie Neou on preparations for the Cambodian election," disseminated on "camnews," an Internet site, 8 June 1998.

Media Regulations

"The electoral process is a mechanism whose very purpose is the expression of the political will of the people. The right to express partisan ideas must, therefore, be firmly guarded during election periods."¹³

Under the Election Law, the NEC has the responsibility to ensure equal access to the media for all political parties.¹⁴ On 21 May the NEC issued media guidelines for the election period. The regulations cover the campaign period of 25 June-24 July, and contemplate a regime of pre-publication censorship for television, radio and newspapers over any information deemed to be "political." To ensure equal access to the media for all political parties, during this period each political party may submit a daily, five-minute television and radio spot on its political program to the NEC, which will review it before broadcast. It is not clear what standards will be used in vetting the spots. Parties will also be allowed five minutes on 15 "round-table discussions," which will be in the form of a series of answers by parties to questions asked in a predetermined order.

The 21 May regulation also states that "from 25 June-24 July all radio, television, cable television and newspapers which are privately owned or work for a political party shall absolutely cease electoral campaign activities in direct or indirect support of any individual, group or political party interest." If enforced, this would mean that any newly established opposition party television or radio stations would have to cease broadcasting political messages soon after beginning operations or, if set up after 25 June, would be unable to broadcast political messages at all prior to the election.

Through Agence de Khmer Presse (AKP), the NEC also apparently plans to publish a special daily election newspaper throughout the campaign period. Each political party may submit a one page article which will be published by AKP. It is unclear how and where it will be distributed to the public.

On 8 June, seven election-related NGOs requested the NEC to amend the media regulation. The NGOs asked the NEC to cease acting as a censor of voter education materials or political party messages; to order radio and television stations to broadcast free of charge bona fide voter registration materials; to remove references to newspapers from the regulation, which should be allowed to publish normally as stipulated in the Constitution and Press Law; to allow roundtable discussions on television and radio which allow for genuine discussion, dialogue and debate; and to broadcast election related programming at peak viewing or listening hours (under the regulation they are scheduled for the hours of 8-11am and 2:30-5:30 pm).

On 15 June a meeting was held with the media component of the NEC. Only the last suggestion was accepted.

On 19 June the NEC's Public Information Bureau issued a statement clarifying the meaning of article 6 of the regulation: "During the election campaign the media is free to report the news along factual lines. But media may not publish or broadcast items biased in favour of a political party, nor should they break election laws that prohibit, for

¹³ "Human Rights and Elections," Professional Training Series No. 2, A Handbook on the Legal, Technical and Human Rights Aspects of Elections, paragraph 35, Centre for Human Rights, United Nations, Geneva, 1994.

¹⁴ The NEC member responsible for media is Prum Vichit, the Under-Secretary of State at the Ministry of Information. The Public Information Officer of the NEC is Leng Sochea, also a senior official at the Ministry of Information. Both are members of the CPP.

example, inciting readers or viewers to violence. The statement was signed by Leng Sochea.

It must be noted that given the media situation it inherited, the NEC had only three choices. It could have done nothing; it could have insisted on immediate and full access of all parties to state media and the right of ownership of private media; or, as the 21 May regulation does, it could have taken the approach of attempting to silence the media. Implementing an equal media access policy such as this beginning on 25 June will not correct the impact of the previous imbalance. Such limitations on political speech are not more justified during an election campaign.

The only access opposition parties are likely to have to the broadcast media before the election will be through the NEC organized party spots and roundtables, in which individual party voices are likely to be drowned in a sea of 39 consecutive presentations. Few interviewed on this subject believe that many members of the public will watch these presentations.

Voter Education

"Funding and administration should be provided for objective, non-partisan voter education and information campaigns ... The public should be well-informed as to where, when and how to vote, as well as to why voting is important. They must be confident in the integrity of the process and in their right to participate in it."¹⁵

Under the election law, the NEC is tasked with voter education and awareness efforts through the media. Voter education on issues such as secrecy of the ballot, rules against intimidation and identifying party symbols are key to the possibility of success on election day.

The NEC has broadcast many spots on voter registration and other aspects of the elections on state television and radio and some private stations. These appear to be professional and neutral in character. However, there is a need for a greater variety of messages and a greater repetition of successful spots.

NGOs should have and are prepared to play a major role in voter education and awareness efforts through television and radio. NGOs have also prepared election-related spots which have been broadcast after approval by the NEC. Because of censorship, political control of state and private stations and the high cost of broadcasting, this role has been unduly limited.

A 4 May NEC directive states that NGOs "may broadcast their spots in all radio-television stations by paying charges." This places an unnecessary burden on NGOs attempting to offer essential, non-partisan information to voters. Prices vary, but the typical voter education spot costs from \$50-\$150 per spot. NGOs with longstanding contacts with individual stations report better rates than NGOs which have not produced material for broadcast before. NGOs and at least one donor have complained to the NEC about this directive to no avail.

The 4 May directive also appears to contradict the intention of article 74 of the election law, which states that "all media, including state-run press, television and

¹⁵ "Human Rights and Elections," Professional Training Series No. 2, A Handbook on the Legal, Technical and Human Rights Aspects of Elections, paragraph 124, Centre for Human Rights, United Nations, Geneva, 1994.

radio, shall make their services available to the NEC at no cost for the purpose of publicizing electoral work and conducting voter education." As NGOs are effectively performing such work on behalf of the NEC – indeed the NEC has limited financial and technical resources to produce such material and has asked NGOs to produce radio and television spots – it could have been expected that the NEC would direct the media to broadcast NGO-produced material at little or no cost.

According to many NGOs, a recent change in practice requires all NGO programming on state owned and privately owned television stations to be shown first to the TVK director for content review. For example, one NGO had proposed "roundtable" discussions on women's issues which would include a government official, an NGO representative and a political party representative. The response was that members of political parties would not be allowed to participate in such programs. TVK suggested that all such programming be postponed until after the elections as it had no free air time to present such programs. It was also suggested that in future it would be better for NGOs to jointly produce the programs with TVK instead of producing them independently.

NGOs also report that access to state and private television has become more restrictive. In the past TVK accepted NGO produced programming of 1-2 hours; now it allows NGO programs of a maximum of 20 minutes. Each approved NGO is limited to one such program per week. While NGOs have always had to pay to broadcast their programs, the fee has now been increased by 20 percent for each show, in spite of the reduced air time. For new programming, the fee has doubled (\$250 to \$500).

Censorship within TVK is also more open. Before receiving approval, the TVK director must be informed of the content of the program, including the names of any panelists. In some cases, TVK has insisted that panelists of its choosing be included in order to air a program. It has been made expressly clear that discussions must not include any criticism of the government or its leaders (for example, villagers may say that "we want peace" but may not say "we pray our leaders will stop fighting").

No members of opposition political parties may take part in NGO programs. If any of these rules are breached, NGOs have been told that their programs will be canceled.

Private stations have been instructed not to broadcast any politically related programs, such as roundtable discussions about politics or current events, without permission from the government. Express approval must be received from the TVK director and the Ministry of Information.

A number of NGOs had planned to produce large amounts of voter education and voter awareness programs.¹⁶ Some of these are now in doubt, since some of the more creative and informative plans, such as debates or roundtable discussions among political parties, have been refused by the NEC.

¹⁶ Among the NGOs are COMFREL, COFFEL, the Center for Social Development, the Cambodian Institute for Human Rights, the Women's Media Center, and the Khmer Women's Voice Center.

M. Pre-Election Assessment Statement, Comfrel, July 24, 1998



គណៈកម្មាធិការ ដើម្បីការបោះឆ្នោត ដោយសេរី និង យុត្តិធម៌ នៅកម្ពុជា

គ.ប.ស.យ

Committee for Free and Fair Elections in Cambodia

ទីស្នាក់ការកណ្តាល : ផ្ទះលេខ ៣ មហាវិថីម៉ៅសេឌុង សង្កាត់ បឹងកេងកង១ ខ័ណ្ឌចំការមន រាជធានីភ្នំពេញ

Fax: (855 23) 210 759 Phone : 023 361 187 Mobile : 015 834 518 / 015 838 459

E-mail : comfrel @ forum.org.kh

ខុមហ្វ្រែល COMFREL

24 July 1998

**STATEMENT
PRE-ELECTION ASSESSMENT**

Overall assessment

According to the Committee for Free and Fair Elections in Cambodia (Comfrel), the general environment has not been satisfactory with continued killings, intimidation and other serious violations. Preparations for the polls have been marred by interference from ruling party-aligned government officials in many areas.

The National Election Committee (NEC), under the constraints of limited funding and no previous experience, has completed enormous tasks within a very tight time frame. It has been responsive in varying degrees to Comfrel's complaints, but unfortunately it has not demonstrated the will and power that it should have in order to function as a neutral, impartial body. Some of its members lack independence and the NEC has shown disappointing performance in dealing with complaints, enforcing sanctions and taking concrete actions to see that criminal perpetrators are brought to justice.

Nevertheless, the country has seen a high turnout during voter registration. Political parties have enthusiastically participated in the campaign with increased political expression. Campaign activities have been generally free of hindrance or disruption. Cambodia is also urgently in need of a legitimate democratically elected government both for internal stability and to regain its standing in the international community.

Comfrel emphasises that any possibility for an assessment of the entire election process as reasonably credible is contingent upon a very high level of integrity in the polling and vote counting process.

Thun Saray
First Representative, COMFREL
Tel: 015-839945

គណៈកម្មាធិការនាយក :

តំណាង ទី១	លោក ធន សារាយ	លោក ឈឹម សុខា	លោក ម៉ាត់ សារឿន	លោក ស៊ិន សែត	អ្នកស្រី អ៊ុច ចាន់ថុល
តំណាង ទី២	លោក ក្រុង សិទ្ធិ	អ្នកស្រី ទីវ សារាយេន	លោក យ៉ឹម ឫ	លោក សុក សំឡើង	
	អ្នកស្រី ធីម សុផាណា	លោក យង់ តិមអេង	លោក ស៊ុល វិនេត្រ	លោក អាំង អេងថុង	

General environment

In its November 1997 statement, Comfrel expressed its concern that the lack of proper investigation into the grenade attack of 30 March 1997 and the extra-judicial killings following 5-6 July 1997 would seriously impair the climate needed for free and fair elections. To date, no legal proceedings have been instituted to bring the perpetrators of these cases to justice.

In spite of efforts by the ruling party to reduce violence, expressed through messages on TV calling on Cambodians to refrain from the use of violence in the election process, politically-related killings have claimed about 40 lives since the beginning of this year. The Government and the ruling party, despite their obligation to provide a safe and secure environment for the polls, has failed to undertake serious investigation of these killings. It is Comfrel's opinion that not all local officials are aware of these TV announcements and therefore continue to behave with lack of restraint or respect for the law.

Comfrel regards any level of political killings as unacceptable. Nevertheless, the present situation may be considered as an improvement compared to the more than 380 killings in advance of the 1993 election. Comfrel believes that increased human rights awareness built up over the past five years combined with the vital role of the international community have helped prevent higher numbers of fatalities.

Intimidation has been widespread, affecting most of the country's provinces. In addition to the killings noted above, Comfrel has received numerous reports of threatenings, beatings, verbal intimidation and thumbprinting. One example of an intimidatory statement was made at the national congress of the ruling party in March: "If our party loses, you lose everything." This statement has also been echoed by local officials in some areas.

This climate has not been helped by the actions of some of the opposition parties and opposition-linked media. Among others, large opposition parties have exploited racial issues to seek opportunistic political gains.

In its thumbprinting programme, the ruling party through village chiefs and local political party agents has coerced citizens into affixing thumbprints on printed applications for party membership that also contain a pledge to vote for that party. In many instances, villagers have been coerced into taking oaths to pledge their support for the ruling party.

In addition, the pre-election environment has been fraught with interference by village and commune chiefs, other government officials at all levels and political party agents of the ruling party. Examples include interference in the voter registration procedures, collection of voter registration cards and the use of government facilities for campaign purposes.

The election law

The initial draft of the election law envisaged representatives from all recognised political parties on the National Election Committee (NEC). Following recommendations made by Comfrel, the number of seats on the NEC was eventually reduced to eleven with only four allocated for political parties and the rest for persons of independent standing.

In addition to the membership of the NEC, crucial changes were made in the election law concerning the independence of the NEC from the Government. The NEC is now accountable to the National Assembly, whose approval is also required for any amendments to the election law.

Comfrel also lobbied for vote counting to be moved from the polling station level to at least the commune level, and this amendment to the law was later adopted by the National Assembly.

Composition of the NEC and Constitutional Council

In its early statements in November 1997, Comfrel warned that the neutrality of the NEC would be crucial to the credibility of free and fair elections. The inclusion of government members and persons with known political links would undermine this credibility. However, most members of the NEC are linked to or aligned with the ruling party.

Comfrel and its sister organisation the Coalition for Free and Fair Elections (Coffel) in a joint statement issued in January 1998 criticised the process for election of the representative of local Associations-NGOs to the NEC, conducted on 29 December 1997. The two organisations emphasised that the selection of this representative was not based on selection criteria capable of ensuring that candidates for the position are neutral and not corrupt. Instead, the appointment was unfair, unjust and not free. However, this representative was not removed from his position.

In another statement in January 1998, Comfrel criticised the composition of the NEC and called for the inclusion of women in its membership. This appeal met with no response.

Close to the end of January 1998, Comfrel and Coffel jointly regretted the failure of the Government to take into account the many opinions calling for a re-examination of the composition of the NEC, in particular to ensure its legality independence, competence and integrity.

Therefore, the present composition of the NEC does not satisfy Comfrel's concerns and Comfrel is unable to place confidence in the neutrality of the NEC on the basis of its composition alone.

Later in the year, the long-awaited formation of the Constitutional Council represented an important step forward in the election process. However, the impartiality of the council is undermined by a predominance of members linked to the ruling party, and therefore Comfrel is unable to state its confidence in the neutrality of the body. For this reason, Comfrel considers that the impartiality of the Constitutional Council can be assessed only on the basis of its actions. This is of particular concern because of its role as final arbiter of the election process.

Role of the NEC

During the months leading up to the polls, Comfrel had much telephone contact with the NEC. On many issues, the NEC has gone quickly into action over Comfrel's complaints, though concrete evidence of follow up on incidents of election-related killings and other violence has been sadly lacking.

Members of the NEC have contributed as speakers at Comfrel training programmes and the NEC and Comfrel have worked together on hosting provincial level roundtables for conflict resolution, involving local officials, the PEC, military and political parties. The NEC and Comfrel have cooperated in the production of TV interviews with the 39 political parties during the campaign period.

Comfrel's provincial activists have enjoyed varying degrees of cooperation with the Provincial Election Commissions (PECs) and considerable lobbying has taken place at this level.

In the cases of illegal collection of voter cards, the NEC intervened at the insistence of Comfrel, resulting in a general easing of this practice toward the end of the voter registration period.

Regrettably the NEC has demonstrated several important weaknesses:

While the NEC has been responsive in rectifying many issues, it has not demonstrated the desired capability and motivation for following up on cases of serious violations. In particular, the NEC has failed to demonstrate the requisite resoluteness in urging the government to investigate and prosecute cases of political killings.

In repeated instances, the NEC has failed to demonstrate adequate proof of its independence. The following are some examples:

- *Secret deal*

In March, Comfrel issued a statement calling on the NEC to cancel its contract with Ciccone Caligraphica, a private Israeli-Argentinian contractor engaged for the elections. Among others, this arrangement lacked transparency, having been concluded in secrecy and under government pressure, and was only announced to the public some time afterwards. It was also perceived as a possible attempt to avoid working with international donors, which Comfrel believed would seriously undermine the credibility of the election.

- *Nomination of the PECs and CECs*

In April 1998 Comfrel issued a statement expressing its concern over the appointments of persons to the PECs because of domination by members linked to the ruling party. Some of these committee members were still involved with their former positions.

Comfrel recommended that the provincial chairpersons and deputy chairpersons in these six provinces be replaced with persons in line with the same criteria for the selection of the NEC chairman. This, however, was not done.

The Commune Election Commissions (CECs), which were selected by the PECs, have also suffered from the same lack of independence.

- *Issuance of observer accreditation*

Failure to establish criteria has undermined the credibility of observer accreditation, leading to serious abuse by some local organisations. Within about ten days of polling day, observer cards were issued to tens of thousands of untrained persons from these organisations, one of which is suspected of having police and military links. Fears arose that the accreditation of these questionable observers would lead to crowding out or possible exclusion of international observers and legitimate, trained local observers from polling stations. Some of the accredited NGOs are so closely linked to the ruling party that a rubber-stamp statement can be expected.

Comfrel has experienced repeated difficulties with the NEC over the loss of observer lists and other accreditation documents. Nevertheless, in the latest instance within one week of polling day, the NEC did respond under last-minute pressure from the entire international community to facilitate the needed accreditation for Comfrel's polling day observers.

Added to the lack of independence are the repeated instances in which the NEC delayed urgent action to make improvements, correct its own mistakes or solve problems until it came under pressure from the international community.

NEC efforts to ensure equal media access for political parties have been half-hearted at the best. This resulted in restricted access that constituted a literal, formal implementation of equality during the campaign period following months of the ruling party taking advantage of state and quasi-state media resources at its disposal.

Registration of political parties

Political parties in Cambodia had to register initially with the Ministry of Interior and later with the NEC. Some delays occurred because of party disputes in which leaders of different political party organisations sharing the same origins attempted to claim the same party names.

Out of 44 parties that sought to complete the required registration process, 39 were registered with the NEC within the prescribed deadline. Five parties were denied registration because of late application or incomplete documentation. One of these parties appealed to the Constitutional Council, which then ruled to uphold the original decision of the NEC.

Voter education

While the NEC has provided an official framework for conducting voter education, most of the actual field work has been performed by Comfrel and its sister organisation Coffel.

The core of Comfrel's voter education drive has been the holding of community meetings at the village level throughout Cambodia. Comfrel activists have distributed large volumes of voter education materials produced by other organisations, international donors, and Comfrel itself.

The voter education programme has reached a large proportion of Cambodia's eligible voters in almost all areas of the country. Spot interviews have indicated an encouraging level of voter awareness in some areas and general responses to the voter education programs show varying levels of improved understanding of democracy and the election process as well as strengthening confidence in the secrecy of the ballot.

Voter registration

Voter registration began with some technical and procedural difficulties. Overall turnout during the registration period was strong at 93% and the registration process was relatively free of violence. Another positive development was that the NEC demonstrated increasing responsiveness to Comfrel's requests, for example, for solutions to problems over accreditation of observers and the presence of unauthorised persons in voter registration stations.

The most blatant example of interference during the voter registration period took place in Preah Vihear, where the ruling party-aligned provincial governor ignored the neutrality of the PEC, ordering the PEC to withdraw the observer cards issued earlier by the PEC to Comfrel's observers. The PEC was apparently unable to refuse this order and as a result, Comfrel observers were denied access to voter registration stations for two weeks. For one month, Comfrel felt unable to open its office in Preah Vihear because of threats and harassment, although this pressure failed to bring a halt to Comfrel's monitoring activities. During this time, Comfrel personnel were tailed by security personnel in intimidatory moves aimed at discouraging them from operating.

In the rest of the country, the voter registration process was marred to varying degrees by intimidation. The ruling party continued its thumbprinting drives and in a significant proportion of voter registration stations, local officials and village chiefs kept a watch on voter registration proceedings and interfered in the work of voter registration officials.

According to reports from many areas, village chiefs and other officials intervened in voter registration to allow the registration of varying numbers of minors and immigrants unable to speak Khmer, who would not otherwise be allowed to register under law. Many people registered under the weak provision of the law allowing persons without valid ID to be supported by two witnesses. Improper registration of immigrant Vietnamese in many areas became an issue, but according to Comfrel's findings, these registrations did not take place on the scale reported by some opposition parties.

During the first two weeks of the registration process, cards of registered voters were collected by village chiefs, local officials or political party agents in some areas in order to note their serial numbers. In many of these cases, voters were warned that a computer analysis would reveal how they voted on polling day. However, collection of voter cards eased toward the end of the voter registration period following Comfrel's insistent complaints to the NEC.

In addition, the voter registration process showed up some organisational and logistic weaknesses within the NEC. For example, lack of supplies forced the premature closure of registration in one commune in Kampong Speu province. Registration closed one week before the official closing date in Stung Treng with over 90% of estimated eligible voters registered. The registration teams were reportedly moved to Battambang where teams had run out of supplies with only 65% of estimated eligible voters registered by the end of the third week.

Voter registration in Battambang, Koh Kong, Kampong Speu and Stung Treng was incomplete, which can be explained in part by organisational and logistic difficulties, leaving some eligible voters in remote areas deprived of the opportunity to register and therefore to vote.

Regulation of media access

In a statement in November 1997, Comfrel insisted that fair media access was crucial to allowing genuine electoral competition. Comfrel said that without clear evidence of genuine electoral competition, it would not be able to regard the election as valid.

In the months preceding the campaign, the ruling party took advantage of state and quasi-state media resources at its disposal without any sign of intervention by the NEC. On the other hand, opposition parties were not permitted to open their own TV stations.

This situation lasted until the beginning of the campaign period, when the NEC successfully arranged equal media access for the 39 contesting parties in a literal, formal and stifled sense. Under this arrangement, each of the 39 parties was allowed five minutes interview time on state TV daily during the campaign period.

Although the NEC is vested with authority by law, in practice it was unable to fully exercise this authority with the state media. Broadcasting of the roundtables on state TV was preceded by drawn out lobbying and negotiations, and even then the TV would only run the broadcasts with some reimbursement for technical support.

Press reporting on election related issues and the campaign has been generally unfettered and in many cases has exceeded the bounds of proper journalistic ethics. In a statement on 20 July, Comfrel expressed its concern over abusive and inflammatory language used in some Khmer opposition-aligned press in its reports on political issues and called on the media to put the interests of the nation above those of their individual organisations.

The campaign

The campaign period was marked by a broad-based, enthusiastic turnout of campaigning parties and absence of violence directly related to campaign activities. On the most part, political parties exhibited restraint and refrained from interfering in each other's activities.

Both ruling and opposition parties held rallies and street parades with strong attendance, and many vehicles draped with party banners cruised the streets with loudspeakers blaring campaign messages. Compared to previous months, many more political party signboards were visible and there was a marked increase in political expression.

In many cities and provinces, Comfrel cooperated with the Provincial Election Commissions (PECs) in holding roundtables that have brought together political party candidates and local authorities to discuss ways of avoiding violence during the campaign period.

The worst incidence of violations during the campaign period were observed in Kandal and Siem Reap provinces. Major violations in these provinces included attempted vote buying, obstruction of political party campaigning activities, use of government facilities for party campaign purposes and lack of neutrality of government officials, police and military. Other violations included tearing of posters and campaigning in advance of the official campaign period.

One too frequent campaign abuse was the use of contemptuous language by the two largest opposition parties, in many instances targeting the ethnic Vietnamese minority in Cambodia. Comfrel deplores these attempts to incite racial hatred for political party purposes.

N. "Asian NGOs Monitor Cambodian Election; Express Concern on Pre-election Situation,"
Anfrel, July 24, 1998



ASIAN Network for Free Elections -*Forum-ASIA*

109 Suthisarnwinichai Road, Samsennok, Huaykwang, Bangkok 10320 Thailand
Tel: (662) 276-9846-7 Fax: (662) 276-2183 E-mail: anfrel@mozart.inet.co.th

Press Release
24 July 1998

ASIAN NGOS MONITOR CAMBODIAN ELECTION; EXPRESS CONCERN ON PRE - ELECTION SITUATION

Forty four observers who are Asian members of non-governmental organizations and other concerned individuals from 18 countries in the world have come to Cambodia upon the invitation of the National Election Commission (NEC) and the Committee for Free and Fair Elections in Cambodia (COMFREL) to monitor the election in 17 provinces including Phnom Penh. The monitoring is organized by the Asian Network for Free Election (ANFREL) which was set up last year by election monitoring bodies and human rights organizations in the region at the initiative of Asian Forum for Human Rights and Development (FORUM-ASIA) to work for greater democratization and stronger civil society not only in Cambodia but in the whole of Asia and the Pacific.

This is the third mission of our group to Cambodia: the first was held a few weeks after the coup in July last year by Forum-Asia to assess the impact of the event on the human rights situation and the second was held last May by ANFREL during the voter registration period. The findings of those missions have already been made public.

We recognize the government's positive response to the international community's call to hold an election and its decision to allow foreign observers to come and monitor the election.

Efforts have been made towards having a fair election given the short time available to the NEC. We have observed a lively atmosphere during campaign rallies in Phnom Penh and elsewhere. But still, there is much to be desired.

Human rights violations such as political killings, disappearances, threats and intimidations and harassments that occurred after the coup in July last year and before and during the campaign period have not been acted upon by the authorities concerned despite the continuous call from various sectors. We would like to join the international community in reiterating the call for the government and law enforcement agencies to investigate, prosecute and punish the perpetrators and for an end to impunity in Cambodia.

With respect to election rights, the National Election Commission (NEC) is in full responsibility. We take note, however, that the NEC has not been able to act upon most of the complaints and most of its decisions are seen as favorable to one party.

Access to media not only by all political parties but by their respective constituencies is a basic element of a free and fair election. Studies of various groups, local and international, show an obvious bias in favor of one party, marginalizing the other participants to the election process and undermining the whole exercise.

Various ways and means of coercing people to vote for one party have been reported from many parts of the country, ranging from bribing to serious physical threats including politically motivated killings. This has created fear among the people and may destroy the integrity of the election.

The sudden proliferation of local observers whose preparation and training are doubtful and the attempt to field 24,000 local observers belonging to a single organization just before the election are disturbing phenomena. We therefore welcome the NEC decision to give priority to well-trained observers of COMFREL, COFREL and NICFEC and urge that the decision be implemented at polling station level.

The election in Cambodia is crucial to all of us. That is why we are here. We want to be in solidarity with the people of Cambodia in their struggle for the respect of human rights and in their search for a lasting peace.

We look forward to observing the exercise of Cambodian voting rights and hope that our presence be a contribution towards a non-violent and credible polling and counting of votes so that the will of the people is fully respected.

O. Statement of the Joint International Observer Group, July 24, 1998



July 24, 1998

UNITED NATIONS
Electoral Assistance Secretariat (UNEAS)
203, Street Pasteur, Phnom Penh, Cambodia
Tel. (+855) 23 218 250, 23 218 251; Fax: (+855) 23 218 253

JOINT INTERNATIONAL OBSERVER GROUP

STATEMENT OF THE JOINT INTERNATIONAL OBSERVER GROUP

The Joint International Observer Group represents International Observers from almost 40 Countries and Regional Groups of Countries all over the world. These Observers have come to Cambodia at the invitation of the Royal Cambodian Government in order to observe the Electoral Process in connection with Sunday's Parliamentary Elections. The Group consists of both Long Term and Short Term Observers, some of the former having been deployed in various parts of Cambodia since the very beginning of the Registration Process on 18 May. The Members of the JIOG have come to Cambodia determined to carry out their tasks as International Observers in the most impartial, constructive and effective way possible, thus demonstrating their firm commitment to the development of democracy in a country which has for so long suffered from the devastating effects of genocide, civil strife and widespread violence.

The JIOG is of the opinion that this historical background must be taken into account in its assessment of the 1998 Cambodian Parliamentary Elections as well as the fact that this is the first time in several decades that the responsibility for arranging Multiparty, Democratic Elections is borne by the Cambodians themselves. High standards are obviously required for any Election. At the same time no political process can be taken out of its historical context. This fact cannot be overlooked when the JIOG forms its opinion of the 1998 Electoral Process in Cambodia.

Until now the JIOG has been able to observe two main phases of this Process: the Registration Procedure which was concluded at the end of June, and the Election Campaign which ends today.

As far as the **Registration Procedure** is concerned, the JIOG has been generally encouraged by the way it was carried out and by its results, although the Procedure had its share of problems. Many of these seemed, however, to be of a practical and technical nature. The very high number of persons registered, some 95% or more of the total population entitled to vote, gives a clear signal to Cambodian leaders and the International Community alike that the Cambodian people are determined to use this opportunity to decide their own political future. On the whole, it is the feeling of the JIOG that the result of the Registration Procedure can form a satisfactory foundation for these Elections.

The **Election Campaign Period** has also contained a number of encouraging elements. An active Election Campaign appears to have been conducted throughout Cambodia, in which the parties taking part to a large extent have been able to hold their rallies, disseminate information about their programme and pursue other relevant political campaign activities. No serious incidents have taken place during public political meetings and rallies. The presence of significant and trained domestic Non-Government Organisations with important voter education and monitoring responsibilities is another encouraging factor, as well as the presence of a plural print media.

However, serious concerns remain. Unresolved killings which have taken place in a climate of impunity, as reported to JIOG Observers and by the United Nations have so far not been dealt with. This must be taken into account in the JIOG's deliberations as well as numerous cases of intimidation of Voters and Party Officials that have been brought to the JIOG's attention, especially at Communal and Village level. Efforts have been made to weaken voters' belief in the secrecy of the ballot. Ethnic prejudices have been promoted in some places. The unequal access to electronic media before the Election Campaign period may also have influenced the political climate in which these Elections are going to be held in a negative way. The sudden and massive increase in the accreditation of apparently untrained National Observers has given cause for serious and continuing concern.

In order to reduce the danger of intimidation on Election Day, Article 99 of the Election Law should be strictly enforced to ensure that Commune and

Village officials as well as any other unauthorized persons are not allowed within the Polling Station premises except for the purpose of casting their own ballot.

Despite these serious concerns, the JIOG today feels justified in anticipating that reasonable conditions exist for an election on Sunday 26 July that can be broadly representative of the will of the Cambodian people. This conclusion is naturally subject to the conduct of polling and counting procedures in a manner that does not distort this will, respecting all voters' right to express their choice freely in a secret ballot.

The JIOG would like to use this opportunity to stress again that the ballot process is secret, and urges everybody to respect this fact and remember that under Article 95 of the Election Law it is a serious offence to seek to find out how someone has voted.

The JIOG's final conclusions on the Electoral Process will also be subject to full acceptance of the voters' verdict through appropriate conduct in the post-election period by all parties, without any attempts to undermine the original outcome. If the results are respected in this way, Cambodia will have taken a major step forward in its democratic development.

The JIOG would also like to stress the importance of Police and Security Forces maintaining neutrality and acting in a peaceful and restrained way and taking all steps to ensure the security of all National and International Observers.

The JIOG finally wishes to express its sincere hope that Polling Day, Sunday 26 July, Counting Day, Monday 27 July, as well as the important period thereafter until the successful candidates have been installed will be free from any kind of violence that could disturb the Electoral Process and influence the JIOG's final assessment in a negative way.

24 July, Phnom Penh

A further statement by the JIOG will be issued during the evening of Counting Day, Monday 27 July.

P. Comfrel, Coffel and Nicfec Preliminary Post-Election Statements

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Committee for Free and Fair Elections in Cambodia

ទីស្នាក់ការកណ្តាល : ផ្ទះលេខ ៣ មហាវិថីម៉ៅសេតុង សង្កាត់ បឹងកេងកង១ ខ័ណ្ឌចំការមន រាជធានីភ្នំពេញ

Fax: (855 23) 210 759 Phone : 023 361 187 Mobile : 015 834 518 / 015 838 459

កម្ពុជា COMFREL

PRESS BRIEFING - 27 JULY 1998

Comfrel has now received initial reports from 15 out of 23 provinces in Cambodia. I should say, however, that in these 15 provinces we are still waiting for more information from the grass roots.

Voter turnout was extremely encouraging. Cambodians everywhere showed a very strong commitment to vote and exercise their democratic rights. Many people woke up early and were already waiting in long queues outside polling stations before the voting began. The ambience was generally positive and many people at the polls were smiling.

We are happy that according to the reports so far, yesterday's polling took place smoothly and with few incidents. Although there were some irregularities and incidents of a serious nature, these did not take place on a wide scale. Problems were isolated, mostly confined to one village here and another there. They did not represent a widespread, prevailing trend.

Unfortunately, there has been reports of violence in Anlong Veng. Other than for this, we are pleased that there has been no news of killings or injuries during the polling.

Comfrel observers experienced no significant access problems. In the vast majority of polling stations, Comfrel observers were not hindered from entering and observing the polling process.

Nevertheless, polling day was only one stage in the process. I have to say that our greatest concerns still lie ahead of us. Our worries are that problems may arise in the vote counting and after that, the reaction to the final results.

Comfrel will hold another press briefing tomorrow and one on Wednesday. Tomorrow we look forward to briefing you on the initial reports received on the counting process.

Thun Saray
First Representative, COMFREL
Tel: 015-839945

គណៈកម្មាធិការនាយក :

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COALITION FOR FREE AND FAIR ELECTIONS

Preliminary Report of COFFEL on the Elections of July 26, 1998

8:00 pm. July 26, 1998

This is a preliminary report, as of 8:00 pm July 26, 1998, on the events of election day, July 26. It covers developments in 8 provinces and municipalities of Cambodia. It is based on initial reports from a relatively small number of mobile observer teams, not from the over 7,000 COFFEL observers present all day at each polling station, and must therefore be considered incomplete and preliminary. Information has been obtained on Phnom Penh, Kandal, Takeo, Kompong Speu, Banteay Meanchey, Battambang, Prey Veng, and Kampot. No information is yet available on Pursat, Kompong Chhnang, Svay Rieng, or Siem Riep. COFFEL has no large-scale presence in the remaining provinces of Cambodia, and will not be reporting on them

Our preliminary reports indicate that a peaceful atmosphere prevailed overall during the election day. We have received so far no reports of significant violence.

The polling stations were very crowded in the morning, for at least the first two hours. This contributed to a degree of disorganization which tended to disappear as the day continued.

A very high degree of voter turnout was noted: 90% and more of registered voters actually went to the polls, as of 2 pm July 26, two hours before closing time.

Observers from COMFREL, COFFEL, and often also from NICFEC were present in almost all polling stations surveyed. Between two and six political parties were also present at the polling in most cases. COFFEL observers accompanied the ballot boxes to the counting centers and will stay overnight with them.

Nonetheless, there were a number of incidents of technical errors or outright improprieties. We have no evidence of large-scale fraud at this early point.

In Kirivong district, Takeo province, COFFEL representatives were initially denied admission to polling places by the polling station chairman or by CPP party representatives whose stance was not contradicted by the polling station chairman. This situation was resolved by 8:45 am with a series of telephone calls and COFFEL representatives were subsequently allowed to observe the elections from inside the polling stations.

A similar occurrence was noted in at least one polling station in Prey Veng; this was also resolved later in the day.

At least one polling place in Phnom Penh, # 0156, opened before the official opening time of 7 am and without the presence of observers.

Khmer citizens have voiced complaints that Vietnamese non-Cambodian citizens are voting in large numbers in at least a few areas where the Vietnamese presence is large.

In many instances, local authorities such as district chiefs, commune chiefs, and villages chiefs have been observed just outside polling stations, but we have no indication of improper activity at this point. In 15 co-located polling stations in Phnom Penh, the head of the polling place allowed the presidents of local party organizations as well as a local police chief inside the polling station, contrary to election regulations.

In one case in Phnom Penh, at polling station # 0386, 448 ballots were given to voters with the ballot stubs still attached.

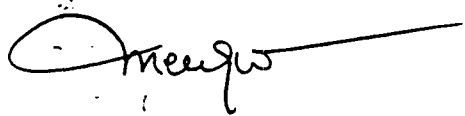
93 registered voters, apparently Vietnamese, were not allowed to vote by polling stations in Phnom Penh after complaints from political party representatives.

At various places in the country, small "working groups" of unidentified persons were observed carefully noting and recording the coming and going of voters for purposes unexplained.

In Kompong Speu, on Saturday, July 25, names were added by hand to registration lists after an apparent technical computer error in Phnom Penh had deleted them.

The foregoing are among the most serious incidents so far reported.

In sum, COFFEL is pleased that the polling day -- based on preliminary information -- was overwhelmingly peaceful. Although numerous technical errors and some improprieties were committed, generally the polling seemed to have been successfully conducted, with a strong presence from political party representatives and local and international observer groups contributing to this result. We caution that this information is based on a small sampling of polling stations visited by mobile teams, and may have to be revised in the light of later information.



Meng Ho Leang
President, COFFEL
July 26, 1998

**PRELIMINARY STATEMENT OF NEUTRAL AND IMPARTIAL COMMITTEE
FOR FREE ELECTIONS IN CAMBODIA (NICFEC)
ON JULY 26, 1998 ELECTION**

This is the preliminary statement of NICFEC based on the observations of its 2,499 stationary and 172 mobile observers on 26th and 27th July 1998. The observers covered nearly 3,000 polling stations in 15 provinces.

Observation of an election process includes the pre-election period, the polling and counting days and the post-election period. NICFEC wishes to make it clear that the large scale of intimidation and violence; control by the ruling party of the administrative and election machinery; unfair media access and impunity, according to COHCHR reports, that marked the pre-election period have left an impact on the election itself. Therefore the process must not be judged only on the basis of the events of the polling and counting days.

NICFEC observers noted great enthusiasm among the voters who came out to vote in large numbers in the early morning. The presence of female voters with their children indicated a safe environment. It appeared that the people of Cambodia took a common stand to assert their right to choose their representatives. The early rush of voters caused some disturbance to the smooth running of many polling stations, but officials acted appropriately to offset problems, and by midday the onrush of voters had dwindled. The poll was notable for a very high turnout of voters, with 80% - 90% of voters casting their votes within the first four hours of polling in many places.

On the whole, the process of polling was smooth and well organised. Polling stations were set up in designated places. Polling station commission officials were present and approached their tasks diligently. Essential materials were available in all polling stations. With some exceptions most of the polling stations opened on time. Political party agents from more than one party were present in the vast majority of polling stations, but they did not appear to know their rights and responsibilities well enough to play a pro-active role. The provision of voting booths ensured adequate arrangements for secret voting. On the whole, security arrangements in the polling station were sufficient. To summarize, physical arrangements for polling were satisfactory in most of the polling stations.

Polling day was largely peaceful, though there were some isolated instances of violence which may have affected the turnout. For example, in Kompong Cham province there were three separate reports of shooting on polling day. In two districts, O Raing Ov and Ponnea Krek, it appears that shooting in the air discouraged people from turning out to vote, while in Rum Chek commune in Memot district a woman was shot dead early on polling day, and initial reports indicate that voters were severely intimidated, such that only five people who cast their votes before the shooting were able to vote.

Registers of electors were not available in all polling stations, and the voter registration books were used as substitutes. In some polling stations, such as a polling station in Kg Speu, a combination of the two were used. National observers were present in most polling stations, but in some places, notably in Kampot and Takeo, NICFEC observers were not allowed to enter the polling stations or were asked to leave by the polling station officials. In Kompong Bay district of Kampot province one NICFEC observer was threatened and resigned due to fear.

In a few polling stations, polling station officials or village chiefs were seen influencing the voting process, either by 'assisting' voters to vote for a particular party (e.g. Khum Chumpu

Vaon in Kampot province, and polling stations, #0454 and #0282 in Phnom Penh) or by preventing some voters from entering the polling station (Kg Siem district in Kg Cham province). NICFEC also observed some instances of intimidatory actions by party agents who attempted to influence voters to vote for their party, but election officials were generally diligent in intervening to prevent such activities.

More seriously, NICFEC observers noted one case of fraud by election officials. At the Wat Kampot polling station in Kampot, a NICFEC observer saw the chief of the polling station inserting ballots into the ballot box after voting had closed. Moreover, some ballot boxes were sealed with the wrong seals, or seals had been changed overnight before boxes were brought to the counting station. There were several reports of considerable delays in transferring ballot boxes to the counting station, which could provide opportunities for tampering with the ballots.

Although the counting process was transparent in most places, party agents and observers were often preoccupied with tallying the ballot count that they were unable to observe irregularities. In some of the counting centres only one party agent or observer was allowed inside which prevented effective and comprehensive monitoring of the counting process. Because several ballot boxes were counted simultaneously, observers experienced difficulties in monitoring the counting process. In one counting station in Chumpu Vaon commune in Kampot, a counting official misread ballots in favour of one party although the ballots were marked for another party. Moreover, because the National Election Committee's inordinately slow announcement of the results of the count, many question the validity of the process. More reports on the counting process are still coming in, and if NICFEC is able to identify and confirm any fraud or manipulation it reserves the right to make the findings public.

The NEC must investigate the complaints and allegations of manipulation and fraud advanced by the political parties. The election monitoring coalitions - COFFEL, COMFREL and NICFEC - have already offered to investigate alleged irregularities on polling and counting days on the basis of documented complaints. NICFEC calls upon the political parties to exercise restraint and use the complaints and grievance process for resolving any electoral disputes.

NICFEC also notes with grave concern the reports of Amnesty International that many local party activists from the main opposition parties contesting the results have fled from the provinces to seek refuge in Phnom Penh because of threats and intimidation from the armed forces after the poll. NICFEC calls upon the Cambodian government to order all armed units and local authorities to cease such intimidation.

Finally, NICFEC would like to extend its gratitude to the people of Cambodia who expressed their unflinching determination in favour of a democratic election in Cambodia by coming out to vote in such large numbers. NICFEC is also grateful to its volunteers for their hard work and commitment to uphold the democratic process in Cambodia.

31st July 1998

Q. Joint International Observer Group (JIOG) Press Release, July 27, 1998



UNITED NATIONS
Electoral Assistance Secretariat (UNEAS)
203, Street Pasteur, Phnom Penh, Cambodia
Tel. (+855) 23 218 250, 23 218 251; Fax: (+855) 23 218 252, 23 218 253

JOINT INTERNATIONAL OBSERVER GROUP (JIOG)

PRESS RELEASE

Phnom Penh, 27 July, 1998

In its Statement of Friday 24 July, two days before Polling Day, the Joint International Observer Group made an assessment of the Electoral Process in Cambodia on the eve of the Elections, covering the Registration Procedure and the Election Campaign Period. A number of generally encouraging factors were emphasized as well as a number of serious concerns.

The time has now come to present the JIOG's assessment of Polling and Counting Procedures, based on the reports received from the JIOG's almost 500 International Observers in the field. A consolidated statement will be made at a later stage, when these Observers have been debriefed after their return to Phnom Penh and their full Reports have been thoroughly analyzed.

The JIOG believes that the atmosphere and procedures of Polling Day and Counting Day in the 1998 Elections arranged by the Cambodians themselves, represent a major achievement and step forward compared with similar circumstances during the 1993 Cambodian Parliamentary Elections. The JIOG commends and applauds the National Election Committee and through it all Election workers in the country for impressive work done in a short period of time and under difficult circumstances. In addition, the JIOG wishes to warmly praise the dedicated work of trained national observers, such as COMFREL, COFFEL and NICFEC, in connection with the election.

The reports received by the JIOG thus far have been, in the main, encouraging. The climate on Polling Day and Counting Day was peaceful and calm. In general the polling achieved democratic standards and on the day it appears that people felt able to vote without fear of reprisal. Except for the shameful attack Sunday morning in Anlong Veng, with deplorable loss of human lives, no serious cases of violence have been reported nor, at this stage, any serious irregularities that could have a significant effect on the integrity of the voting process. The very high number of registered voters who turned up at Polling Stations to cast their ballot has yet again given a clear signal to Cambodian leaders and the International

Community alike that the Cambodian people are embracing democracy and are determined to decide their own political future.

Against this background, it is the impression of the JIOG that what could be observed by us on Polling Day and Counting Day was a process which was free and fair to an extent that enables it to reflect, in a credible way, the will of the Cambodian people. In the end efforts to intimidate sections of the Cambodian population appear not to have significantly influenced the conduct or the climate of polling day itself.

The JIOG will continue to observe the Electoral Process in the most thorough way possible. We would like to underline again that respect for the principles of Human Rights must be observed in that process, and that no violations of those principles can be acceptable to the International Community.

The JIOG believes that all parties should accept and honour the results of the election without any attempt to undermine the original outcome.

The JIOG would also like to underline, that its final conclusions on the Electoral Process will be subject to full acceptance of the voters' verdict through appropriate conduct in the post-election period by all parties and subject to the vote tabulation and complaints and appeals processes being carried out satisfactorily. If the results are respected in this way, the 1998 Parliamentary Elections will mark a major step forward in this country's democratic development.

R. Volunteer Observers for the Cambodian Election (VOCE) Press Release,
July 28, 1998

Volunteer Observers for the Cambodian Election (VOCE)

#44 Street 334 Phnom Penh, Cambodia

Headquarters Tel/Fax: 023-720056

Tony Kevin: 012-845674

John McAuliff: 012-804475

PRESS RELEASE: Phnom Penh, 28 July 1997

**VOLUNTEER OBSERVERS OF THE CAMBODIAN ELECTION
(VOCE) FINDS THE ELECTION FREE AND FAIR**

Summary: VOCE's team of 28 international election observers found that the Cambodian election and count on 26 and 27 July were conducted freely and fairly, and according to the rules of the National Election Committee (NEC). VOCE believes that this election process was an authentic expression of the Cambodian people's choice, in conditions of genuinely secret ballot and under the committed scrutiny of party representatives and trained local and international observers. VOCE believes that the Cambodian people are to be congratulated for their national achievement in conducting this election largely by their own efforts and with very modest levels of foreign assistance. The world should now show its respect for the Cambodian people by respecting their sovereign act of choice at the polls.

About VOCE:

VOCE was formed at short notice in early July, in response to an urgent appeal by the NEC for additional international observers. This independent effort recruited veterans of non-governmental organisations, development assistance agencies and academics who have worked with and in Cambodia and neighbouring countries. The VOCE team was put together by Tony Kevin, former Australian Ambassador to Cambodia (1994-97) and now retired from the Australian foreign service, and by John McAuliff, Executive Director of the US-Indochina Reconciliation Project based in New York, USA. VOCE received no government funding. Some of VOCE's volunteer observers paid their own way, others were funded by parent NGO organisations in Australia and the United States.

VOCE comprised 28 volunteer members: 14 from USA, 10 from Australia, 3 from Canada and one from New Zealand. These deployed in Stung Treng (1), Kratie (3), Kompong Cham (4), Takeo (2), Kampot (4), Sihanoukville (2), Battambang (4), Siem Reap (4), and Phnom Penh (4). VOCE is grateful for the assistance of JIOG, UNEAS, and of the many home-based and Cambodia-based NGO organisations which supported its work.

VOCE observers underwent the JIOG training program, displayed JIOG insignia, and are submitting reporting sheets to JIOG. However as a non-governmental group of observers VOCE did not take part in JIOG's report on the election.

VOCE observers were committed to report truthfully what they saw on the election and counting days, without fear or favour to any political party or leader. Irrespective of any political views some members of VOCE may have expressed about Cambodia

as individuals, VOCE as an organisation had and has no political views on any of the parties or candidates in this election.

VOCE was set up with these aims : to contribute to the confidence of Cambodian voters by the presence of international observers, to help discourage those who might interfere with the process of voting or counting, and to help restrain any propensity of disappointed candidates to unjustifiably dispute poll results.

VOCE's findings

VOCE observers found that election officials were generally well-trained. They carried out their appointed tasks in a diligent way and with great attention to transparency and correct process. A spirit of civility – often in physically difficult conditions - was a welcome feature noted by our observers.

VOCE found that the voting and counting procedures and materials were well-designed with sufficient built-in safeguards – provided that party representatives and local observers remained attentive – to make fraud virtually impossible. VOCE found that these persons clearly understood the importance of their monitoring work, and carried their tasks attentively, and with mutual respect for each other and respect for the integrity of the process.

Much has been claimed in recent months about pre-election intimidation. VOCE observers found no evidence of any voters, election officials, party representatives or local observers being intimidated in their vote or in their work. VOCE observers noted that at all polling stations, effective illustrated voter education posters and His Majesty King Sihanouk's message were prominently displayed, together conveying the message that whatever pressures some voters may have previously been placed under, everyone's vote was assuredly secret.

VOCE believes that on election day 26 July, and whatever conscious or unconscious influences or pressures Cambodian voters may have previously been subject to, the voters in the secrecy of the ballot exercised a genuine sovereign right of choice; and that their votes were then accurately counted on counting day 27 July.

VOCE believes that all governments which claim to have the best interests of the Cambodian people at heart should now accept the results of this election without any qualification, and should welcome whatever new Royal Government of Cambodia emerges from this election back into normal international economic, aid, and diplomatic relations.

S. Statement by European Union Special Representative, Glenys Kinnock MEP,
July 29, 1998



**Statement by
European Union Special Representative, Glenys Kinnock MEP**

(July 29th 1998, Phnom Penh)

The assistance given by the European Union to the Cambodian election has been vindicated by the response of the electors on July 26th. The technical and logistical support which was given by the European Union at the time of registration and polling was both critical and necessary. The decision to opt in to the process was not an easy one, but it has now been generally acknowledged that it was both a correct and appropriate course of action. This statement is being made following the thorough debriefing of all European Union observers.

It is the wish of the European Union to continue to engage constructively with Cambodia particularly in the weeks and months ahead.

I wish to thank the European Observation Team, particularly our long term and short term observers, who have been deployed throughout Cambodia for their unstinting efforts, and for the efficient and competent way in which they have carried out their duties. May I also warmly thank the EU's Chief Observer Sven Linder for his invaluable contribution to the whole process.

I also wish to put on record my warm thanks to the National Election Committee of Cambodia for its extremely impressive management of what was a difficult task - one which many had argued was impossible. We have been able to work closely with the Chairman, Vice Chairman and Secretary General of the National Election Committee and thank them for their dedication and hard work.

This thanks does of course extend to those officials at Provincial, Communal and Polling Station level who helped the National Election Committee to carry out their duties.

The role of the domestic observer teams and particularly COMFREL, COFFEL and NICFEC has been extremely important and has been carried out with both efficiency and dedication.

I also pay tribute to the determination of the Cambodian people to be responsible for the shaping of their own future.

The reality is that the election campaign, and the polling and counting processes, have to be seen in their political and long term context.

We need to develop a strategic position which endorses the view that a credible process has taken place but which gives an overall analysis prepared in a qualified and constructive way. The polling and counting has been assessed as credible and acceptable by our EU observer teams. The international community should only make its final position when the entire election process is completed.

This demands that we should show a determination not to be constrained by a vocabulary which is both inappropriate in the circumstances we find in Cambodia and which gives us the necessary tools to offer a balanced analysis.

The election process we have witnessed this week is unprecedented in the history of Cambodia. Consequently all comparisons are inappropriate. I do not propose therefore to base my position on any such comparisons.

My visits outside the capital confirm that things have been more difficult in rural and more remote areas.

Political activists have for instance, experienced harassment and other pressures. This is completely unacceptable in any democratic process. Part of our detailed and stringent analysis should take this evidence very seriously indeed.

The Government should ensure that the appropriate authorities subsequently investigate all accusations of violence especially if it appears to have been politically motivated.

Human rights violations during the election campaign and registration process have been well documented by the Special Representative of the United Nations Secretariat General for Human Rights in Cambodia. All allegations have been

corroborated and confirmed, or disproved. Outstanding cases should therefore be taken extremely seriously in the post election assessment which is undertaken both nationally and internationally.

It would be unacceptable to ignore United Nations evidence of intimidation and other acts of violence in the run up to polling on July 26th.

Registration

The Registration process was carried out efficiently and the numbers registered gave a strong indication that there was a clear willingness to participate in the electoral process.

Campaign

No serious incidents during rallies and public meetings were reported. The right of assembly was, in the main, respected. The voter education programme promoted by the European Union should be commended although the long term observers express reservations about the extent of the actual coverage of these and other projects.

It is fair to say that in the electronic media there was some improvement during the election campaign. However, this was most significant on the state run channels.

Election Day

As far as polling day was concerned there is satisfaction that irregularities were generally due to oversight, or were unintentional. It remains to be seen whether this assessment needs to be qualified but the evidence of the domestic and international observer teams clearly confirms this assertion.

The polling process was universally judged to be characterised by voter enthusiasm and the lack of tension and acrimony was truly remarkable.

On election day the attack in Anlong Veng and the deaths of ten people represented a stark reminder of those elements in Cambodia which are still capable of attempting to destabilise an otherwise peaceful process.

Counting

The response to the counting process has clearly been marked by dispute and dissension. The EU is prepared to extend the mandate of its observers to cover any recounting which may be necessary.

Post Election

It is to be welcomed that the European Union will be maintaining a strong presence in Cambodia until the end of September and will be extending the mandate of its observers until that time.

It is desirable in the post election period that the vote tabulation, complaints and appeals process is carried out speedily and fairly. Final definitive positions on the election process must be taken only after the current serious concerns have been addressed and resolved.

The ballot results have unfortunately been followed by worrying claims and counter claims. A thorough and comprehensive investigation into these alleged irregularities should take place without delay in an independent manner, following proper and judicial processes and in accordance with the rule of law.

The final outcome of the deliberations taking place must subsequently be respected and there should be no reprisal or recrimination of any kind.

Issues of impunity, legality and accountability remain of concern to the European Union. It is evident that the Cambodians' needs will only be served if its political leaders see peace as a necessary precursor to the kind of economic growth likely to benefit all its people.

- Life expectancy in Cambodia is 51 years.
- Infant mortality for under 5s is 181 per 1000 live births.
- Only 16% of the population have access to sanitation.
- 50% of the children under 5 are either stunted or underweight.

These are grotesque statistics. As we deliberate on the election process we should therefore not lose sight of the clear imperatives this country now faces. There is an urgent need for a signal showing that the political will exists to address such a harsh and tragic denial of fundamental rights.

T. Comfrel, Coffel and Nicfec Post-Election Statements

COMFREL – COFFEL - NICFEC

20 July 1998

JOINT STATEMENT FROM COMFREL, COFFEL & NICFEC RESPONSE TO CALL FOR CHECK INTO IRREGULARITIES

~~Comfrel, Coffel and Nicfec would like to state their initial response to a call made earlier today for checks into alleged polling and vote counting irregularities.~~

All organisations believe that it is vital to help establish the credibility of the outcome of the polls and in the new government of Cambodia to be formed as a result.

For this purpose, Comfrel, Coffel and Nicfec are prepared to participate in strict **impartiality** in the investigation of alleged irregularities.

~~To facilitate this investigation, the political parties concerned must be able to provide clear, precise information. Complaints must be documented and submitted to the~~
NEC with a copy to Comfrel, Coffel and/or Nicfec. The decision to participate in these investigations will be based on the following criteria:

- the alleged incidents represent serious violations;
- the alleged incidents may have a significant impact on the outcome of the polls.

Copies of the documented complaints to the NEC can be sent to the following addresses:

Comfrel (Committee for Free and Fair Elections):

Koul Panha, Executive Director
Sakeoun, Monitoring Coordinator
No. 3, Mao Tse Tung Boulevard
Tel: 361187; mobile 015-839459, 012-842482

Coffel (Coalition for Free and Fair Elections):

Lav Sovathara, Executive Director
No. 41A, Street 592, Sangkat Boeng Kok 2
Khan Toul Kork
Tel: 428871; mobile 015-917507

Nicfec (Neutral and Impartial Committee for Free Elections in Cambodia):

Hang Puthea
c/o Licadho, No. 103, Street 97, Tuol Tumpoung,
Khan Chamcarmon
Tel: 015-917205



សម្ព័ន្ធការព្រឹទ្ធការបោះឆ្នោតសេរីនិងយុត្តិធម៌
COALITION FOR FREE AND FAIR ELECTIONS

Confidential Report # 1
COFFEL Requests Recount of Votes in Various Locations
July 30, 1997

The Coalition for Free and Fair Elections has noticed that in many cases, during the counting of ballots on July 27, there was a deficiency of local election observers and political party representatives. Sometimes a handful or even one political party representative or national observer was present to observe the simultaneous counting of the contents of eight or more ballot box contents. It is impossible for one person to monitor so many countings effectively and be sure that the resulting count is correct.

This anomalous situation derived from the fact that originally the National Election Committee planned to do only one count at a time at each counting center, and so foresaw one observer each from each political party or national observer group. When this was changed to multiple countings at the same time, neither the counting staff nor the political parties and observer groups were adequately informed, nor was the regulation formally changed, so that in some cases the counting staff forbade more than one observer or political party representative to enter. In other cases, the political parties and national observer groups simply did not have time and staff enough to increase their representation on short notice.

This deficiency, although unintended, has diminished the confidence of political parties and observers in the accuracy of the count. Accordingly, COFFEL strongly urges the National Election Committee to conduct a recount of the votes in any location where a deficiency of observers or political party representatives has been identified. We stand ready to help identify such locations, as the NEC may request.

This recount will not only ensure the count is accurate, but more important, lay any doubts to rest.

A few examples of some polling stations where this deficiency was noticed is attached.

Meng Ho Leang
President, COFFEL

Distribution: National Election Committee
Embassies and International Organizations

**Examples of Counting Stations with Deficient Number of
Observers or Political Party Representatives or Access Problems**

Based on field reports from COFFEL Observers

Battambang

District Aik Phnom counting stations initially allowed no observers; later permitted after
NEC intervened

Kampot

Counting station #0427
Counting station # 0478
Counting station # 0422
Counting station #0412
Counting station #087
Counting station # 068

Kompong Speu

Phnom Sruoch district, Kiriwan commune, counting station 05 057

Phnom Penh

Chbar Ampou Counting Station #132/061

Prey Veng

Smaong Choeung commune, district Kamchay Meas, Counting Station No. 14 015
Counting station #0932

Commune Damrey Puon counting station - access denied to COMFREL and COFFEL.

Pursat

Kandieng District, Sala Anuwitalai (Collège) Hun Sen Kandieng, Counting Station # 013.

Please note that these are only a few examples based on preliminary information.
Further details



Committee for Free and Fair Elections in Cambodia

ទីស្នាក់ការកណ្តាល : ផ្ទះលេខ ៣ មហាវិថីម៉ៅសេឌុប សង្កាត់ បឹងកេងកង១ ខ័ណ្ឌចំការមន រាជធានីភ្នំពេញ

Fax: (855 23) 210 759 Phone: 023 361 187 Mobile: 015 834 518 / 015 838 459

E-mail: comfrel@torum.org.kh

គ្រឹះស្ថាន COMFREL

1 August 1998

PRELIMINARY STATEMENT ON POLLING, COUNTING AND POST-ELECTION INCIDENTS

Polling and vote counting

Comfrel has now received consolidated reports on its polling day and vote counting observations from 15 out of 23 provinces and towns. Comfrel observers were on hand at more than 97% of the polling stations in these provinces.

The criteria for the observation included the competence and neutrality of polling station staff, voting by ineligible voters, obstruction of eligible voters, adequacy of voter secrecy, presence of unauthorised persons, interference, intimidation, vote buying, problems outside, problems at closing and problems during transport of ballot boxes.

In five provinces, observers reported that polling took place with almost no violations. Nine provinces reported some irregularities in polling procedure but in only a very small number of polling stations compared to the total. Overall, from the observation reports received so far, the voting procedure at more than 90% of polling stations went smoothly and without incident.

Despite this, reports have been received of problems outside many polling stations, mainly to do with crowd control. About half of these polling stations were in Phnom Penh.

Some serious violations have been reported by Comfrel observers. We are currently assessing their significance and are assembling data. Comfrel will soon send information on these violations to the NEC. However, according to reports so far, these cases represent scattered incidents.

Since the counting took place, complaints have emerged of the lack of presence of sufficient party agents to verify the count at the commune and provincial level, possibly because of last-minute procedural changes by CECs at many counting centres. Nevertheless, Comfrel emphasises that it had its own observers present in almost all counting centres and has independently recorded the count.

គណៈកម្មាធិការជាតិ

គណៈប្រតិភូ	លោក ធីន សារាយ	លោក ឈិន សុខា	លោក ម៉ាត់ សារឿន	លោក សិន សែន	អ្នកស្រី អ៊ុន ចាន់ថុល
គណៈប្រតិភូ	លោក ព្រង សិទ្ធិ	អ្នកស្រី មីរ សារាយេន	លោក យឹម ឫ	លោក សុក សំអឿន	
	អ្នកស្រី តិម សុផានា	លោក យង់ តិមរេង	លោក ស៊ុល វិទ្យា	លោក អាំង អេងថុម	

Complaints arising from the polling and counting

At its press briefing on 29 July 1998, Comfrel presented a joint statement of the three major election monitoring organisations, stating their willingness to participate in investigation of poll and vote counting irregularities according to certain criteria.

Comfrel has since received copies of 23 complaints to the NEC launched by the Sam Rainsy Party and 3 by Funcinpec. These complaints are currently being assessed for their substance and significance.

So far, Comfrel has not yet received invitations from the NEC to participate in the investigation of specific violations alleged by opposition parties. However, the NEC has invited Comfrel to observe the transport of ballot boxes from the provinces to Phnom Penh.

One opposition party has sent Comfrel a long list of incidents cited as polling and counting violations. At the present, Comfrel is still assessing their significance.

Comfrel continues to state its willingness to participate in the investigation of serious, clearly described and well-documented complaints that have also been submitted to the NEC. Comfrel also calls on the NEC to ensure that all serious violations are fully investigated.

Post-election violence and intimidation

From its network of member organisations, Comfrel has received reports from Sihanoukville, Takeo, Kampong Cham and Prey Veng of 29 political party activists who have been threatened in various ways concerning their party affiliations during 27-30 July 1998. These incidents were mostly direct verbal death threats but included other forms of intimidating behaviour.

In addition, a shooting incident took place in Pailin in which ten gunmen stormed the house of the Sam Rainsy Party chief and fired repeated shots from the rooftop.

Comfrel is seriously concerned about this fresh round of political violence. It therefore calls on the NEC to take swift action by reporting these cases to the competent authorities and following up to see that the perpetrators are brought to justice.

For more information, please contact:

Koul Panha, Executive Director
Sakoeun, Monitoring Coordinator
Tel: 361187

U. Comfrel's Analysis of Partial Election Results using the First and Second Seat Allocation Formulas, July 31, 1998

Committee for Free and Fair Election in Cambodia
PARTIAL RESULT OF THE JULY 1998 ELECTION IN CAMBODIA

COMFREL

First Formula

Provinces	Parties	Votes Percentage	Total votes	Voters Registered
Banteay Meanchey	CPP	37.5%	83974	3 possible seats
	Total Commune FUN	25.2%	56477	2 possible seats
	69 SRP	20.9%	46786	1 possible seat
	69 OTHERS	16.3%	36570	
	100.0% TOTAL	87.2%	223807	256802
Battambang	CPP	36.1%	103645	3 possible seats
	Total Commune FUN	27.4%	78541	3 possible seats
	89 SRP	21.4%	61433	2 possible seats
	81 OTHERS	15.1%	43176	
	91.0% TOTAL	85.6%	286795	335236
Kampong Cham	CPP	34.3%	245585	7 possible seats
	Total Commune FUN	38.7%	276882	8 possible seats
	173 SRP	13.2%	94256	3 possible seats
	173 OTHERS	13.9%	99262	
	100.0% TOTAL	90.8%	715985	788285
Kampong Chhnaing	CPP	46.9%	71511	2 possible seats
	Total Commune FUN	27.4%	41868	2 possible seats
	69 SRP	6.8%	10388	
	69 OTHERS	18.87%	28790	
	100.0% TOTAL	82.1%	152557	185840
Kampong Speu	CPP	50.4%	121084	4 possible seats
	Total Commune FUN	26.2%	63056	2 possible seats
	87 SRP	8.0%	19217	
	87 OTHERS	15.4%	36917	
	100.0% TOTAL	88.8%	240274	270589
Kampong Thom	CPP	41.0%	93597	3 possible seats
	Total Commune FUN	30.7%	69992	2 possible seats
	81 SRP	10.2%	23280	1 possible seat
	81 OTHERS	18.1%	41358	
	100.0% TOTAL	89%	228227	255697
Kampot	CPP	46.7%	104494	3 possible seats
	Total Commune FUN	28.2%	63140	2 possible seats
	90 SRP	10.5%	23455	1 possible seat
	90 OTHERS	14.6%	32705	
	100.0% TOTAL	90.9%	223794	246186
Kandal	CPP	36.3%	183640	4 possible seats
	Total Commune FUN	39.0%	197487	5 possible seats
	147 SRP	15.9%	80612	2 possible seats
	147 OTHERS	8.8%	44726	
	100% TOTAL	94.1%	506465	538105
Koh Kong	CPP	43.5%	20379	1 possible seat
	Total Commune FUN	24.1%	11263	
	30 SRP	19.5%	9112	
	30 OTHERS	13.0%	6075	
	100.0% TOTAL	77.2%	46829	60639
Kratie	CPP	32.7%	34938	1 possible seat
	Total Commune FUN	42.3%	45126	2 possible seats
	46 SRP	13.9%	14867	
	46 OTHERS	11.1%	11798	
	100.0% TOTAL	88.5%	106729	120578

Mondul Kiri	CPP	91.6%	1000	1	No guarantee
	Total Commune FUN	6.0%	65		
	21 SRP	1.6%	18		
	2 OTHERS	0.8%	9		
	9.5% TOTAL	7.4%	1092		14758
Phnom Penh	CPP	29.8%	133009	4	possible seats
	Total Commune FUN	33.6%	150117	4	possible seats
	76 SRP	27.8%	124026	4	possible seats
	74 OTHERS	8.8%	39530		
	97.4% TOTAL	82.3%	446682		542714
Preah Vihear	CPP	#DIV/0!	0	1	No guarantee
	Total Commune FUN	#DIV/0!	0		
	49 SRP	#DIV/0!	0		
	0 OTHERS	#DIV/0!	0		
	0% TOTAL	0.0%	0		53881
Prey Veng	CPP	54.0%	219991	6	possible seats
	Total Commune FUN	34.9%	142188	4	possible seats
	116 SRP	7.4%	30049	1	possible seat
	116 OTHERS	3.8%	15400		
	100.0% TOTAL	86.3%	407628		472223
Pursat	CPP	43.3%	57449	2	possible seats
	Total Commune FUN	32.7%	43399	2	possible seats
	44 SRP	8.3%	11065		
	44 OTHERS	15.7%	20786		
	100.0% TOTAL	89.3%	132699		148519
Rattanakiri	CPP	75.2%	26431	1	possible seat
	Total Commune FUN	9.3%	3252		
	49 SRP	10.5%	3688		
	49 OTHERS	5.0%	1761		
	100.0% TOTAL	84.2%	35132		41733
Siem Reap	CPP	48.7%	137217	3	possible seats
	Total Commune FUN	24.5%	69083	2	possible seats
	113 SRP	15.4%	43473	1	possible seat
	109 OTHERS	11.4%	32137		
	96.5% TOTAL	89.9%	281910		313727
Sihanouk Vile	CPP	38.1%	25193	1	possible seat
	Total Commune FUN	30.5%	20185		
	21 SRP	20.3%	13432		
	21 OTHERS	11.0%	7271		
	100.0% TOTAL	87.4%	66081		75641
Stung Treng	CPP	57.0%	17763	1	possible seat
	Total Commune FUN	17.3%	5393		
	34 SRP	20.8%	6467		
	34 OTHERS	4.9%	1521		
	100.0% TOTAL	87.3%	31144		35675
Svay Rieng	CPP	54.0%	117353	3	possible seats
	Total Commune FUN	24.2%	52627	2	possible seats
	80 SRP	8.1%	17605		
	80 OTHERS	13.7%	29678		
	100.0% TOTAL	92.7%	217263		234249
Takeo	CPP	42.6%	148497	4	possible seats
	Total Commune FUN	36.4%	126784	3	possible seats
	98 SRP	10.7%	37286	1	possible seat
	95 OTHERS	10.4%	36140		
	96.9% TOTAL	91.6%	348707		380889

Kep	CPP	50.2%	6297	1 possible seat
	Total Commune FUN	34.4%	4315	
	5 SRP	8.0%	1001	
	5 OTHERS	7.4%	934	
	100.0% TOTAL	92.7%	12547	13542
Pailin	CPP	28.4%	3331	
	Total Commune FUN	18.6%	2180	
	3 SRP	48.8%	5722	1 possible seat
	3 OTHERS	4.25%	498	
	100.0% TOTAL	74.4%	11731	15772
Grand Total:		87.9%	4724078	122
Percentage of Communes		90.9%		5371966

Result in the Whole Country	Percentage of votes	Votes	%	Possible Seats
CPP	41.4%	1956378	48%	59
FUN	32.2%	1523420	37%	45
SRP	14.1%	666872	15%	18
OTHERS	12.2%	577408		0

PARTIAL RESULT OF THE JULY 1998 ELECTION IN CAMBODIA

Provinces	Parties	Votes Percentage	Total votes	Voters Registered
Banteay Meanchey	CPP	37.5%	83974	3 possible seats
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	69 SRP	20.9%	46786	1 possible seat
	69 OTHERS	16.3%	36570	
	100.0% TOTAL	87.2%	223807	256802
Battambang	CPP	36.1%	103645	3 possible seats
	Total Commune FUN	27.4%	78541	3 possible seats
	89 SRP	21.4%	61433	2 possible seats
	81 OTHERS	15.1%	43176	
	91.0% TOTAL	85.6%	286795	335236
Kampong Cham	CPP	34.3%	245585	7 possible seats
	Total Commune FUN	38.7%	276882	8 possible seats
	173 SRP	13.2%	94256	3 possible seats
	173 OTHERS	13.9%	99262	
	100.0% TOTAL	90.8%	715985	788285
Kampong Chhnaing	CPP	46.9%	71511	3 possible seats
	Total Commune FUN	27.4%	41868	1 possible seats
	69 SRP	6.8%	10388	
	69 OTHERS	18.87%	28790	
	100.0% TOTAL	82.1%	152557	185840
Kampong Speu	CPP	50.4%	121084	4 possible seats
	Total Commune FUN	26.2%	63056	2 possible seats
	87 SRP	8.0%	19217	
	87 OTHERS	15.4%	36917	
	100.0% TOTAL	88.8%	240274	270589
Kampong Thom	CPP	41.0%	93597	4 possible seats
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	100.0% TOTAL	89%	228227	255697
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	Total Commune FUN	28.2%	63140	2 possible seats
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	100% TOTAL	94.1%	506465	538105
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	30 SRP	19.5%	9112	
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	100.0% TOTAL	77.2%	46829	60639
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	46 OTHERS	11.1%	11798	
	100.0% TOTAL	88.5%	106729	120578

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Total Commune	FUN	6.0%	65		
	21 SRP	1.6%	18		
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Sihanouk Vile	CPP	38.1%	25193	1	possible seat
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	100.0% TOTAL	92.7%	217263		234249
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Pailin	CPP	28.4%	3331	
Total Communes	FUN	18.6%	2180	
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FUN	32.2%	1523420	35%	43
SRP	14.1%	666872	12%	15
OTHERS	12.2%	577408		0

Committee for Free and Fair Election in Cambodia **COMFREL**
 Election Result According to Second Formula

Banteay Mean Chey 6 total seats 37301.17 pop/seat

Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat
CPP	83974	2.3	3	27991.33	2	3	27991.33	3	3		3
FUN	56477	1.5	2	28238.5	2	3	18825.67	2	2		2
SRP	46786	1.3	2	23393	1	2	23393	1	1		1
Total	223807				5						

Battambang 8 total seats 35849.38 pop/seat

Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat
CPP	103645	2.9	3	34548.33	3	4	25911.25	3	4	25911.25	3
FUN	78541	2.2	3	26180.33	2	3	26180.33	2	3	26180.33	3
SRP	61433	1.7	2	30716.5	1	2	30716.5	2	3	20477.67	2
Total	286795		5		6						

Kampong Cham 18 total seats 39776.94 pop/seat

Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat
CPP	245585	6.2	7	35083.57	7	8	30698.13	7	8	30698.13	7
FUN	276882	7.0	8	34610.25	7	8	34610.25	8	9	30764.67	8
SRP	94256	2.4	3	31418.67	2	3	31418.67	2	3	31418.67	3
Total	715985		15		16			17			18

Kampong Chhnaing 4 total seats 38139.25 pop/seat

Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat
CPP	71511	1.9	2	35755.5	2	3	23837	3	3		3
FUN	41868	1.1	2	20934	1	2	20934	1	1		1
SRP	10388	0.3	1	10388		1	10388				
Total	152557		2		3			4			

Kampong Speu 6 total seats 40045.67 pop/seat

Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat
CPP	121084	3.0	4	30271	3	4	30271	4	4		4
FUN	63056	1.6	2	31528	2	3	21018.67	2	2		2
SRP	19217	0.5	1	19217		1	19217		1		
Total	240274		4								

Kampong Thom		6 total seats						38037.83 pop/seat					
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Added seat	5th seat	Last Seat
CPP	93597	2.5	3	31199	2	3	31199	3	4	23399.25	4	4	4
FUN	69992	1.8	2	34996	2	3	23330.67	2	3	23330.67	2	3	2
SRP	23280	0.6	1	23280		1	23280		1	23280		1	23280
Total	228227	3											

Kampot		6 total seats						37299 pop/seat					
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Added seat	5th seat	Last Seat
CPP	104494	2.8	3	34831.3	3	4	26123.5	3	4	26123.5	4	4	4
FUN	63140	1.7	2	31570	1	2	31570	2	3	21046.67	3	3	2
SRP	23455	0.6	1	23455	0	1	23455	0	1	23455	0	1	23455
Total	223794	3											

Kandal		11 total seats						46042.27 pop/seat					
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Added seat	5th seat	Last Seat
CPP	183640	4.0	5	36728	4	5	36728	4	5	36728	4	5	4
FUN	197487	4.3	5	39497.4	4	5	39497.4	5	5	39497.4	5	5	5
SRP	80612	1.8	2	40306	2	3	26870.67	2	3	26870.67	2	3	2
Total	506465	9											

Kratie		3 total seats						35576.33 pop/seat					
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Added seat	5th seat	Last Seat
CPP	34938	1.0	2	17469	1	2	17469	1	2	17469	1	2	1
FUN	45126	1.3	2	22563	2	3	22563	2	3	22563	2	3	2
SRP	14867	0.4	1	14867		1	14867		1	14867		1	1
Total	106729	1											

Phnom Penh		12 total seats						37223.5 pop/seat					
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Added seat	5th seat	Last Seat
CPP	133009	3.6	4	33252.25	4	5	26601.8	4	5	26601.8	4	5	4
FUN	150117	4.0	5	30023.4	4	5	30023.4	4	5	30023.4	4	5	4
SRP	124026	3.3	4	31006.5	3	4	31006.5	3	4	31006.5	4	4	4
Total	446682	10											12

		11 total seats 37057.09 pop/seat										
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat	
CPP	219991	5.9	6	36665.17	6	7	31427.29	6	7	31427.29	7	
FUN	142188	3.8	4	35547	3	4	35547	4	5	28437.6	4	
SRP	30049	0.8	1	30049	0	1	30049	0	1	30049	0	
Total	407628	8			9			10			11	

		4 total seats 33174.75 pop/seat										
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat	
CPP	57449	1.7	2	28724.5	2	3	19149.67	2			2	
FUN	43399	1.3	2	21699.5	1	2	21699.5	2			2	
SRP	11065	0.3	1	11065	0	1	11065	0				
Total	132699	2			3			4			4	

		6 total seats 46985 pop/seat										
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat	
CPP	137217	2.9	3	45739	3	4	34304.25	3	4	34304.25	3	
FUN	69083	1.5	2	34541.5	1	2	34541.5	1	2	34541.5	2	
SRP	43473	0.9	1	43473	0	1	43473	1	2	21736.5	1	
Total	281910	3			4			5				

		5 total seats 43452.6 pop/seat										
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat	
CPP	117353	2.7	3	39117.67	3	4	29338.25	4			4	
FUN	52627	1.2	2	26313.5	1	2	26313.5	1			1	
SRP	17605	0.4	1	17605	0	1	17605	0				
Total	217263	3			4			5			5	

		8 total seats 43588.38 pop/seat										
Parties	Votes	First seat	Added seat	Average 1	2nd seat	Added seat	Average 2	3rd seat	Added seat	4th seat	Last Seat	
CPP	148497	3.4	4	37124.25	3	4	37124.25	3	4	37124.25	4	
FUN	126784	2.9	3	42261.33	3	4	31696	3	4	31696	3	
SRP	37286	0.9	1	37286	0	1	37286	1	2	18643	1	
Total	348707	5			6			7				

V. Formulas to Allocate the Seats After the Official Results

FORMULA TO ALLOCATE THE SEATS AFTER THE OFFICIAL RESULTS

A) Determination of the number of candidates of each party elected in each province (after the election) by the NEC using the formula of the highest average for the remaining seats

STEP 1: A Quota of votes for one candidate is determined by dividing the total number of valid votes recorded for all the political parties at the election in the province by the number of seats to be filled in the province $Q = V / S$

where

V represents the total number of valid votes for all the parties in the province

S represents the number of seats to be filled in this province

Q represents the number of votes to elect a candidate or the quota

E.g. If $V = 683,891$ total valid votes and $S = 21$, then $Q = V / S$ is equal to:

$$Q = 683,891 / 21$$

$$Q = 32,566$$

STEP 2: Using the quota obtained in STEP 1 and the highest average for the remainder, determination of the number of candidates elected for each party in each province

Formula: $C = (Vv / Q)$

where

C represents the number of elected candidates

Vv represents the number of valid votes recorded for the registered political party

Q represents the quota

E.g. Provincial or municipal list of candidates:

If Vv represents the valid votes of each party in the province, S represents the number of seats to be filled in the province equals 21 and Q the quota equals 32,566, then:

$Ns = Vv / Q$ and the highest average (Ha) equals the valid votes (Vv) divided by the number of seats (Ns) + 1, $Ha = Vv / (Ns + 1)$

A.	Valid votes (Vv), Party XX	: 312,045 (45.6%)		
	Formula		Seats party	Ha
	a) $N_s = Vv / Q, N_s = 312,045 / 32,566, N_s =$		9 seats	Add. seat + 1
	b) $H_a = Vv / N_s + 1, H_a = 312,045 / (9 + 1),$			$H_a = 31,204$
B.	Valid votes (Vv), Party YY	: 295,346 (43.2%)		
	a) $N_s = Vv / Q, N_s = 295,346 / 32,566, N_s =$		9 seats	+ 1
	b) $H_a = Vv / N_s + 1, H_a = 295,346 / (9 + 1),$			$H_a = 29,534$
C.	Valid votes, Party ZZ	: 58,320 (08.5%)		
	a) $N_s = Vv / Q, N_s = 58,320 / 32,566, N_s =$		1 seat	+ 0
	b) $H_a = Vv / N_s + 1. H_a = 58,320 / (1 + 1),$			$H_a = 29,160$
D.	Valid votes, Party WW	: 11,999 (01.8%)		+ 0
	a) $N_s = Vv / Q, N_s = 11,999 / 32,566, N_s =$		0 seat	
	b) $H_a = Vv / (N_s + 1), H_a = 11,999 / (0 + 1),$			$H_a = 11,999$
E.	Valid votes, Parti OO	: 6,181 (00.9%)		+ 0
	a) $N_s = Vv / Q, N_s = 6,181 / 32,566, N_s =$		0 seat	
	b) $H_a = Vv / (N_s + 1), H_a = 6,181 / (0 + 1),$			$H_a = 6,181$
Total		: 683,981=	19 seats	+ 2 = 21

FORMULA TO ALLOCATE THE SEATS AFTER THE OFFICIAL RESULTS

A) Operation # 1

Determination of the number of candidates of each party elected in each province (after the official results) by the NEC using the formula of the highest average for the remaining seats not allocated through the first operation.

STEP 1: A Quota of votes for one candidate is determined by dividing the total number of valid votes recorded for all the political parties at the election in the province by the number of seats to be filled in the province $Q = V / S$

where

V represents the total number of valid votes for all the parties in the province

S represents the number of seats to be filled in this province

Q represents the number of votes to elect a candidate or the quota

E.g. If $V = 683,891$ total valid votes and $S = 21$, then $Q = V / S$ is equal to:

$$Q = 683,891 / 21$$

$$Q = 32,566$$

STEP 2: Using the quota obtained in STEP 1 and the highest average for the remainder, determination of the number of seats for each party in each province. The formula is used for each remaining seat, using the new figures obtained.

Formula: $Ns = (Vv / Q)$

where

Ns represents the number of seats for each party

Vv represents the number of valid votes recorded for the registered political party

Q represents the quota

E.g. Provincial or municipal list of candidates:

If Vv represents the valid votes of each party in the province, S the number of seats to be filled in the province equals 21 and Q the quota equals 32,566, then:

$Ns = Vv / Q$ and the highest average (Ha) equals the valid votes (Vv) divided by the number of seats (Ns) + 1, $Ha = Vv / (Ns + 1)$

B Operation # 2 (The 1st of two remaining seats)

A. Valid votes (Vv), Party XX : 312,045 (45.6%)

Formula

$$a) N_s = V_v / Q, N_s = 312,045 / 32,566, N_s =$$

Seats party
9 seats

Ha

Add. seat
+ 1

$$b) H_a = V_v / N_s + 1, H_a = 312,045 / (9 + 1),$$

$$H_a = 31,204$$

B. Valid votes (Vv), Party YY : 295,346 (43.2%)

$$a) N_s = V_v / Q, N_s = 295,346 / 32,566, N_s =$$

9 seats

$$b) H_a = V_v / N_s + 1, H_a = 295,346 / (9 + 1),$$

$$H_a = 29,534$$

C. Valid votes, Party ZZ : 58,320 (08.5%)

$$a) N_s = V_v / Q, N_s = 58,320 / 32,566, N_s =$$

1 seat

$$b) H_a = V_v / N_s + 1. H_a = 58,320 / (1 + 1),$$

$$H_a = 29,160$$

D. Valid votes, Party WW : 11,999 (01.8%)

$$a) N_s = V_v / Q, N_s = 11,999 / 32,566, N_s =$$

0 seat

$$b) H_a = V_v / (N_s + 1), H_a = 11,999 / (0 + 1),$$

$$H_a = 11,999$$

E. Valid votes, Parti OO : 6,181 (00.9%)

$$a) N_s = V_v / Q, N_s = 6,181 / 32,566, N_s =$$

0 seat

$$b) H_a = V_v / (N_s + 1), H_a = 6,181 / (0 + 1),$$

$$H_a = 6,181$$

Sub-Total

:

683,981 = 19 seats

+ 1 = 20

C Operation # 3 (The 2nd of two remaining seats)

A. Valid votes (Vv), Party XX : 312,045 (45.6%)

Formula

$$a) N_s = V_v / Q, N_s = 312,045 / 32,566, N_s =$$

Seats party
10 seats

Ha Add. seat

$$b) H_a = V_v / N_s + 1, H_a = 312,045 / (10 + 1),$$

$$H_a = 28,367$$

B. Valid votes (Vv), Party YY : 295,346 (43.2%)

$$a) N_s = V_v / Q, N_s = 295,346 / 32,566, N_s =$$

9 seats

+ 1

$$b) H_a = V_v / N_s + 1, H_a = 295,346 / (9 + 1),$$

$$H_a = 29,534$$

C. Valid votes, Party ZZ : 58,320 (08.5%)

$$a) N_s = V_v / Q, N_s = 58,320 / 32,566, N_s =$$

1 seat

$$b) H_a = V_v / N_s + 1. H_a = 58,320 / (1 + 1),$$

$$H_a = 29,160$$

D. Valid votes, Party WW : 11,999 (01.8%)

$$a) N_s = V_v / Q, N_s = 11,999 / 32,566, N_s =$$

0 seat

$$b) H_a = V_v / (N_s + 1), H_a = 11,999 / (0 + 1),$$

$$H_a = 11,999$$

E. Valid votes, Parti OO : 6,181 (00.9%)

$$a) N_s = V_v / Q, N_s = 6,181 / 32,566, N_s =$$

0 seat

$$b) H_a = V_v / (N_s + 1), H_a = 6,181 / (0 + 1),$$

$$H_a = 6,181$$

Total

:

683,981=

20 seats

+ 1 = 21

W. National Democratic Institute Party Percentage Comparisons (1993-1998)

NATIONAL DEMOCRATIC INSTITUTE - PARTY PERCENTAGE COMPARISONS 93-98

	93 actual			98 actual			93 actual*			98 actual			93 actual*			98 actual			% chg						
	93 actual	93%	% chg	98 actual	98%	% chg	93 actual	93%	% chg	98 actual	98%	% chg	93 actual*	93%	% chg	98 actual	98%	% chg	93 actual*	93%	% chg	98 actual	98%	% chg	
Total votes cast in 1993: 4,127,600																									
Total votes cast in 1998: 4,902,483																									
FUNCINPEC																									
	88013	46.95	25.19	56439	25.19	-21.76	53137	28.35	37.59	84225	37.59	9.24	46299	24.70	15.99	35841	15.99	-8.71	46299	24.70	15.99	35841	15.99	-8.71	
Banteay Meanchey	128694	33.60	27.52	82653	27.52	-6.08	82735	21.60	107825	35.90	14.30	64199	21.38	171598	44.80	15.20	45656	15.20	-29.60	171598	44.80	45656	15.20	-29.60	
Battambang	322358	53.93	27.35	277351	38.45	-15.48	183268	30.66	246900	34.23	3.57	96714	13.41	92112	15.41	13.90	100276	13.90	-1.51	92112	15.41	100276	13.90	-1.51	
Kompong Cham	43511	32.52	47046	27.88	-4.64	70532	52.71	78692	46.63	-6.08	11143	6.60	19764	14.77	18.89	31882	18.89	4.12	19764	14.77	31882	18.89	4.12		
Kompong Chhnang	57767	28.69	62880	25.63	-3.06	105085	52.19	124465	50.73	-1.46	19880	8.10	38498	19.12	15.53	38101	15.53	-3.59	38498	19.12	38101	15.53	-3.59		
Kompong Speu	55434	35.68	69711	30.65	-5.03	69848	44.96	93467	41.09	-3.87	22704	9.98	30077	19.36	18.28	41579	18.28	-1.08	30077	19.36	41579	18.28	-1.08		
Kompong Thom	80313	42.10	63488	28.30	-13.80	76494	40.10	104596	46.63	6.53	23516	10.48	33955	17.80	14.58	32711	14.58	-3.22	33955	17.80	32711	14.58	-3.22		
Kandal	225083	59.66	198073	38.91	-20.75	94755	25.11	184742	36.29	11.18	80985	15.91	57469	15.23	8.89	45280	8.89	-6.34	57469	15.23	45280	8.89	-6.34		
Koh Kong	14689	35.59	11262	24.06	-11.53	19992	48.41	20379	43.54	-4.87	9111	19.46	6608	16.00	12.94	6057	12.94	-3.06	6608	16.00	6057	12.94	-3.06		
Kratie	54996	63.23	45497	42.20	-21.03	20998	24.14	35297	32.74	8.60	14969	13.89	10986	12.63	11.17	12041	11.17	-1.46	10986	12.63	12041	11.17	-1.46		
Mondulkiri	1756	16.90	2068	17.42	0.52	6987	67.23	8296	69.88	2.65	1061	8.94	1649	15.87	3.77	447	3.77	-12.10	1649	15.87	447	3.77	-12.10		
Phnom Penh	239815	54.41	159008	33.46	-20.95	135442	30.73	140109	29.49	-1.24	132127	27.81	65495	14.86	9.25	43937	9.25	-5.61	65495	14.86	43937	9.25	-5.61		
Preah Vihear	5478	19.32	6592	13.65	-5.67	19095	67.33	34203	70.83	3.50	4105	8.50	3786	13.35	7.02	3388	7.02	-6.33	3786	13.35	3388	7.02	-6.33		
Prey Veng	148499	38.87	143068	32.34	-6.53	186820	48.90	220915	49.93	1.03	30161	6.82	46724	12.23	10.91	48277	10.91	-1.32	46724	12.23	48277	10.91	-1.32		
Pursat	42614	35.72	42747	32.20	-3.52	55148	46.23	58902	44.36	-1.87	11252	8.47	21532	18.05	14.96	19868	14.96	-3.09	21532	18.05	19868	14.96	-3.09		
Ratanakiri	2225	7.25	3268	9.10	1.85	25522	83.11	27162	75.65	-7.46	3683	10.26	2960	9.64	4.99	1791	4.99	-4.65	2960	9.64	1791	4.99	-4.65		
Siem Reap	96548	49.58	69228	24.49	-25.09	65579	33.68	137661	48.70	15.02	43523	15.40	32595	16.74	11.40	32234	11.40	-5.33	32595	16.74	32234	11.40	-5.33		
Sihanoukville	26010	27.02	19945	30.90	-16.12	18492	33.43	24067	37.29	3.86	13535	20.97	10814	19.55	10.83	6991	10.83	-8.72	10814	19.55	6991	10.83	-8.72		
Stung Treng	7425	27.13	5393	17.30	-9.83	16526	60.39	17761	56.98	-3.41	6469	20.76	3416	12.48	4.96	1545	4.96	-7.53	3416	12.48	1545	4.96	-7.53		
Svay Rieng	57139	29.90	52778	24.18	-5.72	108205	56.63	117687	53.92	-2.71	18050	8.27	25739	13.47	13.62	29736	13.62	0.15	25739	13.47	29736	13.62	0.15		
Takeo	125802	43.01	129383	36.05	-6.96	117811	40.28	153829	42.86	2.58	38154	10.63	48874	16.71	10.47	37565	10.47	-6.24	48874	16.71	37565	10.47	-6.24		
Kep**	0	0.00	4316	34.38	34.38	0	0.00	6296	50.16	50.16	995	7.93	0	0.00	7.54	946	7.54	7.54	0	0.00	946	7.54	7.54		
Pailin**	0	0.00	2180	18.56	18.56	0	0.00	3326	28.32	28.32	5733	48.82	0	0.00	4.30	505	4.30	4.30	0	0.00	505	4.30	4.30		
	1824179	44.19	1554374	31.71	-12.48	1532471	37.13	2030802	41.43	4.30	699653	14.27	770950	18.68	12.58	616654	12.58	-6.10	770950	18.68	616654	12.58	-6.10		

*includes 1993 BLDP votes

**new constituencies

X. Funcinpec-Sam Rainsy Party Statement, "Response to Early
Endorsements of Election Results," September 4, 1998

CAMBODIA

JOINT STATEMENT BY FUNCINPEC AND THE SAM RAINSY PARTY

**RESPONSE TO EARLY ENDORSEMENTS
OF ELECTION RESULTS**

September 4, 1998

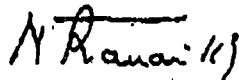
We deeply regret that the Association of Southeast Asian Nations and the Government of Japan have already endorsed the National Election Committee's announced results of the elections for the National Assembly of the Kingdom of Cambodia.

Cambodian citizens continue to protest the failure of election authorities to investigate complaints about the conduct of the election and the failure of the election authorities to fulfill their duties according to the Law and the Constitution.

Independent agencies including the Asian Network for Free Elections, the US-based National Democratic Institute and International Republican Institute, the International Crisis Group, and the internationally recognized Cambodian observer groups have called for further investigation and urged that assessment of the election results be delayed until these issues have been properly addressed.

His Majesty, King Norodom Sihanouk, has initiated a meeting September 5-7 between representatives of the National Election Committee, the Constitutional Council, and the three major political parties. It is our hope that this meeting can begin to address the legal and technical problems with the election and lead to the credible and democratic result that the Cambodian people deserve. However, we are concerned that premature endorsements of the electoral process may jeopardize the process initiated by His Majesty.

We urge once again that further endorsements of the Cambodian electoral process be withheld until the many serious legal and technical problems with the conduct of the election are resolved and the will of the people is known. Premature conclusions made by outside observers can only damage the prospects for Cambodia's long-term political stability.



Norodom Ranariddh
President of FUNCINPEC



Sam Rainsy
President of the Sam Rainsy Party

Y. "Promises, promises: a post-election reminder," Phnom Penh Post,
August 21 - September 3, 1998

Promises, promises: a post-election reminder

Voters were bombarded by a blitzkrieg of promises from the 39 political parties during the month-long campaign period. A record number of voters — 5,057,679 — cast their ballots on election day, a clear message that Cambodians were filled with hope that democracy would make a difference in their lives. The Center for Social Development has reprinted an edited translation of the political platforms that the winning parties submitted to the CSD before the election for its non-partisan Voter's Guide as a reminder to both the voters and the parties of the promises that were made — greater respect for human rights, elimination of corruption, improvements to public education and health care, an end to war and many others.

CPP

Motto Independence, Peace, Liberty, Democracy, Neutrality, Social Development

President Chea Sim

Goals and objectives Cambodian People's Party is committed to the ideal of patriotism, sharing woe and happiness with people in all circumstances. The party will do everything for the people. CPP's stance is to:

- Strengthen, respect and defend the constitution.
 - Practise free multiparty democracy, respect human rights and freedom of the press, and ensure the rights of all people as stipulated in the universal communique of the United Nations.
 - Continue carrying out a national reconciliation policy, strengthening a state of law, reforming administration and the national armed forces.
 - Undertake free market economy, ensure economic stability, attract investors, eliminate corruption, theft, sex and drug trafficking. Furthermore, CPP will seek assistance for constructing the country and for raising the pay of civil servants and armed forces.
 - CPP defends the independent sovereignty and territorial integrity of 181,035 km² of sea and space.
 - Settle border disputes by peaceful negotiation, not force.
 - Block the in-flow of immigrants and solve the problem through law enforcement.
- Education**
- To enable children old enough to go to school to enroll in public school without paying school fees.
 - To promote informal education to achieve the goal "Education is for everyone" in order to eliminate illiteracy.
 - To upgrade the quality of education by connecting education with production.

FUNCINPEC

Motto Neutrality, Independence, Peace, and Cooperation

President Prince Norodom Ranariddh

Goals and objectives

- To respect the 1993 Constitution with the motto "Nation, Religion, King".
 - To defend national independence, sovereignty and territorial integrity as provided for in appendix 5 of the Paris Peace Accord.
 - To organize the civil administration, military and police system to be neutral, clean and effective.
 - To strictly enforce migration and nationality laws.
 - To ensure the respect of international treaties on human rights, rights for women, children and ethnic groups.
 - To boost development to upgrade living conditions, to eliminate poverty and to attract foreign investment.
 - To develop human resources by vocational training for youth.
 - To fight corruption by upgrading the living standards of civil servants, soldiers and police.
 - To fight drug trafficking.
 - To act against dictatorship, militarism and violence.
 - To investigate the loss of State property.
- Education**
- To reform the curriculum, provide books and materials, and train teachers and education officials to govern schools.
 - To ensure equality in schooling, reduce illiteracy, and ensure that every child has the opportunity to go to school.
 - To direct education toward human resources development for effectiveness in jobs.
 - To encourage partnerships from various sectors of the society, particularly the private sector.

SAM RAINSY

Motto Morality, Honesty, and Justice

President Sam Rainsy

Goals and objectives

- To put an end to war between Khmer and Khmer in order to bring a real peace to the nation.
 - To reclaim and defend the Cambodian's territorial integrity through legal means.
 - To deal with illegal immigrants by non-violent means.
 - To get rid of corruption by increasing the salary of civil servants and armed forces to a suitable level.
 - To improve social justice by protecting the poor, the vulnerable and victims.
 - To assure and protect current property and house ownership, and provide adequate farmland and convenient shelter.
 - To ensure the respect of human rights and fair, liberal democracy.
 - To ensure the neutrality of public administration by keeping the present position of every government official, but for the administrations to be independent from political parties.
 - To protect and preserve natural resources, namely forestry and fishery.
 - To revise and correct any public contracts not being in conformity with the law, or not serving the public good.
 - To ensure the neutrality of the royal armed forces, police and military police.
- Education**
- To set up a modern standard for education.
 - To boost technological training namely in agriculture, industry, the electronics business, electric power construction, so that Khmer children have real technical skills to participate in nation building in all areas.
 - To completely eliminate the certificate buying and corruption within the education system.

Agriculture

- CPP recognizes the legal ownership of farmers and aims to promote the issuing of land ownership certificates to farmers in conjunction with a non-taxation policy on farmland for small-scale family production.
- To promote the rehabilitation of farmland, the construction of irrigation systems, crop intensification, and cultivation of secondary crops. CPP implements the agricultural product price support policy.

Health Care

- To upgrade the quality of public health services by giving priority to rural health services.
- To boost education on the prevention of infectious and chronic diseases in order to decrease diseases such as malaria, tuberculosis, sex-related disease, AIDS, diarrhea, dengue, cancer, etc.
- To improve the health conditions of women and children through the expansion of a birth spacing program, vaccination, nutrition and family health care.
- To provide access to necessary public health services for elder persons, the handicapped and the poor.

Environment

- To strengthen the protection and preservation of the environment based on natural resource management laws.
- To introduce environmental issues into the education program in order to upgrade awareness of the environment in teachers, pupils and students.
- To block environmental pollution.
- To boost the development of environmental tourism in order to reduce the exploitation of natural resources.

Peace

- To end war and make a nationwide peace which guarantees there will be no return to a genocide regime. The CPP is in favor of the law to outlaw the Khmer Rouge. CPP supports the "win-win" policy of the government which was raised by second Prime Minister Hun Sen.
- To carry on integrating the remaining armed forces and people in areas under the control of outlawed guerrillas as done in Samlot, Pailin, Malai and Antlong Veng.

Edited extract of the Voter's Guide published by the Center for Social Development, a non-partisan organization which supports all parties in furthering democracy in Cambodia. The Voter's Guide was made possible through cooperation with the National Election Committee, COFFEL, COMFREL, and with the support of the New Zealand Embassy and USAID through the Asia Foundation.

- To increase paddy rice yield and other crops, and the price of the products.
- To improve the quality of the products through the introduction of new techniques.
- To defend land ownership of farmers and strongly protest against the seizure of farmland.
- To revise and resettle the forestry concession according to the guidelines of the World Bank and UNDP.

Health Care

- To retrain public health officials and to upgrade the quality of clinics and hospitals.
- To provide education on the importance of individual and family health.
- To control the distribution of fake medicine or expired date medicine.
- To launch a vaccination campaign against tuberculosis, polio and measles for all children.
- To provide education on the use of medicine, and birth control methods.
- To spread information on the dangers of AIDS.
- To conduct a blood testing campaign for sex workers.

Environment

- To manage the forest and increase tree replanting.
- To control and prevent the coastal zone from contamination by poisonous wastes.
- To preserve sources of water from damage by factories or mine exploitation.
- To control the fish population by establishing research and training institutes and to protect fish.

Peace

- To control and decrease private weapons.
- To get rid of anarchy in both the city and rural areas.
- To eliminate robberies, thefts and the militia.
- To organize armed forces to become territorial integrity defenders, people protectors and developers.
- Our goal is to move forward to the kind of peace that we had during the Sangkum Reastr Niyum period by means of national reconciliation and cooperation. Funcinpec will never use violence to solve the problems of the nation.

Agriculture

- To make land title reform in order to provide enough land for farming and housing.
- To provide technical assistance to farmers by sending agricultural specialists to help them understand intensified agriculture techniques.
- To promote the price of agricultural products such as rice, maize, beans to be in proportion with market price.
- To set a suitable price for fertilizer.
- To construct irrigation systems in areas of water shortage
- To encourage investment in agricultural products processing for both domestic consumption and export.

Health Care

- To set up a public health care system such as hospitals, health centers, medicine to provide services to people both in the cities and rural areas.
- To organize a compatible system of treatment and prevention to reduce the number of sick.
- To set up a permanent program for health care education.

Environment

- To stop the destruction of forests, log exports, and to take tough legal action against offenders
- To prohibit factory construction in towns, as well as the release of waste into underground drainage systems or into rivers or lakes.
- To control garbage throwing in towns and public places.
- To grant incentive awards to people who are interested in protecting and preserving the natural resources

Peace

- To abolish the law outlawing the Khmer Rouge for full national reconciliation.
- To convert the budget left from war waging to help handicapped widows, orphans, to clear mines, and to develop the country.
- To maintain good relations with neighboring countries on the basis of mutual respect and non-interference.

Z. Statement of Eric Bjornlund, Senior Associate and Regional Director for Asia, National Democratic Institute for International Affairs, before the US House of Representatives, Committee on International Relations, Subcommittee on Asia and the Pacific, September 28, 1998



**NATIONAL
DEMOCRATIC
INSTITUTE**
FOR INTERNATIONAL AFFAIRS

1717 Massachusetts Avenue N.W.
Fifth Floor
Washington, D.C. 20036
(202) 328-3136 Fax: (202) 939-3166
E-Mail: demos@ndi.org
Home Page: <http://www.ndi.org>

STATEMENT

of

ERIC BJORN LUND

**SENIOR ASSOCIATE AND REGIONAL DIRECTOR FOR ASIA
NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS**

before the

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON ASIA AND THE PACIFIC**

September 28, 1998

Mr. Chairman, members of the subcommittee, thank you for inviting the National Democratic Institute for International Affairs (NDI) here today to comment on the election process in Cambodia and the role of the international community.

The National Democratic Institute has actively supported the development of Cambodia's democratic institutions through work with civic organizations, political parties and the National Assembly since 1992. Especially since the violent ouster of First Prime Minister Ranariddh in July 1997, NDI has closely monitored the political environment in the country. Often in conjunction with the International Republican Institute (IRI), NDI has conducted a series of missions to Cambodia to assess the political environment and electoral preparations over the last 14 months.

NDI re-established an ongoing monitoring presence in Cambodia beginning in late April, and NDI and IRI jointly organized an election observation delegation for the week of the July 26 elections. The delegation included 60 members, counting NDI and IRI staff members, and comprised international election experts, political leaders, democracy activists and regional experts from the United States and seven other countries. On July 28, after the polling and the first phase of the counting, NDI and IRI issued a preliminary statement about the election. Since the election, NDI has maintained a presence in Cambodia to monitor the post-election environment and issued a second post-election statement on August 22.

No election can be viewed in isolation of the political context in which it takes place. In their preliminary statement, NDI and IRI outlined the distinct phases of any election process: the pre-election period, which includes the campaign environment and technical preparations, including voter registration; the balloting on election day; the counting and consolidation of results; and the investigation and adjudication of complaints and the formation of a government. Any assessment of the Cambodian elections must take account of all phases of the process.

Mr. Chairman, we can now see that the election process in Cambodia has fallen short of democratic norms. Events throughout August and September are sadly consistent with the violence and institutional flaws that were apparent in the pre-election period, indicating that the ruling regime has little interest in power sharing, peaceful governance or human rights. The United States and the international community must recommit to unconditional support for genuine democracy in Cambodia during this troubling period.

In my testimony today, I will (1) review again the systemic flaws of the pre-election period, (2) explain the institutional failures of the process after election day, (3) review the violence and climate of intimidation that has prevailed since election day, and (4) comment on the contributions and limitations of the national and international observers.

1. While balloting and initial stages of the vote count went relatively well, the election took place in a highly flawed environment.

In the July 28 preliminary statement, issued two days after polling day, NDI and IRI commented that the voting process was "generally well administered" and the atmosphere on election day was largely "peaceful." The statement also applauded the Cambodian people for turning out in such high numbers on election day in the face of serious obstacles. At that time, the institutes reiterated their serious concerns regarding "violence, extensive intimidation, unfair media access and ruling party control of the administrative machinery that characterized the pre-election period."

Cambodia has been plagued by violence and instability over the last year. After the July 5, 1997, coup d'etat, dozens of opposition members of parliament and party leaders fled the country in fear for their lives, and Second Prime Minister Hun Sen and the Cambodian People's Party (CPP) completely dismantled the infrastructures of opposition political parties. The CPP took advantage of the opposition's absence to further consolidate its control over the military, security forces, civil administration and media. Although opposition leaders were allowed to return to Cambodia in the months before the election, they had to operate within a framework designed and dominated by the CPP.

On July 14, 12 days before polling day, NDI and IRI described the process leading up to the elections as "fundamentally flawed." These flaws included the following:

- Cambodian political parties, election monitoring groups, human rights organizations and the UN Center for Human Rights documented that the pre-election environment was plagued with systematic and widespread political intimidation and violence that may have prevented people from voting for the parties of their choice and affected the ability of opposition parties to compete fairly in the campaign. The UN has documented more than 100 apparently politically motivated killings since July 1997.
- The opposition had no opportunity to participate in the development of the election law or the appointment of the bodies to oversee the elections and resolve disputes. While opposition members of parliament and other political leaders were still in exile, the CPP prepared and enacted the election law and appointed the members of the National Election Commission (NEC).
- The way in which the members of the National Election Commission were selected, as pointed out in a public NDI report in January and in my testimony before this committee in March, raised serious questions about its independence and credibility. Under the new election law, the 11-member NEC was to include representatives from each of the parties represented in the National Assembly and from the NGO sector. But party seats were given to ruling party-backed factions of opposition parties, and the selection of the NGO representative was seriously flawed.

- The Constitutional Council, which is supposed to function as the final arbiter of constitutional and election-related disputes, was not properly constituted. CPP-appointed members control the Constitutional Council, and the Council failed to meet in the pre-election period to address serious and fundamental election-related disputes.
- During the months that the opposition was in exile, Hun Sen and the CPP were able to campaign freely without competition or challenge.
- After the July 1997 coup, the CPP consolidated its control over the media, which restricted coverage of opposition candidates throughout the campaign period. Limited access to broadcast media impeded the ability of opposition parties to reach voters and potential supporters and gave the CPP a substantial advantage. Each of the 39 political parties was allowed one five-minute slot per day, which diluted access of the parties with genuine support, and news coverage of rallies, speeches or other campaign events was heavily biased toward the ruling party.
- Opposition parties were not given sufficient time to rebuild their party membership networks, and CPP resources dwarfed those of the opposition.

It is impossible to measure how or to what extent the larger environmental problems with these elections -- including the climate of impunity and intimidation -- may have affected the outcome.

While the impact of the fundamental flaws in the political environment and the institutional framework may be difficult to measure, they nevertheless affect the integrity and credibility of the process.

2. Events since election day mark a reversion to the systemic flaws evident before the elections.

While the preliminary post-election statement commented positively on the balloting and counting processes, NDI and IRI cautioned that a final assessment of the entire election process was premature pending the final tabulation of results, the processing of complaints and the formation of the next government based on the results of the elections.

Regrettably, post-election developments reveal once again the systemic problems with the election process that were apparent before the elections. Since the vote, NDI's pre-election concerns about the credibility of the bodies responsible for administering the elections and adjudicating disputes have proved well founded.

After the elections, Funcinpec and the Sam Rainsy Party submitted some 800 formal complaints to the NEC. They alleged, among other things, problems with the vote count, including that many party agents were intimidated or denied access to the count. In response, the NEC made a perfunctory attempt between July 30 and August 4 to conduct a recount in just eight of the 11,699 communes in the country. This effort was too limited to yield any significant information, and the

NEC stopped before completing the recount for even those few locations. On August 5, an NEC spokesperson claimed that the alleged problems were not substantiated and announced that the Commission was ceasing all operations. Without even a cursory investigation, other than the entirely inadequate recount, the NEC summarily dismissed all complaints. The NEC also refused to provide official rejection notices to the complainants. This, in turn, jeopardized the parties' ability to take complaints to the Constitutional Council.

The Constitutional Council has reviewed and dismissed only a few, relatively unimportant election complaints. The Council has refused to accept complaints about intimidation of opposition party agents, alleged electoral fraud or the formula by which seats are allocated on the grounds that these complaints were either formally rejected by the NEC or not filed before the deadline. The Council's refusal to even consider such complaints, coupled with the NEC's failure to follow due process in providing the required rejection notices, has eliminated any meaningful opportunity for appeal.

The decision making processes of the NEC and the Constitutional Council lack transparency. The NEC, for example, failed to follow its own procedures or to explain its actions when it adopted a new formula for allocating seats in the National Assembly. Versions of the electoral regulations published on May 6 and May 25 clearly indicated one particular formula. These regulations were not marked as drafts and were widely circulated to party representatives. After a meeting of the NEC on May 29, another version of the regulations, dated that day, was circulated in early June. It has since become clear -- from NEC records and from the accounts of individual commissioners -- that the NEC neither discussed nor properly adopted a new formula, but the new regulations included the now-famous change. No particular effort, such as a letter to parties or a press statement, was made to highlight this significant amendment, and evidently no one from the opposition parties, domestic monitoring groups, international observer organizations or the diplomatic community was aware that there had been a significant change. The new formula gave the CPP five additional seats, compared to what the ruling party would have received under the previous formula, which was enough to give the CPP a majority in the new National Assembly.

With respect to the new formula, there is evidence that NEC advisors were merely trying to correct what they believed to be a technical mistake. And the opposition's other allegations of fraud in the balloting and counting do not appear to be significant enough in their totality to have affected the overall outcome of the election. But the NEC and the Constitutional Council, because they were not legitimately constituted and have been subject to manipulation, lack credibility in their responses to election-related complaints and post-election controversies.

The parties' grievances and allegations deserve due process, including meaningful investigation of credible complaints. Because election-related complaints have not been addressed expeditiously, thoroughly and impartially, there can be little public confidence in the integrity of the overall process.

3. The use of violence and the climate of intimidation continue.

Chaos and violence have marred the post-election period.

On August 20, while Sam Rainsy was inside the Ministry of Interior, unknown persons fired shots and threw a grenade at the front gates of the compound, killing one person. Soldiers threatened and detained Rainsy for three hours.

During the last week of August and first two weeks of September, unprecedented street demonstrations and protests have rocked Phnom Penh. What originally began as a vigil led by Sam Rainsy, and later Prince Ranariddh, outside the National Assembly to insist on a fair investigation into alleged electoral fraud turned into a mass protest against the CPP, Hun Sen and then the Vietnamese in general.

On September 7, in the wake of failed negotiations between party leaders and King Sihanouk in Siem Reap, unidentified assailants threw three grenades into Hun Sen's compound in Phnom Penh. No one was hurt. Hun Sen immediately returned to the capital and blamed the attack on demonstration leaders. In these remarks, he implied that he intended to arrest Sam Rainsy, among others. Sam Rainsy sought refuge in the offices of the UN Secretary-General's Special Representative. On September 8, the national police, led by Hok Lundy, cleared demonstrators from outside the Assembly, using water cannons, electric cattle prods, shots in the air and occasional shots into the crowd. Later that afternoon, one man was killed as police cleared a crowd away from the building in which Rainsy was hiding.

Over the next few days, protestors congregated in the streets outside the US Embassy where police and soldiers fired into crowds that included monks and students. The CPP then began trucking in supporters from outside the city, and violent street fights took place throughout the city. Several ethnic Vietnamese were beaten to death by mobs, and 29 demonstrators, mostly university students, are known to have been detained in the wake of the protests. The UN Center for Human Rights reported that 18 bodies, including those of two monks, have been found floating in the rivers or buried in shallow graves since the government crackdown began. More killings and disappearances are under investigation.

On September 24, rockets exploded near Hun Sen's convoy just after it passed on its way to the ceremony convening the National Assembly at Siem Reap. Although it is unknown who was responsible for these attacks, Hun Sen has publicly accused the opposition of trying to assassinate him. Later that day, according to reports in the Associated Press and the South China Morning Post, Hun Sen declared, "I think if the opposition leaders do not instruct their forces to stop activities which threaten my life, they would die with the most severe suffering."

Negotiations over the formation of the government are clouded by this turbulent atmosphere. The CPP threatened those who did not attend the swearing in of the National Assembly by publicly reminding them that they would lose their immunity and be subject to arrest if they were no longer

members of parliament. When the opposition offered to form a coalition government with the sole demand that Hun Sen not be a part of it, the Second Prime Minister replied, according to the Cambodia Daily, that "If the opposition thinks I'm going to step down they're dreaming. And if they try to dissolve the present government by other means they will face military action."

On September 8, the government issued the first of two orders that prohibited about 300 people, including all the new opposition members of parliament (MPs), all outgoing opposition MPs and several FUNCINPEC senior civil servants from leaving the country. The ban was justified as a means of keeping suspects for the alleged grenade attacks and demonstrations in the country. The UN Human Rights Center condemned this travel ban as a violation of the Cambodian constitution, the fundamental right to freedom of travel and an express commitment of the Cambodia government to the UN Secretary General. The Thai government also publicly criticized this policy.

The recent apparent assassination attempts on Hun Sen, credible or not, also suggest the likelihood of further arrests and detainments.

The post-election chaos, initiated by demands for an investigation of election-related complaints, might well have been avoided if there were credible and functioning institutions to administer the grievance process. But the institutional framework for the election was fatally flawed and failed to address the problems alleged.

It is true that the opposition together received substantially more votes than the CPP and that if Funcinpec and the Sam Rainsy Party had come together before the elections they would have garnered a plurality and had the right to designate the new prime minister. But hypotheticals miss the point. The issue for policy makers is the integrity of the process that took place.

Recent events in Cambodia – problems in the formation of the government, violence in the streets of Phnom Penh and complete failure on the part of the electoral institutions – indicate that the overall process failed. Unfortunately, the polling and counting days now seem to have been the aberration from Cambodia's unfortunate norm of violence, intimidation and instability.

4. Cambodian domestic monitors made a critically important contribution; the record of international observers was mixed.

We should commend the national election monitoring groups -- the Coalition on Free and Fair Elections (COFFEL), the Committee on Free and Fair Elections (COMFREL) and the Neutral and Impartial Committee for Free Elections (NICFEC) -- for their ambitious and effective programs to educate voters and for their vigilance during the balloting and counting processes. Local groups were essential in monitoring and reporting on the pre-election violence, intimidation and institutional proceedings. Domestic monitors were present at a majority of the polling stations and counting stations throughout the country. COFFEL, COMFREL and NICFEC issued statements before and after election day. They agreed that polling and counting days were generally well-conducted and provided the basis for international observers to make similar findings. All three groups, though, also

called on the NEC to conduct thorough, impartial investigations into opposition party complaints and, in fact, offered to assist the NEC with such efforts. They have also condemned the post-election violence and called on all political actors to solve their differences peacefully.

COMFREL, COFFEL and NICFEC continue to play a key role in monitoring the current post-election environment. US assistance helped make these efforts possible, and NDI is proud to have worked with these coalitions, using funds from the National Endowment for Democracy and the US Agency for International Development, for the last three years.

Representatives from overseas governments and intergovernmental organizations who served as election observers faced a serious challenge. On the one hand, they were in Cambodia to observe and impartially assess the election process. On the other hand, many of their members had various diplomatic agendas, including sincere but ultimately profoundly mistaken notions about achieving stability in Cambodia. These roles may have been in tension, or even incompatible, which led to statements that were premature and tended to minimize serious problems with the process.

Moreover, exacerbating the problem posed by these potentially contradictory roles, many observers came from undemocratic countries, such as Burma, China and Vietnam. Representatives from these countries were allowed an equal voice in the assessment of the election process by the Joint International Observer Group (JIOG), which was organized by the United Nations and the European Union. In fact, according to reliable sources, those wanting to portray the elections in the most positive light possible had great influence over the JIOG's assessment. In general, it seemed that many international observers had lowered the bar for Cambodia, indicating that the Cambodian elections need not meet international standards.

Twenty-five Americans participated as "long-term observers" in the JIOG, although the US government announced before the elections that the American contingent would not participate in the preparation of or join the JIOG statement. Those American observers made no public report of their findings or analysis at any time during the process.

In contrast to many other countries, the US has played a principled and important role in standing steadfast against a flawed process in Cambodia by not supporting the bodies and machinery created to supervise and administer the elections and by not jumping to embrace the results. This has sent an important signal about not granting legitimacy to a process that has not earned that legitimacy.

Conclusions

Permit me, Mr. Chairman, to share three general conclusions.

First, the Cambodian elections should be judged against international norms. The Cambodian election process was far from a democratic one and should be no model for future elections. The relative success of the balloting and counting processes does not excuse or overcome

the fundamentally flawed environment in which the election took place. The lack of any meaningful appeals process after election day and the renewed intimidation and use of violence have rendered the overall election process deficient. Accordingly, the new government, regardless of its makeup or the results of ongoing negotiations, has emerged from an undemocratic process.

Second, Cambodia needs to establish independent electoral and judicial institutions and create a system of meaningful checks and balances. Cambodian institutions need to be separated from the government and from CPP control. US assistance has tried to encourage the development of democratic institutional frameworks and rule of law. However, there is a long road ahead, as the ruling party demonstrates flagrant disregard for the principles of due process.

Third, the US should work to establish a more cohesive international response to the flawed elections and climate of impunity that continues to prevail. US leadership made possible the return of the opposition leaders to Cambodia, and US leadership on this issue is critical now. Hun Sen has skillfully exploited differences within the international community, despite the fact that Cambodia is dependent on foreign assistance. The US and other "Friends of Cambodia" should pressure the appropriate authorities to investigate the killings and other human rights abuses and arrest and prosecute those responsible. The US must also be prepared to assist political leaders threatened with politically motivated arrest or prevented from leaving the country. Likewise, Cambodian nongovernmental organizations that have courageously and effectively monitored human rights and the political environment should continue to receive our support.

Rather than putting pressure on the opposition to participate in a coalition government, the international community should put the onus on the CPP to let go of its stranglehold on power. The international community should insist on a coalition that involves genuine power sharing and hold the government that emerges accountable. Accepting a new government in the name of stability in the absence of a genuinely democratic process or addressing the climate of impunity can only lead to further destabilization.

Thank you, Mr. Chairman, for the opportunity to share with you some of my observations on Cambodia