

**The Continuing Crisis in Cambodia
Obstacles to Democratic Elections**

January 30, 1998

February 4, 1998

Dear Colleague:

Seven months have passed since the July 1997 *coup d'etat* derailed Cambodia from a democratic path, and the crisis continues without a clear end in sight. Increasingly, the international community is looking toward a July 1998 parliamentary election to restore the democratic process. Yet fundamental questions have been raised about the integrity and credibility of these upcoming elections. It is unfortunate that the international community now finds itself debating whether it is better for Cambodia's democracy to have a seriously flawed election or to have no election at all.

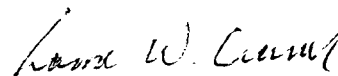
The enclosed report, *The Continuing Crisis in Cambodia: Obstacles to Democratic Elections*, summarizes the findings of a second assessment mission to Cambodia by the National Democratic Institute and the International Republican Institute and provides an update on the current political situation in the country. Most important, the report concludes that conditions in the country make it premature to look to elections as the primary mechanism for resolving the country's political crisis. Widespread intimidation continues to cloud the political environment, and a framework for credible elections has yet to be established.

Thank you for your continued interest in Cambodia. If we can provide further information or answer any questions, please do not hesitate to contact us.

Sincerely,



Kenneth Wollack
President, NDI



Lorne W. Craner
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The Washington Post

AN INDEPENDENT NEWSPAPER

Cambodia's Dictator

LAST JULY the deputy prime minister of Cambodia, Hun Sen, overthrew the elected prime minister in a widely condemned coup d'etat, forcing the leader into exile and reversing Cambodia's halting progress toward democracy. The international community, upon which Cambodia relied heavily for aid, has been, for the most part and after some initial hesitation, admirably united in pressing Hun Sen to repair the damage he caused. Now the European Union, by authorizing \$11.5 million in aid for the Hun Sen regime, has imperiled that unity—and Cambodia's chances to return to a democratic path.

Cambodia is a small and impoverished nation in Southeast Asia, but the United States has good reason to care what happens there. The two nations' histories have been linked since the Vietnam War. After the nightmare of Khmer Rouge rule and genocide, the United States and its allies pumped billions of dollars into Cambodia to help rebuild and to hold elections. U.S. officials pointed to Cambodia as a model of what a determined international alliance can do to promote democracy and post-conflict reconciliation.

Now, though, if the European precedent stands, Cambodia could instead become an example of Western hypocrisy on the subject of democracy. Europe's grant is intended to help Cambodia prepare for elections that Hun Sen wants to stage in July, seemingly a worthy

endeavor. But as matters stand in Cambodia today, there is no possibility of a free and fair vote; Hun Sen is simply looking to acquire some pseudo-democratic cover for his dictatorship. On this point, there isn't much dispute. The ousted prime minister, Prince Ranariddh, has not been permitted to return. Hun Sen has done nothing to investigate or punish those responsible for dozens of political murders that took place during and after his coup. A recent report by the International Republican Institute and the National Democratic Institute said that "the level of fear and intimidation experienced by Cambodians has not lessened." Human Rights Watch reports "pervasive impunity and a climate of fear." The U.S. State Department agrees.

Free elections should indeed be the goal of the international community, and the sooner the better. But Cambodia's neighbors in Southeast Asia have agreed with the United States, Japan and others on certain basic conditions essential for such a vote: an independent election commission, the right to return of all exiled politicians, restoration of freedom of the press, movement toward prosecution of those responsible for the post-coup killings. To break ranks now on the importance of these conditions can only embolden Hun Sen—and any other dictator who might study his example.

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EXECUTIVE SUMMARY

While democratic elections in Cambodia remain a critically important goal, political conditions in the country make it premature to look to elections as the primary mechanism for resolving the current crisis. There must be a nonviolent and neutral political environment, and it must be apparent and demonstrable that human rights and the rule of law are respected if elections are to be meaningful. In the wake of the violent overthrow of the democratically elected First Prime Minister in July and the subsequent executions and intimidation of party supporters, these conditions for democratic elections do not exist in Cambodia. The continued fighting between government and royalist forces in the northwestern part of the country has sent more than 60,000 refugees fleeing into Thailand. Human rights workers continue to uncover evidence of political killings, and the murderers remain immune from prosecution.

The National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI) sent a joint mission to Cambodia and Thailand from October 23 to 28. This mission built on an earlier mission organized by the two institutes in August, which issued a report entitled *Restoring Democracy in Cambodia: The Difficult Road Ahead*. The October delegation was headed by Chet Atkins, a former member of the US Congress, and Sichan Siv, a former Deputy Assistant to President George Bush. The team met with a broad spectrum of Cambodian political, civic and business leaders, including Second Prime Minister Hun Sen. The delegation also met in Thailand with members of the Cambodian National Assembly and other political leaders in exile, including First Prime Minister Prince Norodom Ranariddh.

The delegation noted that since August the level of fear and intimidation experienced by Cambodians has not lessened. Freedom to dissent from views of the Hun Sen government is absent. Many parliamentarians, civic leaders and journalists, for example, were reluctant to meet openly with the delegation. They expressed fear for their own personal safety because they believed that their movements were being observed and recorded by security forces. Self-censorship has become the norm throughout the country.

Unless there are fundamental changes in the political environment in Cambodia before elections, it is unrealistic to expect that (a) elections will be genuinely competitive, (b) the Cambodian people will believe that they can vote free of intimidation and retribution, or (c) the current government would honor an electoral outcome that was not in its favor. Some of the leading political figures who had been in exile since the July coup have recently returned to Phnom Penh, such as Sam Rainsy, President of Khmer Nation Party (KNP). The Union of Cambodian Democrats (UCD), which is composed of leaders of parties that support democracy in the country, sent a 25-member assessment team to Cambodia in early December. Several members of parliament and a number of UCD party supporters have returned in recent weeks. UCD leaders are deciding whether the current political conditions are sufficiently safe for the remaining Cambodian politicians in exile to return.

Cambodian democrats and the international community should remain focused on establishing the conditions for competitive elections, rather than on the technical aspects of electoral administration. Extraordinary steps will be required to restore the confidence of the Cambodian population and political leaders and to establish credibility with the international community. Minimum steps necessary to create an environment conducive to free and fair elections include:

1. *Restoring a nonviolent and neutral political environment.* Negotiations for an immediate cease-fire must begin. The government in Phnom Penh and the international community should work together to ensure the safety and security of all political leaders who return from exile. Further measures must be taken to guarantee the ability of political parties to contest the election. The current government has actively participated in or encouraged the dismantling of other political parties by destroying offices and signs, and transferring the parties' names and logos to newly created shadow parties. All party apparatuses must be returned to the rightful political leaders, or these leaders must be compensated for their losses as a result of the coup.

2. *Protecting human rights and enforcing the rule of law.* A visible commitment to the letter and spirit of the 1993 Constitution is necessary to restore domestic and international confidence in the government's protection of human rights and the enforcement of the rule of law. The more than 40 documented extrajudicial killings that occurred during and after the violence of July 5 must be investigated and those responsible must be prosecuted.

3. *Establishing a framework for credible elections.* The holding of meaningful national elections that allow for the free expression of the will of the Cambodian people is the only way to renew the legitimacy of the Cambodian government. The separation of the current government from the administration of the election is imperative. To help build people's confidence in the integrity of the elections, the election commission must be independent and neutral and must have broad powers. Other equally important factors are access to mass media for candidates and parties, freedom of newspapers and journalists, and the neutrality of the police and armed forces during the campaign period.

4. *Allowing domestic and international observers to monitor the entire electoral process.* Cambodia has limited experience in administering national elections. In 1993, the United Nations launched its most costly and largest peacekeeping operation to date, the United Nations Transitional Authority in Cambodia (UNTAC). Unlike 1993, there will not be more than 20,000 United Nations monitors observing the elections in 1998. There should be, however, hundreds of monitors visibly deployed throughout the country. These individuals should evaluate the status of human rights, political rights and the political environment from now until polling day. Their mere presence will help promote and protect political leaders and their supporters. Monitoring organizations should issue regular and coordinated reports that assess the political conditions.

BACKGROUND

On July 5, 1997, Second Prime Minister Hun Sen led a coup d'etat against Cambodia's democratically elected First Prime Minister Prince Norodom Ranariddh, who was out of the country at the time. This military action effectively ended Cambodia's fledgling experiment with democracy. Hun Sen quickly consolidated his power after the takeover by disarming and detaining nearly all military, police or intelligence forces loyal to Prince Ranariddh and dismantling the political infrastructures of parties opposed to the Cambodian People's Party (CPP) throughout the country. A military court subsequently charged Ranariddh with smuggling arms and colluding with the outlawed Khmer Rouge guerrilla group. Under Hun Sen's control, Cambodia's National Assembly stripped Ranariddh of his parliamentary immunity and endorsed the appointment of Foreign Minister Ung Huot as the new first premier in August.

The Aftermath of the Coup

Fighting between forces of the CPP government and troops loyal to Prince Ranariddh continues along the northwestern border between Cambodia and Thailand. It is estimated that 60,000 Cambodians are in refugee camps in Thailand. Some are escaping from the actual fighting, but others are fleeing because of the fear of retributive killings. This fighting and the flight of refugees threatens regional stability.

In late October, human rights investigators found the graves of two senior royalist officials, who appeared to have been killed as recently as October 17. It was the latest evidence of what the United Nations Center for Human Rights said were dozens of "politically motivated extrajudicial executions" of Ranariddh loyalists in the weeks following the coup. Special Representative of the UN Secretary General for Human Rights in Cambodia Thomas Hammarberg on several occasions has called for the current government to begin immediate investigations into the killings.

After the coup, Prince Ranariddh and other exiled political leaders formed an alliance, the Union of Cambodian Democrats (UCD). Ranariddh's royalist party, Funcinpec (the French acronym for the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia), joined the alliance with three other political parties opposed to the current government: the Khmer Nation Party of Sam Rainsy, a former Funcinpec Finance Minister who broke with Prince Ranariddh and was stripped of his seat in parliament two years ago; the Buddhist Liberal Democratic Party (BLDP) led by Son Sann; and the Khmer Neutral Party, a small, nonparliamentary party. A 25-member technical assessment team sent by the UCD visited Cambodia in December. A planned return of UCD members on January 14 was delayed. The group cited a number of problems with the political environment, such as the closure of several opposition newspapers, threats leveled against foreign journalists critical of the CPP, the arrest of a senior Funcinpec military officer who was under the protection of UN officials and the abrupt departure of King Sihanouk for China, as reasons for this postponement.

Nevertheless, most of the political leaders in exile have returned or are in the process of returning to Cambodia. Sam Rainsy went back to Phnom Penh for the first time since the coup at the end of November. Representatives of Ranariddh have visited Phnom Penh during recent weeks to attempt to negotiate the terms of his possible return. Some 60 supporters of UCD-member parties members have returned in January, and Members of Parliament Son Soubert, Pol Ham, Min Saroeun and Khun Phinop returned to Phnom Penh on January 30.

Politically inspired violence in Cambodia continues. On January 27, according to press reports, unidentified gunmen shot dead Khmer Nation Party leader Orn Phuong and his five-year-old daughter at their home in Prey Veng province.

The response of the international community

The Hun Sen government has failed to win international acceptance of its coup after shattering a coalition government put in place following the 1993 elections administered by the United Nations. The United States has suspended all but the humanitarian assistance portion of its \$38 million foreign assistance program. Germany has followed suit while Japan, Cambodia's largest donor, has said it will not halt its \$70 million aid program if certain conditions are met. France continues to provide aid to Cambodia but has also stated that the most important factor related to future aid is whether credible elections are held in 1998.

In a departure from its policy of noninterference in the domestic affairs of its members and neighbors, the Association of Southeast Asian Nations (ASEAN) condemned the coup and postponed Cambodia's pending membership until after elections are held. ASEAN, together with an informal diplomatic grouping known as the "Friends of Cambodia," which includes Australia, China, France, India, Russia and the US, has urged Hun Sen and the exiled political leaders to come to an agreement on the conditions under which the exiles will return to Cambodia so that the national elections scheduled for 1998 can be "free, fair and credible."

On September 19, the United Nations accreditation committee chose to leave Cambodia's seat empty in the General Assembly. By leaving the seat vacant, the UN withheld *de jure* recognition from the new government in Phnom Penh -- a significant victory for the leaders in exile. The United Nations has also taken an important role in attempting to arrange for the return of the exiled political leaders by securing from Hun Sen guarantees of their safety and freedom. The UN is currently providing international monitors to help protect those who have chosen to return to Cambodia.

The July crisis not only undermined the country's constitutional process, but also its economy. Cambodia reportedly relies on foreign aid for more than half of its annual budget. In September, citing government corruption, the International Monetary Fund and the World Bank suspended aid to Cambodia. Faced with a decline in foreign assistance, diminished investment and tourism, and escalating military expenditures, the economy is deteriorating quickly.

The IRI/NDI assessment missions

The International Republican Institute and the National Democratic Institute for International Affairs have conducted programs in Cambodia since 1992 to support the development of elections, political parties, civic organizations, and the National Assembly. In an effort to assist Cambodian democrats inside the country and in exile, IRI and NDI have sent two assessment missions to Cambodia: the first in August and this second mission in October.

The August assessment mission found that as a result of the July coup d'etat, Cambodia's fragile gains in democracy had been reversed and forces loyal to CPP had used violence to intimidate and eradicate political opponents. The delegation also concluded that the August National Assembly vote to replace the duly elected First Prime Minister of Cambodia was not legitimate. Unless there were fundamental changes in the existing political environment, the delegation said, it would be impossible to hold genuinely democratic elections in 1998.

The October assessment mission visited Cambodia and Thailand to assess the political environment and to analyze the process by which the electoral framework was being developed in the months following the coup. The delegation was in Cambodia and Thailand from October 22 to 28, 1997. The delegation met with more than 70 government officials, members of the National Assembly, political opposition leaders, civic leaders, Cambodian and foreign journalists, diplomats, and members of the business community. Team members held extensive meetings with First Prime Minister Norodom Ranariddh and Second Prime Minister Hun Sen. The delegation also traveled to four provinces to further observe the political conditions affecting planned elections.

THE POLITICAL ENVIRONMENT

Intimidation by Hun Sen's followers continues to prevent the restoration of a nonviolent and democratic political environment in Cambodia. In the months since the July coup, many Funcinpec supporters and other opposition party supporters who have remained in the country have received death threats and experienced other forms of intimidation. All visible signs of political opposition to the government, such as political party posters and functioning party offices, which were plentiful before the coup, have disappeared. Members of the National Assembly who support Funcinpec and BLDP predicted that it would be dangerous for their parties to campaign outside the capital and without the presence of international observers.

Even the IRI-NDI delegation's own meetings were hampered by the prevailing climate of fear. One meeting at a restaurant with Cambodian journalists, for example, ended abruptly after a senior ranking police commander and four officers occupied an adjacent table. The journalists, who had received death threats by telephone, became frightened of being seen with foreigners and immediately departed.

Asked about reports of increased violent incidents in the provinces and the safety and ability of opposition candidates to campaign, a senior CPP government official seemed to justify the continued use of force: "The road to democracy is through elections, but we cannot do this if there are still challenges with weapons on the streets." In response to a question about whether the government, the military or the police rationalized the use of violence or intimidation as a means for maintaining stability, Second Prime Minister Hun Sen spoke at great length about his government's purported commitment to law enforcement. Rogue security checkpoints in the country have been eliminated, he said, many militia units have been disarmed, and the presence of personal bodyguard units in Phnom Penh has been reduced. Several diplomats agreed that these actions have been taken since the coup.

Whether these apparent improvements are real or illusory, however, the proliferation of weapons and the continued existence of armed militia pose a serious threat to the security and safety of opposition candidates and party activists. Many Cambodians mentioned that they felt more restricted in their movements since July. Cambodians are now required to register any guests who visit their homes or offices. The government's new law enforcement program has served more to limit the free movement of people than to protect them.

Several members of the National Assembly in Cambodia told the delegation that they were reluctant to publicly debate the shortcomings of the proposed election law. In a comment to the delegation, one parliamentarian said that in his view "only one percent" of the National Assembly was brave enough to criticize the proposed election law.

Climate of Repression in the Countryside

The delegation visited four provinces to assess the political situation in rural Cambodia. With the majority of the electorate residing outside of Phnom Penh, a stable and safe environment in which all candidates and parties can freely operate depends on the prevailing political conditions in the provinces. Based on interviews with party activists and the electorate, it is evident that an open political environment does not yet exist.

While traveling to and from provincial capitals, delegation members noted that there were fewer armed bodyguards, soldiers, roadblocks or checkpoints since August. At the same time, the political climate in rural Cambodia remains tense. While the violence of July 5 and 6 was not as dramatic in the provinces as in Phnom Penh, it was both real and terrifying for provincial Funcinpec officials. Under the guise of searching for Khmer Rouge soldiers and weapons, CPP forces raided and looted provincial Funcinpec party offices. Private homes were ransacked, and many Funcinpec and other political activists fled to the Thai border or went underground. Funcinpec's provincial and sub-provincial political party structures were demolished.

In one Funcinpec provincial office, visibly frightened activists reported that armed men loyal to renegade Funcinpec member Toan Chhay accompanied CPP soldiers during a raid and, under

threat of violence, forced those members who did not flee to swear allegiance to Toan Chhay. Several individuals told the NDI-IRI representatives that in the interest of self-preservation, they had aligned themselves at the time with the splinter Funcinpec group; these activists made it clear, however, that their loyalty was with Prince Norodom Ranariddh. Civil servants who supported Funcinpec and remain in provincial and district offices after the coup report harassment and intimidation from their CPP counterparts.

Status of Political Parties

The Khmer Nation Party led by Sam Rainsy and the Buddhist Liberal Democratic Party led by Son Sann have been victims of politically motivated vandalism. Both parties have had their political apparatuses dismantled. Party signs and offices have been destroyed, and former party members aligned with CPP have been awarded the remaining spoils. For example, former KNP member Kong Mony claims to lead the party and is occupying the headquarters. A court decision effectively took away the BLDP name and logo from party founder Son Sann and gave it to Hun Sen's political ally, Ieng Mouly. Most of the radio equipment belonging to the KNP, BLDP and Funcinpec was damaged or disappeared after the July coup. This loss greatly affects the ability of the parties to campaign in the provinces.

As in many countries with large numbers of illiterate voters, the names, symbols and logos attached to political parties are especially important in identifying candidates and parties. After the July coup, the police confiscated the offices of several political parties. Since then, splinter political parties have formed and have claimed ownership of the party symbols and logos associated with the exiled political opposition leaders. The leaders of these new factions are not the founders of the parties formed during the UNTAC period, and they openly support Second Prime Minister Hun Sen.

In democratic systems, members are free to resign from one political party, to join an existing party or to create a new party. It is highly unusual, however, for dissenting factions to claim the full legal mantle of the party they are quitting. Although some parties may have legitimate leadership decisions to make, there must be an independent legal mechanism to settle disputes about control of particular parties and to impartially enforce party laws to prevent this type of political theft.

Only the CPP appears active in rural Cambodia. Its monopoly on provincial governments and armed forces -- and the resulting climate of fear and lawlessness -- will make it difficult for opposition parties to re-establish provincial party structures or to conduct campaign-related activities. Moreover, the CPP is trying to lure Funcinpec supporters loyal to Prince Ranariddh to their side by offering cash and other inducements. One Funcinpec official said that many provincial civil servants are afraid to go to work and are fearful that their family members will also be targeted.

CPP party signs continue to be prominently displayed throughout the countryside. The only other signs seen by the delegation were those of small political parties closely aligned with the CPP. It appeared that the CPP was actively supporting these parties in order to create the illusion of

opposition. People said that they were promised money (in some cases \$100) by local CPP officials for displaying signs in support of these political parties. In most cases, they did not recognize the names of the leaders or the logos of the parties they ostensibly supported.

In contrast, no Funcinpec party office signs were publicly displayed in any of the provinces the team visited. According to Funcinpec activists, CPP soldiers during the coup ordered offices to take down their party signs. One CPP provincial party member said that Funcinpec offices had not been ordered to remove their signs; he claimed they did so for their own protection.

One member of the National Assembly predicted that another consequence of the July coup was that very few women or ethnic minority candidates would stand for office. These individuals feel too exposed to take unnecessary personal risks by campaigning in the countryside.

Recommendations for Improving the Political Environment

Given the demonstrated willingness of the Hun Sen government to use force to achieve its political objectives, it is critical that provisions be made to guarantee the physical safety and security of those members of the National Assembly and other political leaders who wish to return to Cambodia and resume their political activities.

The freedom of the exiled political leaders and party activists must also be honored by the CPP-led government and extended to all democratic political activities relating to the elections, including freedom of movement, assembly and speech as guaranteed by the Constitution and by the electoral law. The government's October request to the United Nations to provide international monitors to guarantee the safety of the returned exiles was an important first step.

Negotiations for an immediate cease-fire are critical to bringing peace to Cambodia. A complete cessation of hostilities between the forces of the current government and the forces loyal to Funcinpec is necessary to finding a peaceful solution to the current political crisis. Until negotiations begin, the political climate in Cambodia will remain volatile.

HUMAN RIGHTS AND THE RULE OF LAW

Recurrent political violence, including the March 30, 1997 grenade attack on a peaceful political rally and the extrajudicial killings and arrests following the July 5 coup, has dealt a serious blow to human rights and the rule of law in Cambodia. The circumstances of these killings must be examined before the Cambodian people and the international community can have any confidence in the government's commitment to protecting human rights and respecting the rule of law. In order to do so, meaningful security assurances must be given to the human rights workers and local journalists who wish to investigate these crimes

Investigation of Extrajudicial Killings

Violence and intimidation have led to the deterioration of the political climate in Cambodia over the last few years, which has adversely affected the ability of the human rights activists and others to conduct lawful activities. More than 40 individuals, most of whom were senior Funcinpec officials, are known to have been executed since the July coup, according to human rights reports.

Investigators are looking into reports that dozens more corpses were secretly burned at Buddhist pagodas in the immediate aftermath of the July fighting. Human rights workers are also investigating reports of at least eight more political killings of Funcinpec supporters who died as recently as September and October, which suggests that killings continued long after the fighting of July 5 and 6. Cambodian authorities have done little since July to investigate any of the cases or to prosecute the local officials believed to be responsible.

Judicial Independence

An independent judiciary is needed to protect human rights, enforce criminal laws, settle election-related disputes and resolve important constitutional conflicts that affect the functions of government. Yet, the nation's two most important judicial institutions have not been formed: the Constitutional Council, which would resolve constitutional and election-related issues, and the Supreme Council of the Magistracy, which would appoint and discipline judges. The nation's judges were all appointed by the pre-UNTAC regime, the precursor of the CPP. Thus, the court system is neither neutral nor independent.

Furthermore, the exodus of provincial and district administrators who supported Funcinpec and BLDP (Son Sann) leaves nearly all judicial seats solely under the scrutiny of the CPP. During the delegation's visit, a judge who had been critical of the CPP was badly beaten by local administrators. Human rights investigators are compiling reports on cases in which the accused were not able to choose their own lawyers and in which judges read prepared verdicts before trials were completed.

Recommendations on Establishing the Rule of Law

The current government must send a clear signal to human rights workers and journalists that their work can continue unimpeded by establishing a neutral and independent judiciary that can hold criminals and violators of human rights accountable. The government should pledge to quickly remove officials who are found to be violators of human rights. Unit commanders of the security forces who have engaged in human rights abuses should be suspended immediately.

A FRAMEWORK FOR CREDIBLE ELECTIONS

Many Cambodians and members of the international community are hoping that national elections scheduled for July 1998 will resolve the country's political and economic crisis. Under

current conditions, however, the prerequisites for meaningful elections are missing. Only when the government takes the steps to allow a meaningful election process to go forward should the focus of attention turn to more technical, albeit critically important, election issues, such as registration of voters and political parties, administration of the elections, and domestic and international monitoring.

Assuming significant progress is made on establishing a political climate conducive to elections, the key areas of concern regarding the elections include the following.

The Legal Framework

1. ***The political party law.*** The new political party law, promulgated in November 1997, leaves members of small and opposition parties at a distinct disadvantage. In particular, the registration requirement for each party to garner 4,000 signatures or thumb prints is onerous. Many party activists, especially in the provinces, are fearful of being publicly identified as supporting the opposition, which will make it difficult to register such a large number of party members. The law also prohibits any "subversive activities," and some party activists believe that this vague wording could allow the CPP government to use this provision to forbid public meetings or campaign rallies or to close down opposition newspapers.

2. ***The election law.*** In late December, the National Assembly adopted the election law and set the date for national polls, previously expected in late May, for July 26, 1998. For the elections to be credible, however, the electoral framework must be generally acceptable to all competing parties. This electoral framework was developed in the absence of one-fifth of the elected members of the National Assembly. Several members of the National Assembly who remained in Cambodia said that they were reluctant to publicly debate the shortcomings of the proposed election law.

The election law includes restrictive provisions regarding voter registration. Provisions in Article 50, for example, specify that voters must have "Khmer nationality" and have an "exact address" in Cambodia. In Cambodia, the term "Khmer" generally refers to ethnicity rather than citizenship. The Nationality Law, enacted in 1995, does not clearly define who is a Khmer. Hence, this provision in the law may be used to prevent Chams (Cambodians of the Muslim faith) or ethnic minorities of Chinese, Thai or Vietnamese ancestry from registering to vote. The requirement of a fixed address seems to prevent the participation of Cambodian citizens living outside of the country and of the some 60,000 refugees who have fled fighting in the northwestern provinces.

3. ***Formation of the Constitutional Council.*** The Constitutional Council, which is supposed to function as the final arbiter of constitutional and election-related disputes, has never been convened. The absence of this body raises the strong possibility of the arbitrary application of the election law. It is essential that the Constitutional Council be established to address issues such as the constitutionality of the party and election laws and to resolve election-related disputes, such as appeals by citizens or potential candidates found ineligible to participate or control of party names and assets. Like the election commission, the Constitutional Council must be unbiased and

independent from political control. It is important that the Council be composed of individuals whose independence is well established or by such a diversity of individuals that the Council as a whole is viewed as independent.

The National Election Commission

The independence and authority of the National Election Commission is essential to the credibility of the electoral process. Under the new election law, the National Election Commission is composed of 11 members: a president, a vice president, two Ministry of Interior representatives (chosen by each Co-Minister of Interior), one NGO representative, two citizens (one each to be chosen by the Co-Ministers of Interior), and a representative from each of the parties represented in the National Assembly.

In early January, the Ministry of Interior presented a list of candidates to the Council of Ministers, which then submitted it to the National Assembly. The process failed to result in a broadly representative commission, however, because the rival factions of Funcinpec, led by Prince Ranariddh and Toan Chhay, and of the BLDP, represented by Son Sann and Ieng Mouly, all submitted nominations. The Council of Ministers removed the party nominations of the factions opposed to CPP before passing the list to the National Assembly. Similarly, the NGO coalitions formed to monitor the elections, the Committee for Free and Fair Elections and the Coalition for Free and Fair Elections, sharply criticized the process by which the NGO representative was chosen. They alleged that a number of NGOs were prevented from participating in the selection process by arbitrary imposition of requirements for NGO registration and payment of fees. They further alleged that one candidate made payments in exchange for support. Nevertheless, the National Assembly approved the list of nominations by a vote of 70 to 15, with three abstentions.

According to the law, the commission staff will be seconded from the government, and its sub-commissions, at the provincial level and below, will be appointed by government sub-decree. It is estimated that nearly 6,000 civil servants will be needed to register 5.6 million voters and staff more than 11,000 polling stations. In addition, the commission's regulations and procedures are subject to government approval. CPP supporters or party members hold nearly all the civil service positions at the provincial and district levels, who will, in turn, control the administration of the elections. If one party controls the administration of the entire electoral process, few people will have confidence in the integrity of the ballot.

Freedom of the Press and Fair Access to the Media

Since the delegation's visit to Cambodia, the government has accused six opposition newspapers of defamation and endangering national security and four of these Cambodian newspapers have been shut down. In addition, a foreign journalist who has been covering Cambodia since 1988 has been threatened with expulsion; he is accused of distorting the past year's events and "spreading lies" in a documentary on Cambodia, which was broadcast on foreign television. The media must be

given guarantees that they can function freely in Cambodia. The government should suspend its power to close television and radio stations and newspapers during the campaign period.

In 1993, Radio UNTAC ensured access to broadcast media to all candidates. No indication has yet been given that air time will be made available to all candidates and parties on government-controlled television and radio channels. There are valid concerns about whether coverage of parties in news, commentaries and discussion programs will be fair.

Neutral Police and Military

The current Cambodian government must take effective, practical steps in order to achieve political neutralization of all armed forces under its control, including the army, militia units and the police. The recent military neutrality law barring members of the military and police from holding senior political party positions is an important initial step, but it does not adequately remove the police and military from the administration of the elections. The election commission should be authorized to determine the roles and the deployment of the police and military during elections. Article 51 of the Civil Service Law should be repealed because it gives government departments, including the police, the right to veto criminal prosecution of their staff members.

MONITORING THE POLITICAL ENVIRONMENT AND THE ELECTORAL PROCESS

To reinforce public confidence in the elections, domestic and international groups should begin immediately to monitor the political environment and the electoral process. One positive development since the 1993 elections has been the emergence and development of more than 120 Cambodian civic organizations. Many of these NGOs were involved in the 1993 elections and seek to monitor the upcoming elections.

The current political space in which civic groups operate is limited. Few groups have the confidence to aggressively investigate particular human rights violations. Almost none feel free to assess and comment on the broader political environment, including the public's sense of personal security and the freedom of party activists to participate in the political process. It is critical that the international community support the efforts of domestic civic organizations to resume monitoring activities. The activities of NGOs will reinforce the importance of civil society in Cambodia, encourage a political environment in which all parties can compete fairly and provide some assurance to citizens of the country that they can freely cast their votes.

The international community should provide experienced observers to monitor human rights, the political environment and the electoral process throughout the country. In addition to investigating particular human rights violations, experts are needed to address questions about the political environment, political parties, the legal framework, the military situation, the judiciary and the media. Given the CPP's repeated use of violence and intimidation, it is imperative that the international community focus its attention on the political environment in Cambodia. The presence

of international monitors will reinforce the important work being done by domestic organizations. Specific standards for a legitimate election will need to be agreed upon by Cambodians and the international community. International monitors will need to coordinate responses in the event of a severely flawed election or the rejection of the outcome by any of the contestants.

CONCLUSIONS

Nearly six months after the July coup, the political situation in Cambodia continues to be characterized by unrestricted CPP control and intimidation. Human rights violations have gone unpunished. Opposition political parties have been eviscerated or co-opted, and many civil society groups have curtailed their activities out of fear of government retribution. Cambodia is still a long way from securing the neutral and nonviolent political environment that is a prerequisite for genuine elections. Given the Hun Sen government's actions, extraordinary steps will be required to build public confidence in the electoral process. Events over the past six months impose a special responsibility on the current authorities to demonstrate that it will support an open electoral environment, thereby providing the basis for a meaningful process that can reflect the will of the Cambodian people.

Holding elections at all costs could seriously exacerbate existing political and economic problems in Cambodia. Only elections that are freely contested, credibly administered and broadly accepted by the Cambodian people will move the country in the direction of national reconciliation and democratic government.

THE INSTITUTES AND THE DELEGATION

The International Republican Institute (IRI) and the National Democratic Institute for International Affairs (NDI), both based in Washington, D.C., conduct programs to support democratic institutions and processes around the world. In Cambodia, the two institutes have actively supported the development of elections, democratic political parties, civic organizations and the National Assembly since 1992.

The NDI-IRI delegation to Cambodia and Thailand from October 22 to October 28 was led by Chet Atkins, a former member of the United States Congress, and Sichan Siv, a former Deputy Assistant to President George Bush. The delegation also included Elizabeth Dugan, IRI Resident Program Director for Southeast Asia, Paul Grove, IRI Deputy Regional Program Director, and Brenda Pearson, NDI Representative in Cambodia. In addition, NDI Board Member Ambassador Morton Abramowitz, former United States Assistant Secretary of State, and NDI Senior Program Officer Sarah Malm participated in the Thailand portion of the mission.