



**Cambodia's Flawed Elections:  
Why Cambodia will not be Ready for Free and Fair  
Elections on 26 July 1998**

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## EXECUTIVE SUMMARY

Cambodia is set to take to the polls in barely six weeks time, with some fearing the elections will cement in place a *de facto* dictatorship and others seeing them as the last chance to ensure that the country's fledgling democratic process remains on track.

The elections are slated to take place on 26 July 1998, despite the resurrection of a boycott threat from opposition parties, who say the polls should be put back several months on the basis that current conditions in the country will not support as free and fair elections.

The upcoming polls come five years after the United Nations helped Cambodia take its first tottering steps towards democracy by running landmark general elections that brought a coalition government of former battlefield foes to power after years of autocracy.

The 1991 Paris Peace Accords (PPA)<sup>1</sup> and the country's 1993 constitution envisaged free and fair, multi-party elections every five years. This commitment was jeopardised by the violent break up last July of the coalition led by First Prime Minister Prince Norodom Ranariddh, of the royalist FUNCINPEC party, and Second Prime Minister Hun Sen, of the formerly communist Cambodian People's Party (CPP).

The prospect of internationally-supported and recognised elections in 1998 -- vital for anchoring the democratic process launched in 1993 -- looked remote as recently as the end of last 1997. But compromise, commonsense and international pressure in the months since the *de facto* coup together with Hun Sen's determination to be seen to win power legally through the ballot box, and his call for foreign electoral assistance, created a more conducive climate.

In January 1998, the International Crisis Group (ICG) published a report examining the problems facing preparations for these elections to a 122-member National Assembly<sup>2</sup>. The report offered a number of specific recommendations aimed at shoring up political stability, ensuring that the polls are as free and fair as possible and contributing to the long term survival of the democratic process in the troubled Southeast Asian nation<sup>3</sup>.

Some of the conditions spelt out in ICG's report have been met, most notably the return of Prince Ranariddh and his entry into the political campaign, but there remain serious shortcomings in key areas that could adversely affect the chances of free and fair elections.

Political conditions remain flawed -- voter intimidation continues, especially out in the provinces, and the CPP continues to dominate the campaign while the opposition is thwarted by lack of access to the media, especially broadcast media. In addition, a number of

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<sup>1</sup> The U.N.-brokered accords were signed by Cambodia's four main warring factions and 19 nations (including the Association of Southeast Asian Nations, the five permanent members of the U.N. Security Council and important donors. They provided for building a liberal democracy operating under the rule of law.)

<sup>2</sup> Two new seats have been created, including one representing the former Khmer Rouge guerrilla base of Pailin in western Cambodia

<sup>3</sup> See Appendix 2 for executive summary of previous ICG report, *Getting Cambodia Ready for Elections*, January 1998.

significant technical problems have also arisen that will be difficult to resolve before the current 26 July 1998 deadline.

The country's main opposition parties have affirmed their commitment to elections in principle but have threatened to boycott polls held on 26 July 1998 because they cannot be considered free and fair under current conditions. The reasons they cite should be taken seriously by the government, election organisers and the international community.

The National United Front (NUF) alliance of four anti-government parties, clearly and perhaps naively counting on international support, have said the elections should be held later in the year when several specific conditions have been met. Their boycott threat came just weeks after the international community had finally agreed to back the process after diplomatic pressure had secured Ranariddh's participation in the polls.

## RECOMMENDATIONS

### *Delay polling day until October or November ...*

To ensure the best technical and political conditions for free and fair elections, ICG recommends that the elections be postponed until October or November and that parliament's mandate be extended to allow for this. Postponement of elections is not desirable and should not be indefinite but putting back the polls by a few months should allow for technically proficient dry-season elections to be held in a more neutral political environment. It should also give the Constitutional Council time to find its feet and review electoral legislation.

*...use all available leverage to insist on improvements in the political environment...*

The international community should use its influence to press for elections, pointing out that it would not be able to support elections held under inhospitable conditions. The United Nations and Friends of Cambodia have made clear their misgivings about the political climate and steps need to be taken immediately to improve the environment and to allow for free and fair elections towards the end of the year.

Towards this aim, the ICG recommends that:

- The NEC and electoral watchdogs step up civic education programmes, stressing the secrecy of the vote and the right to choose one's party of choice.
- The NEC take a firm stand against intimidation, urgently investigate reports of such and hand down stiff sanctions against those found guilty of trying to coerce registered voters into voting for particular parties.
- The CPP widely disseminate Hun Sen's condemnation of intimidation, pledges to transfer power in the case of electoral loss and undertakings that all parties should be able to open offices and solicit support freely.
- The government allow all registered parties access to state media and immediately issue licences to those seeking to open radio and television stations.

- The NEC media amend its regulations to allow for parties to use their own broadcasting facilities under strict supervision to prevent inflammatory battles of the air waves. The rules should also be extended to cover the pre-campaign period.
- The government scrap legislation giving civil servant immunity from prosecution
- The government show its commitment to the rule of law by produce concrete results of investigations into major human rights abuses, including politically-motivated killings since July last year and the March 30, 1997 grenade attack.

*...and increase the number of long-term observers in Cambodia to monitor the election...*

The more disinterested eyes watching the elections the better and the ICG urges foreign governments to fund the dispatch of many more long-term observers. They should preferably be in Cambodia to observe the entire election campaign period and should remain in the country until a new government has been formed. A true evaluation of the fairness, freeness and credibility of the elections can only be made by looking at the process as a whole rather than the week straddling polling day.

There would, ideally, be one international observer at each of the 1,992 commune centres on election day – this would encourage people to vote freely and officials to act honestly.

## I. PREPARATIONS FOR ELECTIONS

### A. BACKGROUND

The uneasy and ill-fated alliance between Ranariddh and Hun Sen was forced on the royalist leader by the CPP's threat to plunge the country back into war unless it was given a share in power after the shock of losing the 1993 U.N.-run polls to FUNCINPEC.

It was a doomed compromise, proposed by King Norodom Sihanouk and supported by the United Nations Transitional Authority in Cambodia (UNTAC), and while, initially, the two premiers seemed to work together well, the relationship was hollow and problems were bubbling away under the surface.

Hun Sen was soon sniping away at the power of his royalist rival, encouraging or engineering the downfall of FUNCINPEC's best and brightest minds, former finance minister Sam Rainsy and former foreign minister Prince Norodom Sirivudh, before Ranariddh decided to fight back in March 1996.

His threat to withdraw FUNCINPEC from the government infuriated Hun Sen and relations between the two men continued to deteriorate, while both built up their personal military forces, until their violent divorce on the weekend of 5-6 July 1998. The fighting and its aftermath destroyed the bulk of Ranariddh's military and military intelligence capabilities – the United Nations has catalogued the extra-judicial killings of dozens of royalist officers and soldiers – and left his party's political structure in tatters, with scores of politicians following him into exile.

The victorious forces had also targeted the infrastructure of the loyal opposition, Sam Rainsy's Khmer Nation Party and a wing of the divided Buddhist Liberal Democratic Party led by octogenarian former premier Son Sann.

The CPP ran the country in a cosmetic coalition with former Ranariddh acolytes who had thrown in their lot with Hun Sen, including Foreign Minister Ung Huot who was controversially elected by parliament to replace the prince as first prime minister in early August.

A military court soon after issued warrants for Ranariddh's arrest on charges of crimes against national security and illegal import and transportation of weapons. Hun Sen doggedly maintained he had repulsed a bid by Ranariddh to topple the legitimate government with the help of Khmer Rouge guerrillas and, playing the role of protector of democracy and upholder of the rule of law, insisted that the prince face trial before he could be considered for a royal amnesty.

The prince, whose remaining military forces were successfully holding out against government forces on Cambodia's northern border with Thailand, said he had been overthrown by *coup d'Etat* and would not return to face trial in a biased court for crimes of which he was not guilty.

Pressure was growing for compromise and elections provided a way out. Hun Sen was desperate to give his regime legitimacy by winning elections that were

internationally recognised and he also needed foreign money to run them. Poll preparations, deadlocked by the feud between the co-premiers, were set in train.

Hun Sen's power grab had drawn condemnation from much of the international community. Some countries suspended aid, while Cambodia's application to join the Association of Southeast Asian Nations (ASEAN) was put on hold and the country's seat in the United Nations left vacant.

The Friends of Cambodia<sup>4</sup>, an informal grouping of major donors and regional nations with a vested interest in seeing stability return to Cambodia, insisted that elections should be open to everyone, including Ranariddh, and by the end of the year the climate had eased sufficiently for several politicians, to return home without incident and donors to conditionally pledge funds for the elections.

Forward movement, however, stalled when Hun Sen opposed King Sihanouk's compromise proposal late last year to unilaterally grant Ranariddh a pardon after conviction, arguing that the prince would have to acknowledge guilt by asking for any amnesty. In exasperation, on 5 January 1998, the king flew to China, where he has a residence, while Ranariddh postponed plans to return home and resurrect his shattered party, putting the future of valid elections in doubt once more.

## **B. THE FOUR PILLARS PLAN**

Japan, which Ranariddh had once accused of being an obstacle to peace, reconciliation and the holding of free and fair elections, put forward a "four pillars" peace plan to break the impasse.

The Japanese initiative, endorsed by the Friends of Cambodia in mid-February, assumed that Ranariddh would be tried and convicted in absentia and proposed that the prince's wife or sister write to Sihanouk to ask for amnesty on his behalf. The plan also called for an immediate cease-fire and integration of the rival forces; for the prince to cut all alleged military ties with hard-line Khmer Rouge guerrillas; and for the government to ensure his security on return to Cambodia.

While the plan had sound goals, it is revealing that foreign governments, particularly those that had agreed to uphold human rights in Cambodia by signing the Paris Peace Accords, were so keen to see elections take place that they were ready to ignore the principle of presumption of innocence of the accused to ensure amnesty for Ranariddh.

King Sihanouk complained that the Japanese plan would make Ranariddh a "double criminal," while Japan explained that it was partly aimed at removing further legal obstacles<sup>5</sup> to his participation in the polls.

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<sup>4</sup> The Friends of Cambodia gathers Australia, Britain, Canada, France, Germany, Indonesia, Japan, New Zealand, the Philippines, Russia, South Korea, Thailand and the United States. Representatives of the European Commission and the United Nations attend meetings.

<sup>5</sup> Article Six of the Law on Political Parties bars parties having autonomous zones and private armies. Article 34 of the Election Law says anyone with a court conviction, who has not been "rehabilitated," cannot run as a candidate.

The wheels of "justice" began moving on the acceptance of the four pillars proposal by all parties. Trials of the prince and his top military commanders were set for March 4 and 18. At the first trial Ranariddh, his top commander Lieutenant General Nhiek Bun Chhay and his chief bodyguard were found guilty of illegally purchasing and importing weapons and sentenced respectively to jail terms of five years, four years and two years suspended.

The second trial, on 17-18 March 1998, saw Ranariddh convicted of colluding with the Khmer Rouge to overthrow the government and sentenced to 30 years imprisonment. Three co-defendants, including Nhiek Bunn Chhay and slain military intelligence officer Chao Sambath<sup>6</sup>, received 20 year terms.

The judge also ordered the four to pay more than \$US 50 million in compensation to the government and corporate and civilian victims of the July fighting, raising the possibility that the prince could still be jailed if he failed to pay the stiff fine.

The trials, held within the Defence Ministry complex rather than the military court, called into question the independence of the judiciary and their conduct left much to be desired, with no defence, highly selective use of evidence, leading questions from judge and prosecutor and clearly cowed witnesses.

Despite the charade of justice being shown to be done, Ranariddh's amnesty was not yet in the bag. The justice minister kept insisting the prince must settle the damages award, while Hun Sen and Ung Huot wrote to Sihanouk saying the amnesty decision was in his hands but they believed there could be problems if Ranariddh refused to recognise the court verdicts.

Sihanouk, calling Hun Sen's bluff, refused to grant an amnesty unless the premiers gave their unequivocal support. Hun Sen, apparently caught off guard by the king's response and pressured by strong Japanese warnings that the elections were in the balance, swiftly urged Sihanouk to grant a full pardon.

The Japan plan helped remove at least one major obstacle from the path towards elections by paving the way for the participation of Ranariddh. It also allowed for the release of vital foreign assistance for the elections, which had hung in the balance amid uncertainty about the outcome of the four pillars plan.

## **C. LEGISLATIVE FRAMEWORK**

The passage of long overdue legislation aimed at guaranteeing free and fair, pluralistic elections was not addressed until after the terminal fall out between Hun Sen and Ranariddh – their damaging spat had mothballed parliament for months.

In the aftermath of Hun Sen's seizure of power, with the original date for the polls -- 23 May 1998 -- less than a year away, it was imperative that the depleted assembly

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<sup>6</sup> Chao Sambath's body, with bullet wounds, was exhumed from a shallow grave by human rights workers on 28 October 1997. It was positively identified by relatives from a wrist tattoo, but cremated soon afterwards.

approve key election legislation as soon as possible if the government was to receive foreign assistance for the process.

In the event, the development of the necessary legislation was a slow process. The Law on Political Parties was adopted on 28 October 1997, while the vital Law on the Election of National Assembly Members was not passed until 19 December 1997, when the government acknowledged technical and time restraints to a May election by pushing the polls back to 26 July 1998.

The Law on the Organisation and Functioning of the Constitutional Council, which should have been one of the first laws passed by the 120-member National Assembly sworn in in late 1993, was only approved on 19 March 1998. It took another two months to set up the crucial council, an ostensibly independent body charged with ruling on the legality of all laws and judgements and umpiring thorny election issues, particularly party registration problems and disputed results.

The government came under pressure from all corners to set up the nine member council – gathering three representatives of the king, three National Assembly nominees and three members appointed by the judiciary's Supreme Council of Magistracy -- the only body that could theoretically interfere with the government's running of the electoral process.

Its long-awaited establishment, secured with the appointment of the final three members from the Supreme Council of Magistracy on 21 May 1998, has been welcomed by some as a further step towards credible elections. But the council's composition has come under fire from the opposition, which has charged that the Supreme Council of Magistracy's nominees were invalid as the meeting that appointed them had been called illegally.

The opposition NUF alliance has cited the establishment and effective functioning of the Constitution Council as one of the conditions that must be met for it to take part in elections. Fears the body would be tilted in the CPP's favour have been realised, with the six representatives from the Assembly and the Supreme Council of Magistracy, but the king's three ancient nominees (all aged more than 80) are seen as sympathetic to the opposition parties.

It is extremely unlikely, given the polarisation of Cambodian politics and the lack of a tradition of independent institutions, that the council will challenge the government by amending electoral legislation as demanded by the opposition.

The opposition, along with independent analysts and foreign legal experts, argue that the electoral laws are flawed and need to be reviewed by the council before the elections. Criticisms of the laws are included in the ICG's earlier report on Cambodia, but much of the opposition grouse centres on the role and make-up of the crucial National Election Committee, a permanent 11-member body established by the election law to oversee the whole electoral process with foreign aid.

There is even doubt that the Constitutional Council will be functioning properly by 26 July 1998 as it still has to appoint staff and adopt internal regulations, while splits emerged before its first meeting. Only seven of its members turned up to be sworn in on 3 June 1998. As at 14 June 1998, the council had still not met formally due to a boycott by the royal appointees, Son San and Chau Sen Cocsal, in protest at the



alleged illegality of the appointment of members from the Supreme Council of Magistracy.

Critics, despair at the failure to get the Constitutional Council up and running more quickly and efficiently. Moreover, they believe its financial autonomy is compromised because its budget is in government hands. On the whole, however, diplomats and analysts believe that while the Constitutional Council is not perfect and may have blunt teeth, the very fact of its establishment is an encouraging sign and another step forward in Cambodia's democratic process. International donors seem to be more concerned with its establishment than its effectiveness and feel more reassured about supporting the elections now that the body is in place, even if it proves to be only a paper tiger.

#### **D. NATIONAL ELECTION COMMITTEE**

Controversy has dogged the National Election Committee (NEC) since the start and while there has been valid criticism, some judgements are premature. The NEC, with very limited human and financial resources, has an enormous role to play – aside from organising the elections it must also judge if the campaign and balloting were free and fair -- and little time to achieve its goals. Its problems are compounded by questions about its composition and independence. "It's recruited by the CPP, not only dominated," claimed one major opposition politician.<sup>7</sup>

There were, however, surprisingly few complaints over the appointment of Chheng Phon, a devout Buddhist and Khmer culture activist and culture minister in the 1980s for the then-socialist CPP government, nor of respected human rights and pro-democracy activist Kassie Neou as his deputy.

Four positions were reserved for the parties holding seats in parliament, but opposition hackles rose when the two places they could reasonably hope for – reserved for FUNCINPEC and the Buddhist Liberal Democratic Party – went to splinter groups in alliance with the CPP, which had openly encouraged the fractures.

They were further incensed when a CPP supporter won the post open for non-governmental organisations. They claimed, with some justification, that the representative had effectively bought NGO support to secure his place.

Among their grouses was the fact that approval of NEC members only required a majority vote in a parliament dominated by the CPP. Cambodian MPs follow the orders of their party whips in the rubber stamp parliament and, in a bid to level the playing field, the opposition had pushed for a two-thirds majority vote.

The committee sworn in on 5 February 1998 also includes two interior ministry officials and two "ordinary citizens" – all regarded as CPP-friendly. Donors believed the election laws were adequate and preferred to give the NEC a chance to show its independence – the European Union opened an office in early February to prepare for its multi-million-dollar voter registration programme.

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<sup>7</sup> Sam Rainsy. Interview with ICG on 29 April 1998.

But the independence of the NEC, and its leader in particular, was thrown into doubt in March when Chheng Phon put his name to a secret \$25.8 million government agreement with the private Ciccone Calcografica S.A. company of Argentina, to prepare the elections if the international community pulled out.<sup>8</sup> The pact, which was also inked by co-premiers Hun Sen and Ung Huot, called for the government to pay a 25 percent down-payment on signing. It is not known if any money changed hands before the deal faded away amid the ensuing outcry.

Revelation of the agreement angered both donors and the opposition. The donors, perhaps more sympathetic to the government's recourse to a safety valve solution, were nevertheless incensed at the secrecy (even the interior ministry is said to have been kept in the dark) surrounding the deal and briefly began to rethink their plans – if Cambodia could afford to splash out such a large sum to hire a private company, why were donors preparing to disburse big amounts of aid.

There were also questions about the NEC's openness with donors. The opposition said the agreement proved the NEC was biased and called for the resignation of Chheng Phon on the grounds that "he is no longer trustworthy as a widely accepted referee in the ongoing electoral process".<sup>9</sup>

Dispassionate reflection indicates the beleaguered NEC chief, who has said he had misgivings and thought he was simply signing as an observer, made a naïve error under pressure and in frustration at his organisation's chronic lack of funds.

The Ciccone affair should be seen as a crude exercise in brinkmanship, coming at a time when the political waters were muddier than usual and the government could not be sure if donors would commit themselves to releasing election aid. The NEC was desperately short of money – it remains so, though funds have started coming in in dribs and drabs – and most of the international community was fence-sitting, waiting to see what became of Japan's four pillars peace plan.

More substantial doubts about the independence of the NEC came with the appointment of provincial election commissions (PEC) in March and commune election commissions in April. Most PEC chairmen and their deputies – in 23 provinces and municipalities – are believed to be aligned to the CPP.

The greatest outcry has come at the appointment as PEC chairmen and deputy chairmen of those who worked as senior officials of the provincial government or as aides to governors in about half a dozen provinces<sup>10</sup>.

According to one rumour, an NEC team was handed the governor's list for PEC members on flying into one major province and returned immediately to Phnom Penh without bothering to conduct any interviews.

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<sup>8</sup> Agreement for Implementation of Turn Key Full Support for Electoral Management System for Elections 1998 – Kingdom of Cambodia among Royal Cambodia Government and the National Electoral Committee and Ciccone Calcografica S.A. 7 March 1998.

<sup>9</sup> Statement signed by Sam Rainsy, BLDP parliamentarian Kem Sokha and Secretary of State for Women's Affairs, Keat Sukun. 24 March 1998.

<sup>10</sup> Please refer to Appendix I on Kompong Cham for an example.

The NEC apparently believes it must be flexible if it is to receive the co-operation of powerful CPP officials in important provinces. It has pledged to remove overtly partisan PEC officials and those who fail to honour their legal obligations.

One foreign expert involved in the election process estimated that at least 70 percent of some 8,500 commune election commission officials were pro-CPP. Some 60,000 people will have to be hired to staff more than 11,000 polling station commissions and, in a nation with no great army of independent, non-political people at village level, it must be assumed that preference will be given to those that local CPP chiefs feel they can rely on.

Many Cambodian voters have lived most of their lives under a one-party state (the CPP ruled from 1979-93). Democratic principles are alien to most commune leaders, who owe their position and allegiance to the CPP – they will likely do what they think it takes to ensure that people in their areas vote CPP. While CPP national and provincial leaders may be aware of the concepts of equal treatment and tolerance of all parties, inculcating these principles – if they wanted to -- among their grassroots foot soldiers could be difficult.

The most prevalent criticism of the NEC voiced by foreign experts in Cambodia relates to the body's lack of dynamism. For example, it has done little to act on reports of alleged CPP intimidation in the provinces and moved at a snail's pace to address the problem of media access. Elections are not won (or stolen) on election day, but in the weeks running up to it and the NEC should be ensuring a fair deal for all parties now rather than pulling its weight only during the official campaign period from 25 June to July 24.

Cambodian critics say this lack of action simply reflects weakness and apathy, with the NEC chief taking the attitude that these elections cannot be perfect but they are a start and Cambodia may get it right three or four polls further on. The jury is out for the moment but if the NEC and its provincial officials drag their feet on abuses for much longer, charges of a lack of independence and spleen will bear more weight.

It is a two-way process and those with an axe to grind should lodge specific and detailed complaints with the NEC so that it can launch investigations with a bit more substance to act on.

The NEC's work has been hampered by a chronic lack of funds, even though parliament has set up a special elections account and the government has pledged a \$US 5 million budget – it immediately deducted 20 percent of this capital for the committee headquarters and computer centre at the interior ministry complex. A major fear is that the NEC will soon run out of money to pay staff wages.

## **E. FOREIGN ASSISTANCE**

The Ciccone deal aside, foreign assistance for Cambodia's elections has been the subject of some controversy and reflects some lack of overseas consensus on how to deal with the re-shuffled government that emerged after the July 1997 fighting.

Aid is the international community's most important bargaining chip for change – the government relies on this assistance to run a fairly sophisticated electoral programme – and this leverage has been used to good effect in the past.

Yet the international community agreed, at a meeting of the Friends of Cambodia (FOC) in Bangkok on 19 April 1998, to support the goal of elections on 26 July 1998 despite signs the technical and political conditions might not be right. The FOC, (which includes the United States, the most vocal overseas of Hun Sen), did express reservations and urged the government to ensure that all parties could participate freely; free access of all parties to the media and protection of the human rights of all Cambodians. The group also voiced concern about political killings, urging the government to bring those responsible to justice, and called for the Constitutional Council to be set up.

“The ‘Friends’ are committed to the provision of electoral assistance to Cambodia to help prepare for the elections but expect the Cambodian government to ensure conditions for free, fair and credible elections in order to continue that assistance,” a statement said. It said the FOC expected to meet again before election day.

The United States government, apparently taking into account domestic pressures<sup>11</sup> ahead of on-the-spot analysis, has taken the toughest stance. Washington DC has suspended all non-humanitarian aid to Cambodia, but is contributing healthy sums to mobile U.N. teams monitoring poll-related human rights abuses and the safety of returned politicians. It decided in May to give \$US2.3 million towards local and international monitoring of the elections, pointedly cutting out the NEC or any agencies linked to the government.

The United Nations, which ran the 1993 elections with a peace-keeping force of more than 20,000 soldiers and civilians, has agreed to co-ordinate long term and short term international observers but will not be sending its own observers. The U.N. Development Programme (UNDP), meanwhile, is co-ordinating external assistance for the elections, acting as link between the donors and recipients of aid, including the NEC and independent local watchdogs such as the Committee for Free and Fair Elections in Cambodia (COMFREL) and the Coalition for Free and Fair Elections (COFFEL). UNDP has set up and is managing a trust fund through which donations will be channelled. Countries that have contributed or pledged funds include Britain, Canada, Denmark, Japan, New Zealand, Norway, South Korea and Sweden.

The European Union, which is managing its own programme, is contributing the biggest chunk of aid – about \$US11.5 million for voter registration, long and short term observers and a media unit primarily to assist local journalists.

Japan has provided more than \$US1.2 million to help the NEC buy vehicles and office equipment and has donated \$US3 million towards the purchase of the ballot boxes. Tokyo is expected to contribute some \$US6 million more in aid, much of

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<sup>11</sup> U.S. policy on Cambodia has been kept under the spotlight by Democrat and Republican politicians, including those with large Cambodian constituencies. They have warned that democracy is under threat. Senators John Kerry (D-Mass) and John McCain (Rep-Ariz) wrote to Hun Sen on May 20 warning that the international community would find it difficult to endorse the outcome of the polls unless conditions improved. They specifically cited intimidation and political violence and lack of access to broadcast media by the opposition.

which is likely to be used for polling station materials and communications network costs, while the Japanese may lay out further funds for short term observers for the elections.

The Australian government has pledged \$A 1.35 million (approximately \$US 1 million) to monitor the safe return of political exiles and set up and run a national election computer centre, which will be the electronic data centre for these and future elections.

The EU, in particular, took some flak by agreeing in January to launch its electoral aid programme when Ranariddh's participation in the polls seemed remote and at a time when the selection process of the NEC was under fire. The EU only placed technical conditions on the aid, though European diplomats insisted that their governments would not be blind to abuses and would end aid disbursements if the situation deteriorated to the stage where it was deemed that free and fair elections would not be possible.

With a date set for elections, it was deemed imperative that a start be made on the technical aspects – a key one being registration – if there was to be any chance of meeting the target date. As it is, a combination of the late passage of key laws, the slow work pace of the cash-strapped NEC, late delivery of registration kits, delayed registration training of provincial and commune officials, and political considerations has pushed back the process to the point where short cuts had to be introduced – the time for appeals and objections for party and candidate registrations has been trimmed.

Election officials, local and foreign, say they can complete the technical preparations necessary for an acceptably free and fair poll, but admit that it will be tight – they would prefer more time.

The danger is that once embarked on such a major and costly undertaking, the donors will lower their standards for free and fair elections and accept more and more compromises. The immediate problem of Ranariddh has been resolved, but more hurdles are likely to appear along the way and the question arises -- How much can be cut before the quality of the polls is totally compromised.

Diplomats argue that a further delay is not politically desirable even if it would be technically desirable, while foreign journalists and election experts say a delay is likely. The NEC is ready to switch to a 16 August date – while arguing that a date change will not of itself, solve problems. Moreover, flood waters are likely to be much higher in mid-August and could disenfranchise tens of thousands of potential voters.

Cynics say that putting the polls back three or four more months would just mean that those preparing the elections would take an extended break.

## **F. REGISTRATION**

### **1. Parties and Candidates**

While Ranariddh's fate dominated the electoral debate for months, the issue of party registration posed as big a hurdle to overseas support for the elections. The CPP had between 1995 and 1997 cannily encouraged splits in the ranks of its parliamentary

rivals, leaving several claimants to the leadership of FUNCINPEC, the Buddhist Liberal Democratic Party and Sam Rainsy's Khmer Nation Party (KNP). The latter party, founded in November 1995, was tolerated by the authorities, but never officially recognised. The government insisted that leadership of these parties should be decided by the courts in a nation lacking an independent judiciary and not known for respecting the rule of law.

When the courts would not rule either way in the dispute for leadership of the KNP and the Interior Ministry refused in February to register Sam Rainsy's wing, the outspoken politician decided to name the party after himself – to the relief of donor nations, the Interior Ministry approved.

Son Sann<sup>12</sup>, founder of the BLDP, followed suit after losing his court case to a rival, while pretenders to Ranariddh's throne, including Ung Huot, averted the need for legal action by forming their own parties.

All parties planning to run in the polls, including survivors among the 20 that took part in the 1993 elections, had to register with the Ministry of Interior and more than 40 had done so by the deadline of 26 March 1998. This, of itself, however, did not guarantee entrance into the election as all approved parties had to re-register with the NEC between 28 March and 7 May 1998 for final approval to run in the polls. 39 parties submitted documents for final registration including some that applied at the eleventh hour. The NEC had approved all by the end of May, including the Cambodian People's Party, FUNCINPEC, the Sam Rainsy Party and the Son Sann Party. The final list of approved parties was released publicly by the NEC on 12 June 1998.

Parties turned down could appeal to the Constitutional Council for a final decision on their eligibility to run in the elections. The opposition has complained about the case of the Democratic Party of former prime minister In Tam, which could not appeal to the Constitutional Council in time because it did not exist when the Interior Ministry rejected the party's registration application.

NEC registration of the major opposition parties is a positive sign. Due to time constraints mentioned earlier, candidates have been provisionally registered before voter registration and their eligibility will have to be checked later. All competing parties must submit candidates and substitutes to at least one third of the 122 seats up for grabs.

It should also be noted that time constraints have necessitated parliamentary amendments to the timetables for registrations of parties, candidates and voters which should have been longer and begun earlier under the election law.

## **2. Voters**

Voter registration was supposed to begin in April, but for reasons stated above, the 28-day exercise did not get underway until 18 May 1998. An EU-funded civic

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<sup>12</sup> The veteran 86-year-old politician, however, stepped down as party leader in mid-March to take up his seat as one of the king's representatives on the Constitutional Council. His son, Son Soubert, leads the party.

education programme, including posters, television and radio spots and theatre, preceded the launch but complaints about the process soon came flooding in. Some opposition politicians claimed commune officials in several areas were only directing CPP supporters to registration stations and further that some registration officials would only process those accompanied by a CPP escort.

The NEC has acknowledged problems, blaming incomplete training of registration officials and an 8 May amendment to the electoral law, allowing those with valid identification to register anywhere, rather than only their home area. The election body, which has issued instructions that no one with proper identification be prevented from registering, also faces the problem of multiple registrations but hopes its computer centre will sort out any fraud.

Eligible voters, who must present identification or be vouched for by two witnesses, can register at any of around 11,400 stations nation-wide, where personal details are noted, thumbprints are taken and they are photographed before being given a voter registration card. Each polling station should register no more than 600 – this can be expanded by the NEC to 700 -- and, if they decide to vote, they must return to the station where they registered. There are stiff punishments for fraud.

The EU has provided documents to register some 6.5 million voters (1,900 registration kits), but expects no more than 5.5 to 6 million to register, (this is against about 4.5 million in 1993 and an estimated population of 10.5 million). Between 18 May and 6 June (inclusive), some 4.5 million people registered to vote, according to the EU.

Completed registration forms are likely to be collected on a weekly basis – in isolated, hilly provinces such as Mondolkiri in the Northeast. Some may have to be transported by elephant if heavy rains starts to fall soon.

## II. THE ENVIRONMENT FOR ELECTIONS

A good picture of the environment for elections is contained in Appendix I, a case study of the country's most populous province, Kompong Cham. The author of this report visited the eastern province, a good barometer for the polls, in early May and recorded many examples backing up the findings in this section.

### A. OPPOSITION ACTIVITIES

The opposition parties, especially the Sam Rainsy Party and FUNCINPEC, have taken impressive strides towards resurrecting their urban and rural networks and re-establishing a political presence around the country but still face massive disadvantages compared to the CPP and its allies.

The parties opposed to the CPP, totally emasculated last year, have shown some fight in recent weeks. They forced compromise on ballot counting from an irritated Hun Sen after boycotting parliament (though some believed they had not won enough) and have further angered the premier with their May 18 threat to boycott the polls unless they are delayed.

Dozens of politicians had fled Cambodia after Hun Sen emerged victorious in last year's power struggle and it was not until the end of 1997 that some, including Sam Rainsy, returned to test the waters under the watch of UN monitors. But it was not until Ranariddh's return and guarantees of security were sealed in March, after several false starts, that most of the exiles returned for good and the task of reviving their battered parties could begin in earnest. Ranariddh, accompanied by U.N. officials, flew into Phnom Penh on 30 March 1998 to a welcome from diplomats and hundreds of supporters but no government representatives.

Ranariddh's five-day visit was marred by violence between his supporters and CPP loyalists in central Phnom Penh, which did not bode well for the future. The prince commuted from Thailand until deciding to return permanently on 4 May 1998, but his supporters had been busy trying to revive the party structure.

Both FUNCINPEC and the Sam Rainsy Party have been able to reopen offices in most of the provinces without harassment, but the countryside largely remains a CPP domain with opposition supporters still too scared to advertise their presence with the party signboards that used to add colour to drab villages and small towns nation-wide before the July fighting. Even offices of CPP allies are few and far between, while in one province people were reportedly warned not to wear T-shirts bearing the image of First Prime Minister Ung Huot<sup>13</sup>.

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<sup>13</sup> See refer to Appendix I on Kompong Cham for examples



While Ranariddh and other opposition leaders, accompanied by UN monitors, have faced few problems opening offices and addressing supporters in the countryside, some of their supporters at grass roots level have faced harassment and intimidation and, in a few cases, death.<sup>14</sup> They worry that the situation could get worse and the violence increase if fundamental problems, notably impunity for human rights abusers, are not addressed immediately. A top FUNCINPEC military officer, General Kim Sang, was slain in Phnom Penh shortly before Ranariddh's 4 March 1998 weapons trial, the most senior royalist victim of a wave of alleged political violence earlier this year.

The United Nations reported last August<sup>15</sup> that at least 41 people, mainly from the FUNCINPEC military, had been extra-judicially executed, while the Phnom Penh-based U.N. Centre for Human Rights is expected to soon issue an updated report containing details on almost 90 more people, including civilian party officials in the countryside, believed to have been killed for political reasons since last July.

The government, which has failed to conduct effective investigations into any of the major incidents of political violence against its opponents over the past five years, has strongly rejected all these allegations and harshly attacked the respected U.N. centre, which itself has complained about the disturbing beating of one of its Cambodian staff, allegedly by police, as he was monitoring a demonstration during Ranariddh's return on 2 April 1998.

The opposition is not only hampered by fear, it also lacks resources, facilities and finance to conduct a meaningful push for power and lacks access to broadcast media – a crucial tool for reaching the electorate in a predominantly agricultural nation where literacy rates are relatively low. Opposition radio stations had their licences revoked last year and the government has continued to reject applications for new licences. Lately, on 12 June 1998, the government refused permission to Sam Rainsy for a radio and television licence. The Information Ministry has given unconvincing reasons for barring the opposition from opening their own radio stations, but has promised them access to state radio during the official campaign period. The state media's remarkable lack of balance was reflected during the 30 March 1998 return of Ranariddh, which received no radio or television coverage.

The opposition parties are able to get their message across in the cities through the print media and they say Khmer-language broadcasts on Voice of America and Radio Free Asia have been helpful in reaching a larger audience. Unconfirmed allegations say some rural officials have warned people not to listen to these U.S.-based stations, which the government accuses of biased reporting.

While conditions have improved for parties opposing the CPP in the past few months, a truly neutral political environment appears to remain a pipe-dream though tensions seem to have been easing since party registration.

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<sup>14</sup> A man, said to be a senior local militiaman, fired shots into the air while Sam Rainsy was addressing a party meeting at a pagoda in southern Cambodia's Kampot province on 13 February 1998. The head monk reportedly received threats before and after the incident.

<sup>15</sup> Cambodia Office of the United Nations Centre for Human Rights, 21 August 1997: Memorandum to the Royal Government of Cambodia – Evidence of Summary Executions, Torture and Missing Persons Since 2-7 July 1997.

An immediate cease-fire was one of the conditions for Ranariddh's return and the two sides agreed to down arms at the end of February. There have been reports of sporadic fighting since, but the face-off has largely been overshadowed by the subsequent collapse of hard-line Khmer Rouge guerrillas based in areas adjacent to Nhiek Bun Chhay's troops. Hun Sen has refused to countenance a pardon for the general and a danger, discussed below, remains that the continuing presence of FUNCINPEC troops on the borders with Thailand will be used to stop Ranariddh running in the elections.

The fighting, including an offensive against die-hard Khmer Rouge guerrillas, has also created a massive refugee problem – some 80,000 in Thailand, who seem unlikely to return home in time to register and vote, and thousands more internally displaced people in Cambodia.

## **B. CPP ACTIVITIES**

Hun Sen has on several occasions in the past month pledged his commitment to ensuring free and fair elections, while insisting that they must take place on 26 July 1998. In a speech in his home province of Kompong Cham on 9 May 1998, for example, he said people should vote for the party of their choice. He said all parties had the right to campaign without interference and then encouraged the public to report all incidents of intimidation to the authorities, NEC or human rights workers. A day later he urged people not to resort to violence before and during the elections. The Cambodian strongman has also pledged to transfer power if the CPP loses<sup>16</sup>, while reiterating that the party would form a new coalition government if it won.

These public statements must be applauded but aggressive canvassing tactics, including the revival of its 1980s socialist-style cell network<sup>17</sup> to steer a membership drive, and the climate on the ground throw doubt on CPP sincerity. The CPP can rely on a well-oiled and extensive machine to spread its election message and its largesse, showering potential voters with gifts and promises of more to come. Opposition parties, in contrast, invariably come empty-handed and have to ask their audiences to give them gifts for their campaigns.

The CPP is using the grassroots cells to spearhead its membership drive and the instructions given to group leaders, puts them in a position to intimidate voters, according to opposition members, rights works and foreign analysts. The leader and deputy leader of each cell is responsible for recruiting about 10 people in their area. Their job, clearly spelt out in instructions in a membership booklet, is to ensure that their charges register for the elections, turn up at the polling station on 26 July and vote CPP.

But, while all parties are entitled to launch recruitment drives, human rights workers say the thumbprint programme is open to abuse and say overzealous cell leaders

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<sup>16</sup> But the Cambodia Daily cited Hun Sen as warning, in a speech on April 29, that civil war could erupt if the elections were "held in an unjust and violent atmosphere." Some fear the CPP might claim fraud, as it did in 1993, if the people refuse to return it to power later this year.

<sup>17</sup> The communist authorities used the cell system as a method of control in the 1980s. The cell chief, a party member, would be in charge of 10 households and kept a close eye on the behaviour and movements of his or her charges.

have resorted to a mixture of bribery and intimidation and to ensure their members vote CPP. In a carrot-and-stick approach, those who put their prints on the booklets are often promised food and gifts, while some of those who refuse are often told they will receive nothing and can not count on the CPP in times of trouble.

While there is no firm evidence of violence being used against those who refused to pledge support, there are reports that some were threatened with expulsion from their villages -- many villagers clearly feel threatened when asked for their thumbprints. Some have allegedly been made to swear on oath to support the CPP, a great emotional pressure for many superstitious rural folk.

"I don't think anyone would refuse to thumbprint," said an elderly gravel maker in Kompong Cham, while a younger woman in a different district said CPP officials had come asking for thumbprints and she, "Dared not to say no". Hints that the party will know who voted for which party, adds to the pressure and further violates the principle of secrecy of the vote. "We are concerned, because when we vote we don't know if we vote right or wrong and what will happen," said a vendor on the east bank of the Mekong in Kompong Cham.

Hun Sen and other party officials have defended the practice, saying it was used as a form of receipt for food gifts and to update the party's membership register -- the CPP claims to have three million members -- ahead of the elections. U.N. human rights envoy Thomas Hammarberg has said that during a 10 May 1998 meeting, Hun Sen told him he had only asked for the membership register to be updated and said some local and village leaders had been over-zealous. The NEC, in the absence of any formal complaint, is said to have opened an informal investigation into the charges of intimidation.

Chheng Phon has said that the NEC's biggest challenge would be combating intimidation and political violence. The NEC issued a directive on 22 April 1998 barring parties from using intimidation, gifts or money to win votes -- violators risk disqualification of party candidates and hefty fines.

"It's a good campaign tactic but in this case may lead to intimidation...It has to be stopped, the NEC has to investigate," a foreign election expert said of the CPP move, while Sam Rainsy said of the cell system: "It's a tight control of the population. It's like a grid...You cannot escape, there is surveillance."

## **C. COUNTING OF THE BALLOT**

The threat of intimidation spurred an opposition campaign to have ballot counting moved from the village polling stations to provincial capitals. A parliamentary boycott by anti-government parties helped persuade the CPP to compromise and the assembly agreed on 5 May 1998 that votes should be counted at commune level<sup>18</sup>. The CPP claimed it lost the 1993 elections because ballot boxes were tampered with en transit between poll stations and provincial capitals and was adamant that the votes would be counted at polling stations.

Opposition politicians argued that counting the ballot at village stations of between 600 voters could lead to intimidation before the polls and retribution afterwards as it would be easy to identify how each area had voted. Their bid, with the support of the NEC's Kassie Neou, to move the count to district level was shot down by parliament in April, prompting the opposition boycott and emergence of the commune option.

Many believe the ideal solution would be to count and publish the results at district level, though some election officials say the districts do not have the electoral infrastructure to handle the task. A further consideration is that the vote will be held on only one day, in contrast to the several days taken for the U.N. elections, and the problems of transporting ballots to the provincial capitals would be a logistical nightmare given the short time available.

Some foreign experts point out the merits of doing the count at village level, arguing that it cuts down on complicated logistics, is cheaper and makes it more difficult to manipulate results. But they admit that there would be a real danger of intimidation if the results were published at each village polling station without legal protection for voters.

Ballot boxes will now be brought to commune centres, where the number of voter slips in each box will be checked against the number issued at the station. The contents of all boxes brought to the commune will then be mixed and counted. Moving the count to the 1,992 communes will make it easier for observers to monitor the count but while the solution should dilute the genuine fears of voters, above all in rural areas, it is not the ideal solution.

#### **D. MONITORING AND OBSERVATION**

The government and the NEC have called for foreigners to observe the elections and the United Nations has agreed to co-ordinate and manage up to 500 long term and short term observers likely to be sent by governments and organisations.

But the world body fears free and fair elections will not be possible unless a number of serious issues are addressed, including the continued failure to prosecute those responsible for gross human rights violations and the resulting climate of impunity, the absence of a permanent cease-fire, the presence of refugees in Thailand and the lack of equal access to the media for all parties.

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<sup>18</sup> Hun Sen took the unprecedented and encouraging step of calling Ranariddh by telephone to forge the compromise. He has not yet tried to further open the door of reconciliation by meeting face-to-face with the prince. The prince has come under fire from his NUF colleagues for dealing with Hun Sen without consulting them – they say the lifting of the parliamentary boycott allowed the CPP to appoint its own three nominees to the Constitutional Council.

U.N. Secretary General Kofi Annan wrote to Ranariddh on 2 April 1998 explaining he had made the decision to help because of government moves to improve conditions for the polls, including allowing the prince to run. An attached memo to his letter said the United Nations reserved the right to end or suspend its co-ordinating role if there was "a fundamental deterioration in the political situation," including restrictions on access for international observers, a climate of intimidation, barriers to participation of major parties and candidates, inequitable media access and the inability of the constitutional council to function.

Long-term observers, mainly from EU countries, have been arriving and deploying in the countryside to watch the voter registration. Other duties will include assessing the impartiality of the NEC's provincial network and documenting complaints, while findings and suggested improvements will be regularly relayed to the NEC.

The U.N. is to service a Joint International Observer Group, comprising representatives of the nations and organisations sending observers and this body will issue a joint statement on the conduct of the polls at the end of the exercise. An electoral secretariat in Phnom Penh will provide support to the Joint International Observer Group and will provide technical coordination for observers and train them.

Almost 50 long-term observers, including 25 from the United States and 15 from Europe, were expected to be in place during June, while the electoral secretariat was expecting at least 350 short term observers, and possibly many more. Aside from Europe, observers are also expected to come from the United States, Canada, Australia, Japan, and the nine-member Association of Southeast Asian Nations. China, Israel, India, Switzerland and Mongolia are among others who have said they were interested.

While the United Nations will not be sending its own observers, it has a team of 15 foreigners to monitor the safe movement of returned politicians around the countryside, while the U.N. Centre for Human Rights has beefed up its capacity to investigate complaints of human rights abuses. The centre, which has been monitoring human rights abuses since its mandate began in late 1993, has set up six mobile teams.

The opposition, human rights organisations and the NEC have urged the international community to send as many observers as possible, believing that the chances of free and fair elections will be improved by the presence of foreigners as more people will feel confident enough to turn up and vote freely.

Foreign election experts believe donors should be funding many more long-term observers rather than relying on the less costly short term observers, derisively dismissed as election tourists. Long-term observers have more time to get to know the area, the problems and the relevant people and institutions involved in the elections, including the parties and officials, and are therefore in a better position to make a valid observation of the process. Analysts note that elections are usually won in the weeks ahead of elections, rather than on polling day. They say observers should be here for the whole electoral process.

The decision to send such a relatively small number of observers, especially long-term observers, reflects donor and general overseas fatigue with Cambodia. The feeling cannot be avoided that the nations that helped Cambodia through the 1993 polls, simply want to see the process launched in 1993 completed with the successful staging of "acceptably" free and fair Cambodian-run polls in 1998.

The bulk of the elections monitoring will be in the hands of Cambodians themselves. Two election watchdogs, COMFREL and COFFEL plan to mobilise thousands of people to monitor voter registration, the election campaign period and polling day.

COMFREL, the larger of the two groups gathering non-governmental organisations, planned to deploy some 2,000 volunteers to monitor the registration. On election day it hopes to send some 6,000-8,000 people to watch polling stations, with about 4,000 expected from COFFEL.

Volunteers of both organisations, which have received overseas funding, are unlikely to be treated with the same deference as foreign observers, but they are regarded as vital watchdogs. Political parties also hope to dispatch as many agents as possible to monitor all aspects of the electoral process.

## **E. CIVIC EDUCATION AND MEDIA**

Radio UNTAC was one of the great successes of the 1991-93 U.N. peace-keeping mission, but election officials have to date failed to emulate its pioneering role in educating voters about the electoral process – its significance and the cardinal principal of secrecy of the ballot.

Voter education, including theatre, has been one feature of the EU programme while the NEC, COMFREL and COFFEL plan civic education programmes through the media and at grass-roots level. Civic education programmes have been slow to get off the ground, but they are vital for combating the danger of abuse and for assuring voters that, even if they feel pressured into pledging allegiance for one particular party, they can vote for their real choice on polling day without fear of retribution.

Education is also important for telling people when they can vote, how they can vote and the choices of parties open for them. As to the reasons for voting for different parties, this is a role that should be conveyed by the media, but with most parties denied access to broadcast media, only the message of the ruling party and its allies is getting across.

The NUF has cited equitable access to the media among the list of conditions that must be met for its participation in the elections. The Information Ministry has denied the charges<sup>19</sup> and claimed, unconvincingly, that it does not have any available FM radio frequencies to allocate to opposition parties.

The NEC has wide-ranging powers over the media under the election law. Articles in the chapter on the electoral campaign allow it to use the services of all media to publicise the elections and provide civic education. It must also ensure that each registered party is accorded equal access to the media for propaganda.

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<sup>19</sup> The Ministry has pointed out that the Son Sann Party has been issued a licence to broadcast on an FM frequency. The party says it has no equipment to start broadcasting. Sam Rainsy, meanwhile, applied for radio and television operating licences on 26 May 1998 after several failed earlier bids.

The election body finally released media regulations in late May that restrict parties to broadcasting or printing their propaganda through state media and under NEC control. One NEC member said they decided that the combination freedom of expression and parties using their own media would lead to, "War on the electronic media" and increase the risk of a violent election. But the NEC regulations only apply to the election official campaign period, whereas the body should have ensured equitable media access for all parties as soon as possible in order to create a fairer atmosphere.

### III. ELECTION HURDLES

#### A. OPPOSITION BOYCOTT

The future of the elections had seemed secure with Ranariddh's amnesty in the bag and the launch of voter registration. But the NUF alliance resurrected the threat of a boycott on 18 May 1998, demanding that the elections be postponed as it would be impossible to have free and fair elections by 26 July 1998.

An NUF statement said its members were committed to taking part in elections – indeed, they would continue to take part in the electoral process, including registration – but would only support and run in the polls once the following conditions had been met:

- Ballot counting must take place at the district or provincial level and voters be informed their ballot will be secret
- An end to the campaign of intimidation -- The CPP must end its thumbprint campaign and issue a clear and widely disseminated statement that the election ploy did not commit people to vote CPP
- Substantial progress on investigations of political violence
- A Constitutional Council must be set up, while the council and NEC should be reformulated, including opposition members, so they can operate legally and independently
- The opposition must be given equitable access to the media and allowed to start operating their own broadcast media at least two months before the elections.

Hun Sen has shrugged off the boycott threat, saying he does not believe donors will withdraw support, and has refused to consider asking parliament to change the election date.

Some opposition members have suggested the polls be put back to October or November, which would require the king to extend parliament's mandate beyond 23 September 1988. But, Hun Sen had warned in early May during the opposition's boycott of parliament that he would not sign an extension of the assembly's mandate if the opposition succeeded in delaying the elections.

The opposition are clearly relying on the international community to put pressure on the government for change, citing the yardsticks for acceptable polls raised by Kofi Annan in his 2 April 1998 memo to Ranariddh. But donor nations have reacted tepidly to the boycott threat and given no indication to date that they will suspend support for the elections or push the government to create the conditions sought by the opposition. Diplomats have said they would continue to assess the situation as registration continued, but their fence-sitting has prompted opposition charges of hypocrisy and a lack of commitment to democracy in the developing world.

It is difficult for the international community to get excited about the prospect of a opposition boycott, when most signatories of the Paris Peace Accords probably believe the polls mark the end of their role in the drawn out peace process and see



them, further, as the mechanism for settling the political crisis sparked last year. The donors have already sunk much money into the current electoral process, but they face the dilemma that if all opposition parties disappear from the scene it will be harder to justify staying in. Elections on 26 July could not be credible without the opposition.

But amid signs of friction within the opposition, the possibility of some parties reversing their decision can not be ruled out. Sam Rainsy and others criticised Ranariddh after he unilaterally decided to compromise on the ballot count with Hun Sen. The prince resigned as president of the Front in mid-May, citing "very busy and heavy duties" as legally elected premier.

The prince, speaking to reporters after registering to vote in Kompong Cham province on 1 June 1998, said: "We should not talk about a boycott...But we should talk about the possibility of postponing the election." He said the registration process should be extended if fewer than 80 percent of eligible voters registered.

## **B. RANARIDDH'S "ARMY"**

Two of the four Japanese pillars for the return of Ranariddh to run in the elections focused on the role of his forces, which had regrouped around the northern border town of O'Smach after the July debacle and held off superior government forces for months. These were an immediate cease-fire and reintegration of the rival forces and the end of ties with the hard-line Khmer Rouge. They were largely aimed at averting the danger of Ranariddh being legally disqualified from the elections under the political parties law.

Ranariddh's forces, led by Nhiek Bun Chhay, agreed to a cease-fire with the government in late February -- an ASEAN proposal, supported by the prince, that the United Nations monitor the fragile truce was rejected by the government. The FUNCINPEC leader, meanwhile, vehemently insisted that he had never had any military alliance with the Khmer Rouge. His military commanders claimed that guerrillas fighting alongside the royalists were defectors, though secret Khmer Rouge documents recently recovered by the government in northern Cambodia indicate that the Maoist rebels were at one stage fighting alongside the prince's resistance forces.<sup>20</sup>

The Japanese plan ran into obstacles when Hun Sen refused to countenance amnesty for the prince's military commanders, Nhiek Bun Chhay and Serey Kosal, and warned in late March that Ranariddh must cut links with his commanders or risk being barred from the polls despite his amnesty. King Sihanouk has said he would not pardon the two men in the face of Hun Sen's opposition and the refusal to include the military commanders in the amnesty package has stymied efforts to forge a permanent cease-fire.

The disintegration of the Khmer Rouge in the north has further marginalised the prince's forces and probably weakened their position, though they never posed a major threat. Their continued existence as a separate entity and the absence of a

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<sup>20</sup> "Prince's KR deal leached with treachery," and related stories. *Phnom Penh Post*, 22 May-4 June 1998.

formal truce, however, still leaves Ranariddh open to sanction. Hun Sen's stubborn refusal to consider reconciliation for the FUNCINPEC military chiefs leaves question marks about his motives. The NEC's recent registration of FUNCINPEC and its list of candidates has lessened, but not eradicated, the danger of the prince being barred from running in the polls. The political parties law provides penalties for those guilty of violations of article six, the law barring private armies and territorial fiefdoms.

Meanwhile, two rounds of talks to reintegrate the rival forces collapsed without achieving anything. The first round on 15 May 1998 broke up in a row over the FUNCINPEC delegation representatives, while at talks on 21 May 1998 the royalists accused the government of deploying tanks and men for fresh attacks against O'Smach. The armed forces have denied the charge

### **C. IMPUNITY**

The problem of immunity remains one of the major hurdles to the neutral environment crucial for the elections and for establishing the rule of law in Cambodia. It is another condition raised in the opposition boycott threat and is regularly cited as a major concern by donor nations, the United Nations and major humanitarian and rights organisations. They say an end to the climate of immunity is an essential condition for free and fair elections and yet, even though there has been virtually no progress in addressing impunity, much movement has been made in providing assets for the elections.

The United Nations and several foreign governments have for months been calling for effective government action against those behind the killing of at least 16 people at a demonstration led by Sam Rainsy on 30 March 1997 and the murderers of scores of opposition members after the factional fighting last July. The U.N. Centre for Human Rights issued a detailed report in August last year listing at least 41 people, almost all FUNCINPEC military officials, killed extra-judicially after the fighting. News in early April that the centre would soon release an updated report<sup>21</sup> raising the number of killings believed to be politically motivated since last July to almost 90, prompted the government to angrily claim the centre was mounting a campaign to discredit it.

But on 10 May 1988, Hun Sen told U.N. human rights envoy Thomas Hammarberg that the government had established leads to arrest suspects in the killings and would submit a report to the world body. Eventually, on 8 June 1998, co-premiers Hun Sen and Ung Huot did sign a sub-decree establishing a committee of enquiry into cases of alleged extra-judicial killings since July 1997. The committee is composed of two senior advisers to Hun Sen and two to Ung Huot. Its creation was immediately met with a mixture of relief and cynicism by most observers, some of whom doubt the body's independence and its resolve to unearth evidence that might incriminate the regime.

Concrete action and prosecution of those behind the worst human rights abuses would do much to improve the government's image at home and abroad and send

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<sup>21</sup> The report was made public on 5 June 1998, "Memorandum to the Royal Government of Cambodia submitted by the Special Representative of the United Nations Secretary General for Human Rights in Cambodia", 13 May 1998.

the message that it is serious about enforcing the rule of law. It would contribute to an improved climate for the elections and reassure voters who have little faith in the justice system and are scared of those meant to protect them – the police, military and militia.

It remains difficult to make these state employees account for their crimes as the 1994 Law on Civil Servants provides that, except in cases of *flagrante delicto*, no civil servant may be arrested or prosecuted unless the government agrees in advance. Rights workers and many politicians believe impunity is tantamount to further violence and local militias are behind much of the abuse in the countryside and should be disarmed ahead of the polls.

The government launched a campaign last year to disarm up to 80,000 militiamen, whom the opposition say reinforce CPP rule in the villages and have helped enforce the thumbprint campaign. The co-premiers bulldozed 1,500 seized guns at a ceremony in January, when Hun Sen said almost 23,000 rifles had been confiscated in various provinces. He said the destruction of weapons would help create a neutral environment for the polls, but little more has been heard of the disarmament campaign, which may have run out of steam.

The NEC, however, claims less security officials are carrying weapons around following appeals to the authorities. The politicisation of the armed forces and police remains a major concern, despite directives from co-Interior Ministers Sar Kheng and You Hockry aimed at ensuring the neutrality of all territorial authorities and national police. The 4 February 1998 instructions order them to protect the offices of all registered parties, ensure security and freedom for all law-abiding politicians who request it and co-operate with the United Nations in ensuring the protection of politicians, including those back from exile.

#### IV. CONCLUSIONS

No-one disputes that Cambodia needs to hold a general election this year if the fragile democratic process launched in 1993 is to be taken a step further and consolidated by Cambodians running their own polls. Credible elections, that enjoy broad confidence within Cambodia, could help bring to an end Cambodia's recent cycle of political instability and clear the way to further economic and democratic development in the future.

But if elections offer an important opportunity for progress, they also carry with them high risks that we should work to minimise. Cambodia's opposition parties, dissatisfied with the current timing and political environment, are threatening to boycott a 26 July poll unless the government makes a number of important concessions. Unless progress is made in improving conditions before polling day, opposition parties are likely to opt out of the whole process, staying away from the campaign, instructing their supporters to boycott the poll and rejecting the final outcome. That is a nightmare scenario for Cambodia, raising, as it does, the spectre of prolonged political instability and possibly the escalation of a new civil conflict between political foes.

With just six weeks to go until the scheduled date for the elections, the international community needs urgently to make a judgement on whether to maintain its financial and political support for elections on 26 July – or whether to insist on a delay. In coming to a decision, there are two key questions that should be addressed regarding the present plans for a 26 July election – is the current date technically feasible and, secondly, is the political environment capable of producing elections that are politically credible?

### **Technical feasibility**

Election specialists agree that more time is needed to prepare the groundwork for technically sound elections, but they also say that a small delay of a few weeks is impractical because it would push the campaign and polling day itself into the centre of the rainy season. Heavy rains would create new logistical problems for the election organisers and benefit large, well organised parties, to the detriment of smaller less well organised ones.

### **Political credibility**

In assessing Cambodia's political environment, it is important to remember that Cambodia is a country experimenting with democracy after years of autocratic rule. It is inevitable that one party will have an advantage and Cambodia's opposition is relatively powerful and vocal compared to several other countries in the region. Although the opposition is still relatively weakly represented in key institutions such as the Constitutional Council and the NEC, the establishment of such institutions is in itself a vital step forward and they need time to establish some measure of autonomy.

Nevertheless, the political environment is clearly not ideal for July elections. While there have been important steps forward since January 1998, several of the recommendations listed in the ICG's January report have still not been implemented. In particular, the questions of voter intimidation, impunity and opposition access to the media should be immediately addressed.

If the Hun Sen government refuses to co-operate on these issues, the opposition will likely pull out of the election race and the international community should waste no time in withdrawing its financial and political support. It may be too late to halt registration, but the U.N. could still refuse to co-ordinate observers, Australia could withdraw its computer experts, and the signatories of the Paris Peace Accords could

warn that they would not recognise elections held under present conditions. Regional countries can still use membership to ASEAN as a bargaining chip, while the United Nations seat remains vacant. Cambodia relies on overseas aid -- another trump card for the international community.

## V. RECOMMENDATIONS

*Delay polling day until October or November ...*

To ensure the best technical and political conditions for free and fair elections, ICG recommends that the elections be postponed until October or November and that parliament's mandate be extended to allow for this. Postponement of elections is not desirable and should not be indefinite but putting back the polls by a few months should allow for technically proficient dry-season elections to be held in a more neutral political environment. It should also give the Constitutional Council time to find its feet and review electoral legislation.

*...use all available leverage to insist on improvements in the political environment...*

The international community should use its influence to press for elections, pointing out that it would not be able to support elections held under inhospitable conditions. The United Nations and Friends of Cambodia have made clear their misgivings about the political climate and steps need to be taken immediately to improve the environment and to allow for free and fair elections towards the end of the year.

Towards this aim, the ICG recommends that:

- The NEC and electoral watchdogs step up civic education programmes, stressing the secrecy of the vote and the right to choose one's party of choice.
- The NEC take a firm stand against intimidation, urgently investigate reports of such and hand down stiff sanctions against those found guilty of trying to coerce registered voters into voting for particular parties.
- The CPP widely disseminate Hun Sen's condemnation of intimidation, pledges to transfer power in the case of electoral loss and undertakings that all parties should be able to open offices and solicit support freely.
- The government allow all registered parties access to state media and immediately issue licences to those seeking to open radio and television stations.
- The NEC media amend its regulations to allow for parties to use their own broadcasting facilities under strict supervision to prevent inflammatory battles of the air waves. The rules should also be extended to cover the pre-campaign period.
- The government scrap legislation giving civil servant immunity from prosecution
- The government show its commitment to the rule of law by produce concrete results of investigations into major human rights abuses, including politically-motivated killings since July last year and the March 30, 1997 grenade attack.

*...and increase the number of long-term observers in Cambodia to monitor the election...*

The more disinterested eyes watching the elections the better and the ICG urges foreign governments to fund the dispatch of many more long-term observers. They should preferably be in Cambodia to observe the entire election campaign period and should remain in the country until a new government has been formed. A true evaluation of the fairness, freeness and credibility of the elections can only be made by looking at the process as a whole rather than the week straddling polling day.

There would, ideally, be one international observer at each of the 1,992 commune centres on election day – this would encourage people to vote freely and officials to act honestly.

## APPENDIX I

### KOMPONG CHAM - A CASE STUDY

#### 1. The City

A study visit to Kompong Cham, a barometer province for the elections, in early May proved that many opposition fears are well-founded. The eastern province, straddling the Mekong River and noted for its rubber and tobacco plantations, is the nation's most populous and will return the largest number of MPs (18) through around 1,780 polling stations. Hun Sen's brother, Hun Neng, is the governor and the province is regarded as a CPP stronghold, even though the party only won six seats to FUNCINPEC's 10 in the last polls.

The PEC chief, Yin Bun Tith, was general secretary to the governor's office before taking up the post, while his deputy was cabinet vice chairman to the governor's office. Both men protest their neutrality and stress their qualifications for the posts, but rights workers and party activists question their loyalty.

Yin Bun Tith holds a weekly meeting for party representatives, local election monitors, democracy and rights activists and United Nations officials. He also presides over a weekly security sub-committee meeting, gathering military and police officials and a representative of the governor, and asserted that there was no evidence of intimidation in the province.

The PEC chairman said he would investigate any complaints of abuse and upheld the rights of all parties to build up support in the province. He acknowledged that it would be tough to get everything prepared in time. The election official's weekly meeting was attended by most parties with offices in Kompong Cham, including the Sam Rainsy Party.

Yin Bun Tith said he had invited FUNCINPEC to attend, but they were absent and, on that particular day, attending a meeting presided over by Phnom Penh mayor, Chhim Seak Leang. The office had only been reopened on April 7.

The meeting, gathering several dozen district officials and civil servants under the watch of a U.N. monitor, was aimed at rebuilding the party's structure though the acting provincial chairman was still too scared to base himself in the town and had commuted from Phnom Penh.

The royalists had begun resurrecting their provincial network, but officials had not yet put signs by their offices. "I'm concerned about security -- I'm afraid," said one district office chief.

Party officials reported to Chhim Seak Leang about the death of 41-year-old FUNCINPEC member Kong Sambath, shot dead in his home while listening to a Voice of America dispatch in a southern district on April 19.

Was his killing politically motivated? "Sure, sure," said an official, while claiming people had been told not to listen to foreign radio broadcasts. Another senior



provincial party official claimed that a FUNCINPEC official in Memot district, bordering Vietnam, had fled to another area after he was threatened on 12 April 1998 by five or six uniformed soldiers. The FUNCINPEC members said the CPP thumbprint campaign was taking place everywhere.

Members of Sam Rainsy's party had had no problems since their office was opened on 11 April 1998, but said some members had been threatened and ridiculed by commune officials after returning to their districts after the bureau launch. The party has said it believes the deaths of at least two party members in the province this year were politically motivated and it fears for the future. Sam Rainsy has decided to run for a seat in Kompong Cham.

The Kompong Cham officials said people were scared to vote at village level, fearing officials would know which party they picked. They wanted the count at district or provincial level.

A senior CPP official in Kompong Cham claimed they had good relations and regular contact with other groups – he acknowledged that these did not include the Sam Rainsy Party and FUNCINPEC. The official, stressing that the polls should be free and fair, said the CPP was trying to strengthen its membership through its pervasive provincial network. He said the thumbprint campaign was voluntary and aimed at updating the party register, while estimating CPP membership in the province at 500,000.

The CPP official pointed out the party's record in helping the people and stressed that they would do nothing to break the law. He also denied that the PEC was recruited by the provincial governor and said local authorities were not barring the activities of other political parties.

But non-governmental organisations and rights workers in the province claimed people in the rural areas lived under constant pressure from the CPP-dominated local authorities and all cited the thumbprint campaign. Most did not believe the elections could be free and fair under current conditions and especially if the vote count was to be done at village level, claiming some opposition supporters would either not turn up to vote or pick the CPP.

Some villagers had allegedly been told they would not be allowed to take part in the polls unless they pledged allegiance to the CPP, while others were threatened with the loss of jobs. People were warned that the party would know if they had not voted for the CPP.

One rights worker said he believed that those who complained to the provincial or commune elections commissions would become targets and he expressed the fear that the army would back the CPP. Neang Savuth of COMFREL, meanwhile, said the elections watchdog was preparing to launch civic education programmes throughout the province with several hundred officials. The PEC has said it would cooperate. COMFREL would also monitor registration and the polls.

## **2. The Districts**

Driving along tarmac and dirt roads in districts on both sides of the Mekong, one is struck by the proliferation of CPP offices in villages and towns. A year ago they would have been complemented, here and there, by FUNCINPEC signs. Today, it takes a sharp eye to spot the handful of signboard advertising the presence of a CPP ally – the Khmer Citizens Party or the Buddhist Liberal Party of former Ranariddh ally, Information Minister Ieng Mouly .

Locals are reluctant to talk to strangers but all say their villages are led by CPP officials and undoubtedly many do support the party, but they would not answer or expressed ignorance when asked about other parties. Patterns emerge from talking to villagers and townsfolk in rich and poor areas of the province, including testimony to the thumbprint campaign.

Along a CPP-funded laterite road on the east bank a female vendor said the village chief had called door-to-door asking people which party they belonged to and reminding them that they lived in an area helped by the CPP.

The woman, who had put her thumbprint in the CPP membership booklet, noted that, “When elections come, we are concerned. We are not happy about elections. We are concerned because when we vote, we don’t know if we vote right or wrong and what will happen.” She thought some villagers might vote for other parties, but added: “No other party dares to come here.”

In a village further down the road an old man said a member of the (CPP ally) Liberal Democratic Party had briefly visited a few weeks earlier, but most people supported Hun Sen. He said the village had been split down the middle between FUNCINPEC and the CPP at the last polls, while adding that a CPP official had recently distributed radios, sarongs and kramas (traditional scarves) while the village chief had told them to vote for the party that helped them.

The man said FUNCINPEC used to have an office but had not dared to put their sign up again.

In a cross-roads town on the east bank a motor-bike mechanic said FUNCINPEC signs had been torn down after July. Clearly intimidated, he clammed up when a young man came into the road-side garage.

A middle-aged lady given a lift said the CPP had come to solicit support in her village but had not forced people to join the party. She had heard of pressure in other villages. The woman, who said she would vote for Sam Rainsy because he stood up for workers and the oppressed and fought corruption, said there were FUNCINPEC members in her village but they had not opened offices. “Those guys are very scared, but they have no guns,” she said, adding that she was worried that there would be renewed fighting after the polls.

An elderly gravel-maker said she would vote for the CPP because they had liberated the people from Pol Pot’s brutal Khmer Rouge regime in 1979. She acknowledged that she had been told put her thumbprint to support the CPP and added, “I don’t think anyone would refuse to thumbprint.”

In another district a barber said FUNCINPEC supporters were scared because their leaders in Phnom Penh were confused. He wanted the ballot counted at province level, believing that villagers could be threatened if the "party in power" failed to win.

In a dirt poor area of north-east Kompong Cham a farmer said the CPP had asked, but not forced, people to join the party. He said the CPP had done nothing to help him, despite requests to build a small well, and he would vote for another party if they were ready to meet his needs.

The local cell chief said he had been instructed by the commune chief to lobby support for the CPP. People in this village said scared FUNCINPEC members had gone underground and people feared that they would disappear if they showed support for the opposition. However, they said that while people had agreed to support the CPP they might vote differently on poll day. "We answered yes to the CPP guy because we are scared," said one villager.

A similar picture emerged from interviews on the east side of the river, including the rubber plantations run as mini-fiefs by CPP supporters. One rubber worker said the local cadre had told workers they should vote for the party that looked after them, while two women cycling through an avenue of tall trees said their bosses were CPP and people were scared of the CPP.

In a neighbouring district, a woman said the CPP had come round a week before to collect thumbprints and she, "Dared not to say no." She added that there was a major military camp nearby and people were scared.

Two armed soldiers questioned on the west bank, however, insisted that the elections would be free and that they would remain neutral. They denied that the CPP used intimidation and vowed that the police and military would not pull down opposition signboards. "I love all the parties," said one.

A FUNCINPEC commune official said he was forced to take down the party sign in front of his home on July 7, 1997. He knew nothing about the party meeting Kompong Cham and said, "We have no backbone so how can we do activity." He said he had received death threats against himself and his family, the last in February and added: "I feel very scared now, I dare not go anywhere." The man claimed there were a lot of FUNCINPEC supporters in the area but they were too scared to come out.