

CAMBODIA

**After flawed election and violent
crackdown on peaceful protesters...**

**How to get Cambodia back on the road to
democracy**

December 1998

Document prepared by the Sam Rainsy Party (SRP)

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Election-related human rights abuses

- Press release of Amnesty International, Phnom Penh, July 24, 1998
- United-Nations Report on election-related intimidation and violence, August 19-September 23, 1998



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CAMBODIA: RULE OF LAW IGNORED AS CAMBODIA PREPARES FOR POLLS

(Phnom Penh):

On the last day of campaigning before the 26 July elections in Cambodia, Amnesty International representatives in the country today condemned the ongoing violence and intimidation.

Operating in a climate of institutionalized impunity, members of the security forces controlled by the ruling Cambodian People's Party (CPP) are able to commit human rights violations without fear of being brought to justice. Lack of concrete action by the state is compounded by near silence from the international community on cases of concern, thus perpetuating the cycle of violence, the representatives said.

"The human rights situation in Cambodia has become so twisted that victims are blamed for their suffering, and investigators are condemned for their efforts to protect the victims," an Amnesty International spokesperson said. "Much of the international community plays down the level of violence, sanitizes the trauma of victims and ignores the impact of human rights violations on freedom of association and expression."

"Activists have been intimidated, politicians have been threatened, party agents have been shot and killed, and prisoners have been illegally arrested and badly beaten by policemen while held in detention."

The majority of the victims are associated with the two major opposition parties, FUNCINPEC and the Sam Rainsy Party.

On 22 July, Amnesty International delegates located Danh Teav, a FUNCINPEC Ministry of Interior employee who had been arrested without a warrant in the evening of 20 July and held in incommunicado detention by the Phnom Penh Criminal Police. He was severely beaten in an attempt to compel him to "confess" to involvement in the attempted murder of a pro-government newspaper editor earlier this year and other crimes.

When the delegates saw him, he was unable to stand without help, had bruises and abrasions on his back and chest, and cuts around the wrists where he had been shackled. Danh Teav's wife is an election candidate for the opposition Sam Rainsy Party and was detained for two hours with her husband.

The delegates also found five other men, all shackled together with Danh Teav, at least three of whom had been badly beaten in police custody. The clothes of two of the men were covered in blood, and both had cuts and swelling on their faces. They were frightened of being taken back to the police station to face further beatings. None of the six had been allowed access to lawyers, doctors or family members while in police custody.

The Amnesty International team also interviewed a FUNCINPEC party activist who had been shot in the leg, following months of harassment from the local CPP authorities since the July 1997 violent ousting

from power of FUNCINPEC First Prime Minister Prince Norodom Ranariddh. The authorities claim that he shot himself as "an attention-seeking gesture."

Repeated and measured attempts by the Office of the United Nations High Commissioner for Human Rights to draw the government's attention to the human rights situation in the country have been met with violence and threats. In April a staff member was assaulted, and the government has since made clear its intention to expel UN personnel blamed for bringing human rights violations to light.

"The international community cannot turn a blind eye to the widespread intimidation in Cambodia," the spokesperson said. "Foreign government officials in Phnom Penh and election monitors in the country must speak out about each and every incidence of political violence and intimidation. It is then up to the Cambodian authorities to ensure that all Cambodian voters can go to the polls on Sunday without fear."

...ENDS:

BACKGROUND INFORMATION

The human rights climate in Cambodia has deteriorated sharply following a grenade attack on a peaceful opposition demonstration organized by Sam Rainsy in March 1997. At least 16 people died and over one hundred were injured. No serious investigations into the incident have been undertaken by the government authorities.

Scores of people were extrajudicially executed during a coup in July last year in which FUNCINPEC First Prime Minister Prince Norodom Ranariddh was ousted from power. Most of the victims were high-ranking FUNCINPEC military and security personnel. No one has been brought to justice for any of these killings, although in a blatantly unfair trial the Phnom Penh Military Court imposed a post-mortem sentence of 20 years' imprisonment on one of those killed.

In the immediate aftermath of the coup, thousands of opposition politicians and supporters, mainly from FUNCINPEC and the Sam Rainsy Party, fled the country. Although political party activists later returned to participate in the election, thousands of FUNCINPEC officers and troops remain on Cambodian-Thai border, and dozens of FUNCINPEC security personnel who remained in the country have been killed over the past year.

MONITORING OF ELECTION-RELATED INTIMIDATION AND VIOLENCE

(Report August 19 – Sept 23 1998)

This is the sixth factual progress report about investigations into alleged election-related human rights violations in breach of international human rights standards. It has been compiled by the Cambodia Office of the High Commissioner for Human Rights (COHCHR) on behalf of the Special Representative of the Secretary-General of the United Nations for Human Rights in Cambodia. It supplements previous reports issued on July 1, 9, 17, 25, and August 18. The Special Representative is not a judicial authority and it is not his role to pass judgement in these or other cases. As in the past his role is to assist the authorities and people of Cambodia to identify human rights problems which should be addressed by law enforcement and other relevant authorities.

Summary;

Forty-nine killings involving alleged links to the electoral process were investigated by the COHCHR over the three month period from May 20 to August 20. Fourteen have already been assessed in previous reports as not related to the electoral process. This report assesses the 35 remaining killings.

Among these:

- Sixteen people were killed apparently in connection with the electoral process because of their political beliefs or affiliation.
- Six people were killed in cases where both political and personal aspects were present.
- Six people were killed for reasons which appear to be unrelated to the electoral process.
- Investigations into seven killings are unresolved because information that would establish clear reasons for the murders has not been found so far.

Section two summarizes information on other serious incidents involving violence that have come to the attention of the COHCHR since the last report on August 18. Incidents related to the demonstrations which began in Phnom Penh in late August are not included in this report. They will be addressed separately.

An updated list showing the current status of COHCHR investigations into alleged intimidation since May 20 is available on request. Some 138 cases are listed, of which 113 have now been positively confirmed. For clarity, it should be noted that the term "cases" refers to investigations that can involve more than one victim, or multiple incidents of the same type.

Full Report:

1. Assessment of Killings

The COHCHR has investigated and assessed the killings listed below according to the following criteria.

1) *Election-related killings:*

A case where most evidence points to political motives related to the electoral process.

2) *Mixed political and other motives:*

A case where there is evidence of both election-related and personal or other motives, or where personal or other motives may have been used as a pretext for a political killing (and vice versa).

3) *Killings unrelated to the elections:*

A case where most evidence points to personal or other motives, and which does not appear to be related to the electoral process.

4) *Unresolved cases:*

Cases in which the COHCHR has been unable to find evidence which would establish clear reasons for a killing.

KILLINGS ASSESSED POLITICALLY-MOTIVATED

■ **EM IEM** (c. June 10, Kompong Cham)

Em Iem left his home on June 10 by bicycle for the district headquarters of the Sam Rainsy Party where he was working. He was seen being arrested by the village chief, commune police and militia chiefs. He was searched and party documents were seized. Witnesses watched as he was then handcuffed, blindfolded and taken in the direction of a nearby rubber plantation, where his body was found several days later in a shallow grave. It was exhumed and identified on June 19. It showed damage to the left side of the head, to the back of the neck and to the right hand. Several teeth had been broken, the right side of the jaw was broken and the nose was smashed.

Reliable witness accounts said that on the night before the murder (June 9) the village chief had invited people to his home where he declared that anyone joining a political party other than the CPP would be killed. The threat was reiterated several days after the murder, during a CPP gift distribution ceremony, when he again stated in front of

witnesses that Sam Rainsy Party members would be killed one after the other.

■ **THONG SOI (SOM SOI)** (June 24, Kompong Thom)

Som Soi, 54, a Reastr Niyum Party representative in Santuk district of Kompong Thom, was shot dead by a concealed gunman while returning to his village from tending a rice-field. Corroborative testimony from witnesses showed he had expressed clear concern for his life in the days prior to his murder, naming two local officials whom he believed would be responsible if this happened. Local authorities confirmed he was appointed as a CPP group leader shortly before election registration, but he switched later to the Reastr Niyum Party. He had decided against raising a party signboard because he considered it unsafe to do so. Ten days prior to his death he was reportedly made to thumbprint for the CPP. Local police have ruled out a political motive, indicating instead that the murder was motivated by personal dispute. However, the village deputy chief ruled out personal disputes and stated instead that the only possible motive was the victim's alleged involvement in the Khmer Rouge in the 1970s. The district police chief stated subsequently that Som Soi was killed in revenge for black magic, but no corroborating testimony or information has been found to support this claim. The COHCHR investigation into Som Soi's death identified some evidence of personal conflict with other villagers, but the balance of evidence indicates the killing may be politically motivated.

■ **THONG SOPHAL** (c. June 16, Kandal)

The mutilated body of Thong Sophal, 45, was found on the evening of June 27 1998, some 2.5 kilometers south of Yeay Hin village in Mouk Kampoul district, Kandal province. He had been missing since the evening of June 16. Examination of the body found his eyes were missing, the left side of his face had been smashed, the back of his head had caved in as the result of a blow from a hard square object, his left ear had been cut off, his back displayed a large black mark, all the fingers of both hands had been cut off, and the legs from mid-thigh to the feet including the toes were stripped of skin and flesh down to the bone. The district police inspector initially concluded that the death was a suicide. The case has since been reopened and to date the police have not drawn a conclusion.

Thong Sophal had no known problems with his neighbours or others and was an educated and respected member of his community. The COHCHR investigation into the case found evidence of a conflict stemming from his party affiliation. Party colleagues confirmed he had been a FUNCINPEC supporter for several years, but his wife and son participated in a CPP gift distribution in April where she thumb-printed a CPP membership application on behalf of all three of them. A month later, however, their CPP cards were confiscated by the village chief, apparently after Thong Sophal attended a FUNCINPEC signboard-raising ceremony. On June 5 Thong Sophal enrolled as a FUNCINPEC electoral observer, but after a day spent observing voter registration he appeared distressed, confiding in others that he was worried by how the CPP officials had treated him. As a result, he did not continue to observe the registration.

Several sources close to the case have reported intimidation of his widow, by people including a commune official. A few days before the election she heard knocking at her door at night. She got up and saw an unidentified man leaving. She heard a noise under the house and the electric lamp went out. In a separate incident on July 28 the commune police chief asked a neighbour, in apparent reference to earlier comments by his widow: "has the wife of the corpse insulted the militiaman, again?" Thong Sophal's widow was warned by local officials not to speak publicly about the killing or else "another person would disappear".

■ **ELECTORAL WORKERS** (July 17, Siem Reap)

A driver and a militia guard, Mr. Mon and Mr. Ngor were killed on July 17 when a mixed PEC and CEC team on a tractor transporting election material was attacked near a village close to Anlong Veng. One CEC worker, one PEC staff member, two PSC workers (Polling Station Commission) and one military escort were wounded. The identity of the attackers has not been confirmed but available evidence indicates they were either remnant Khmer Rouge or Khmer Rouge defectors from Anlong Veng. The Special Representative offered his condolences to the families of the victims and condemned the attack on 21 July. He also warned against the possibility of further similar attacks against the electoral process by remnant Khmer rouge elements in the Anlong Veng area.

■ **ANLONG VENG KILLINGS** (July 26, Anlong Veng, Siem Reap)

Eleven people were killed during an attack by suspected Khmer Rouge soldiers on the morning of July 26 in Okung Binh village near Anlong Veng. This happened as polling was beginning. Seven of those killed were civilians, two were RCAF soldiers and two others were attackers. The Office has not yet been able to conduct an investigation into the attack and killings due to the security situation in the area. However, all evidence indicates the incident was aimed at disrupting the election process. The killings are therefore assessed political.

KILLINGS INVOLVING MIXED MOTIVES:

■ **RITH ROM** (May 28, Siem Reap)

Rith Rom, a farmer aged about 36, was shot dead on the night of May 28 in a remote farming area some 10 kilometers from his village in Sotr Nikum district. His body was found lying in a hammock, at the place where he was said to have been shot. No gun cartridges were found at the scene and there were no bullet holes in the hammock, according to multiple sources. It appears plausible that he was killed somewhere else in the vicinity and his body later placed in the hammock.

A group of people staying in a nearby hut included several armed militiamen, at least two of whom are relatives of a local official. The commune police have told the Office they initially suspected some or all of these militiamen, but had no evidence. No

personal conflicts involving the victim were reported to the Office. The victim had thumb-printed for the CPP but was also affiliated with FUNCINPEC. The Office has received information that the victim had on several occasions refused requests by the local authorities that he register as a voter and, possibly, that he thumb-printed again for the CPP. Several days before his murder the victim reportedly expressed fear that several members of the local authorities would kill him. It is the assessment of the Office that both political and personal factors are likely to have played a role in his murder.

■ **CHAN VICHET** (June 23, Pursat)

Chan Vichet, 40, was shot dead on the evening of June 23, 1998 at his home in Kbal Chhoeu Pok village, Kya commune, Kandieng district of Pursat province. Two unidentified men armed with AK-47 rifles came to his house, at about 9:30 PM, while he was asleep. They called his name and shot him twice in the chest when he opened the door, killing him instantly. Police authorities say the murder was in retaliation for alleged "black magic" practices by Vichet. However, no credible testimony has been found which might support such a claim. Two suspects have been arrested by district police, one of whom is accused of having hired a soldier for 20,000 riels to kill him. The soldier was arrested later.

Both FUNCINPEC and CPP local offices have stated that Vichet was one of their members. Chan Vichet was a former captain in the royalist armed resistance. In 1993 he campaigned for the FUNCINPEC party. On 14 April 1998 he enrolled as an electoral observer for FUNCINPEC. On 22 June, the day before the killing, he joined an offering ceremony presided over by Prince Ranariddh at the Khleang Moeung sanctuary, just outside the Pursat provincial seat.

■ **NHEK SIVON** (14 July, Siem Reap)

Nhek Sivon was shot dead on the evening of July 14 while eating dinner with his family at home. The assailant shot through the wooden floor of his home into the room where they were sitting. Nhek Sivon received first aid, but died shortly after arriving in hospital. He had thumb-printed for the CPP and had a CPP card. He was also a member of the Sam Rainsy Party. The Office has found evidence of two land disputes involving the victim, one dispute within the family and the other with a neighbour who is a CPP member and whose relative is the chief of the village. The Office has received confidential information indicating a political motive behind the killing.

■ **LITH PRAS** (July 15, Siem Reap)

Lith Pras, aged about 60, was shot dead while asleep at her home in Chikreng district of Siem Reap at around 11 PM on July 15. The killer(s) entered her house, lifted the mosquito net under which she and her son were sleeping, and fired one shot into her head. Both the Sam Rainsy Party and the CPP have stated that she was a member of their respective parties, and both maintain the death was political. The Office has been told that she joined the CPP several years ago and thumb-printed for the party in May 1998. It appears that she joined the Sam Rainsy Party around early June, but her party card was not issued until July 3, 1998. She was a Sam Rainsy Party activist and an

active recruiter in the area.

The Office has obtained credible reports that Lith Pras expressed fears for her safety in the weeks before her death. In particular, she feared the local authorities. She told people close to her that officials had become aware of her SRP affiliation and had told her subsequently that "now you live outside of society". Several local officials have denied knowledge of the victim's political affiliation. The non-political aspect to this case, in the form of a dispute between the victim and a fellow villager over the possession of a cow, may have been a contributing factor to her death.

■ **BEN YOEURN** (July 18, Pursat)

Ben Yoeurn, a Sam Rainsy Party member, was shot dead on the evening of July 18. Relatives found his body some 10 kilometers from his home in Pursat province. They were alerted to the killing by a CPP cell leader who had been with him and who also sustained a gunshot wound. The cell leader said the two men had been attacked by unidentified men, however interviews with victim's relatives found evidence of an argument between the two over political affiliation five days prior to Yoeurn's death. A few days earlier Yoeurn had refused the cell leader permission to thumb-print his wife for the CPP. The current whereabouts of this man are unknown as he disappeared from the provincial hospital two days after he was taken there. His wife and children left the village the same day.

Local officials conceded the possibility of a political motive to the killing, but also pointed to other disputes between the two men. The COHCHR has noted that the wife of the victim was instructed not to mention any possibility of a political motive to anyone during an interview with a court official investigating the case.

■ **SOMREP PHALY** (August 13, Kompong Cham)

Somrep Phaly, 32, a policeman and son of the district FUNCINPEC representative, was shot dead by a soldier on August 13, 1998 in Por village, Kandol Chrum commune, Punhea Krek district. The soldier is a member of RCAF Division Four, based in Tbong Khmum district. He had returned to visit his family in the same village where Somrep Phaly lived. He had earlier threatened to kill Somrep Phaly for reasons including his political affiliation. On the night before the killing he intimidated members of the community, including the deputy police chief, and threatened to kill Somrep Phaly and his family, adding that one of the reasons for doing so was because they were FUNCINPEC members. The killing was witnessed by several people. It is the assessment of the Office that both political and personal motives were involved in the killing.

KILLINGS ASSESSED AS UNRELATED TO THE ELECTORAL PROCESS

■ **CHI KRENG KILLINGS** (May 27, Siem Reap)

Preap Hourth, Sgnuon Thol and Luon Long were killed by an armed gang who opened

fire on them during an apparent attempt to steal their cows. A fourth person (identity withheld) was injured in the attack. Luon Long was a teenager and was not affiliated to any party. The other two victims were members of the CPP. Other than their party affiliation and initial unsupported claims by district level CPP officials that the killings were politically motivated, no evidence could be found linking them to the electoral process.

■ **PHIN PHON** (June 14, Prey Veng)

Phin Phon, 32, a former FUNCINPEC member who had recently joined the Reastr Niyum Party, was summarily executed by two unidentified men on the evening of June 14 in his village in Kampong Trabek district of Prey Veng province. The perpetrators entered his home, tied his hands behind him, forced him to the floor and demanded a quantity of gold. When he replied he had no gold, only cows, they replied they would take the cows. They marched him outside the house, with his hands still tied, and shot him dead with three bullets about 150 metres from the house. No cows or other significant property were taken. Two suspects, including a relative of the victim and the deputy commune chief, were arrested on June 22 by the police who concluded that the murder was a revenge related to a family dispute over money-sharing. Both men were released later for lack of evidence. There has been no conclusive evidence so far that the case may have been related to the elections.

■ **MOM YENG** (June 14, Prey Veng)

Mrs Mom Yeng, 49, was shot dead by an unidentified assailant at around 7:30 PM on June 14 in Kampong Trabek district, Prey Veng province. She was shot from underneath the bamboo floor of her raised house while seated, weaving a straw mat. She was found dead by one of her children the following morning. Mom Yeng was a FUNCINPEC member and the second wife of a district government official who is a well-known and active FUNCINPEC deputy district representative in Kampong Trabek in charge of security. However available evidence so far indicates that the motive for her death may have been a personal dispute.

■ **KITH (SMAN) KIM** (July 5, Kompong Thom)

Kith Kim, aged about 60 was shot dead on July 5 as he was heading to tend his rice-field with his two daughters. The attacker(s) had been in hiding. Police found a recently-fired gun cartridge from an AR15 or M16 rifle at the scene of the killing. Only six such weapons exist in the village, according to police sources, all belonging to local authorities. There were accusations in the village that Kith Kim was involved in "black magic" practices and that his murder might be related to these. The village chief told the Office that the killing might have also been related to the victim's alleged involvement in the Khmer Rouge about 20 years ago. The victim was a FUNCINPEC registration observer in Baray district, Kompong Thom.

One month before the murder, the commune police chief was approached by two women who allegedly offered him money to eliminate the victim. The police chief reportedly refused the request. The two women, along with a third, were arrested for

questioning in the murder but have since been released. Other suspects include a local commune official who has access to an AR15 rifle, according to a court prosecutor. Aspects of the case suggesting a political motive are unresolved. Based on available evidence and in the absence of further information the case does not appear to be related to the election.

UNRESOLVED CASES

■ **LAM LOY** (around August 2, Banteay Meanchey)

Lam Loy, 45, was pulled from a car at around 5 PM on August 2 by a group of five militiamen posted at Bridge No. 8, located approximately eight kilometers from Thmar Pouk district in Banteay Meanchey province. The victim was seen being handcuffed and then kicked and pushed towards a forested area off the road. Lam Loy was reported to be a vocal supporter of FUNCINPEC but it is not known if he was a member of any political party. District police were informed of the disappearance on August 7. His body was found on August 9 a few meters from where he had been abducted a week earlier. Insufficient evidence has been gathered so far to make an assessment of motives. The case is unresolved pending further developments.

■ **GNOK MET and SREI TOUK** (August 2, Banteay Meanchey)

Gnok (Nget) Met, 76, and Srei Touk, 36, were killed on the night of August 2 when eight armed men wearing paramilitary and army uniforms attacked and raided their village in Svay Chek district. Two other male villagers were wounded. The attackers looted homes during the 30-minute assault. The police, whose station is around two kilometers from the village arrived after the attack had ended. The village voted in favor of FUNCINPEC in the July 26 election and some villagers said that the attack may have come in retaliation for this. Further investigation has not been possible so far.

■ **ANGKOR CHUM KILLINGS** (April 11, May 8, June 26 & 28, Siem Reap)

CPP members Uth Sy, Phoeurn Koy, Chhab Chhol and Pheanh Tap were killed in Angkor Chum district on separate occasions between April 11 and June 28, 1998. The district police chief has stated that the killings are political. However, the only evidence of political aspect uncovered by the COHCHR is a possible Khmer Rouge link in the killings of Phoeurn Koy and Pheanh Tap. Local officials have arrested two suspects believed to have hired Khmer Rouge to kill Phoeurn Koy. One of the arrested suspects had a land dispute with the victim. A relative identified one of the attackers in the killing of Pheanh Tap as wearing a Khmer Rouge uniform. COHCHR investigations into the four killings established no clear link to the electoral process, but insufficient evidence has been found to make a conclusive assessment of the case.

2. OTHER INCIDENTS: ARRESTS, DETENTION & INTIMIDATION

Illegal arrest and detention of Prach Sorn in Pailin

Prach Sorn, 55, a Sam Rainsy Party activist, was illegally arrested on August 7 on a verbal order from Pailin court. There is no formal charge against the victim nor could one be issued since the legal basis of the case is without foundation and the court is not legally constituted. Pailin authorities told the Office that the victim was being held because he had falsely accused CPP commune officials of harassing pro-Sam Rainsy Party villagers in Lovea commune. This complaint was made by the victim and addressed to Comfrel. The Pailin authorities told the Office that the victim was also being detained to protect his security as the commune officials were allegedly angry at him. At the time of writing this report, the victim continued to be illegally detained by Pailin municipal police.

Arrest and detention of Phan Sovannarith, Koh Kong

Phan Sovannarith, a FUNCINPEC member, was arrested without warrant by two policemen on August 13. He was detained for two nights at the deputy police commissioner's home. On August 15, he was transferred to the provincial prison. Phan Sovannarith is accused of planting a mine at the Koh Kong airport, of hiding mines, and of having weapons without a permit. Requests by the Office to meet with the victim to ascertain his conditions of arrest and detention have been denied by the Prosecutor.

Grenade attack on Sam Rainsy Party members

At 3:20 AM on July 25 a grenade exploded inside a small repair shop belonging to a Sam Rainsy Party official and attached to his home in the Baklong district market of Koh Kong. There were no injuries. At the time of the explosion the SRP member was asleep along with two other party activists. He said there was a sleeping area located in the back of the repair shop where guests sometimes stayed but on that night it was unoccupied. After the explosion the SRP member reported hearing a gun being cocked outside. A witness reported seeing three men move towards the house before the blast. Two left quickly and the third ran away after the explosion. Police investigators have said the grenade was planted under the hut by the SRP to discredit the elections. Preliminary findings suggest political motives.

Sam Rainsy Party member threatened

An SRP member (name withheld) fled from Koh Kong on August 3 after a deputy chief of militia in his village called him from his house and then fired two shots at him when he appeared. The victim was not injured. He ran back inside the house and hid while the perpetrator called out and demanded that he come out, shouting "If you do not come out I will kill you." The perpetrator returned on August 14 and fired six shots in the air. The victim's wife fled after the second incident.

Assesment of the electoral process

- Asian Network for FRee ELections (ANFREL)
- Général Sanderson and Michael Maley former UNTAC officials (Australia)
- Ralph Willis, former Australian Labour Minister, observer
- Peter Schier, Konrad Adenauer Foundation (Germany)
- Lorne Craner, International Republican Institute (USA)
- Stephen Morris, John Hopkins University (USA), observer
- Martin Collacot, former Canadian Ambassador to Cambodia, observer

« We urge the international community to reconsider any judgement on Cambodian elections »

Asian Network for Free Elections (ANFREL), Press release, September 1st, 1998

The Asian Election Monitoring Network calls for hearing of complaints and transparency in NEC decision and urge the international community to reconsider judgement on Cambodian.

The Asian Network for Free Elections (ANFREL), a regional network of election monitors that observed the last election in Cambodia call on the National Election Committee (NEC) and the Constitutional Council to respond to the various calls to hear the complaints and to resolve the conflict on seat allocation before the final results are announced.

ANFREL considers that the requirements of the election process has not yet been fulfilled due to non-resolution of major election issues particularly the decision to set aside the 800 complaints of irregularities and fraud and the controversy over the formula used for seat allocation. The arbitrary decision not to hear the 800 complaints of various cases of violations of election laws renders the results even more doubtful and puts both NEC and CC's credibility and reputation in question. This is aggravated by the NEC's arbitrary decision to use the Jefferson formula which obviously would allocate more seats to the ruling party. This decision was done without due process and transparency and is seen as an easy solution for the ruling party's bid to get a majority.

The people's will has to be respected. The demand for recounts and the complaints for various irregularities and fraud are very much part of the whole process of making sure the people's votes are reflected in the final results. The complaints have to be heard and the process through which these votes shall be translated in the decision for seat allocation should be transparent and done with the widest participation of those concerned, including NGO's and other civil society groups.

We call on the NEC and CC to conduct the necessary hearings to resolve the complaints and to ensure a clear, transparent and participatory process whereby major decisions are made. Short of this, ANFREL believes that the results will not be credible and will not reflect the will of the people.

ANFREL calls on the international community to reconsider any judgement on the Cambodian elections until major issues related to the exercise have been resolved.

ANFREL will continue to monitor Cambodia's election results and to support the people's aspiration for human rights, democracy and peace.

« An element of the theater by which despots seek to justify their continuation in power »

Testimony of Lieutenant General **John M. Sanderson**, former UNTAC Force Commander and **Michael Maley**, former Senior Deputy Chief Electoral Officer (Operations and Computerization) before the Foreign Affairs Subcommittee of the Australian Parliament. (Excerpts)

Associated with support for liberal democracy, there should be an emphasis on institutions rather than individuals. Too much policy -not necessarily Australian- in too many parts of the world seems to have been developed on the assumption that the local "strongmen" are institutions in their own right. They are not, and that is one reason why, when a strongman falls, he tends to take other countries' foreign policies down with him.

It would be unrealistic to assume that any Australian policy decisions will have any great effect on the ruling clique in Cambodia in the short term. Long-term policy, however, must start by recognising that the international community's demand that there be free and fair elections in Cambodia was not met. It must be clearly appreciated that elections which fail to meet standards of freedom and fairness, far from advancing democracy, debauch its currency, and become simply an element of the theatre by which despots seek to justify their continuation in power.

Finally, it is important that support for liberal democracy be made clear and unambiguous. While Australia's officially stated position on this point has not wavered significantly since the coup, on too many occasions the position of the donor nations in Cambodia has been rendered at best ambiguous by quotes in the press from unnamed diplomats suggesting preparedness to accept from the ruling clique in Phnom Penh behaviour which ought to have been unacceptable.

« An election which was utterly unacceptable, by any democratic standard »

Testimony of The Honorable **Ralph Willis**, former Australian Minister of Labour, and electoral observer in Cambodia in July 1998 before the Foreign Affairs Subcommittee of the Australian Parliament. (Excerpts)

What happened in the pre-election period, as I see it, was certainly not acceptable. You cannot - I cannot, anyway - condone a situation where there was a continuous process of political killing, not entirely but mostly of the opposition: with the coup, 49 deaths; in the following period, up to the end of April, 42 deaths; and from there on I think another 37, of which about 10 can be attributed to the Khmer rouges atrocities, but leaving them out that is another 27. So there was a continuing process of political killings, mainly of the opposition, some of those killings being absolutely horrendous. For instance, one FUNCINPEC worker who was murdered had his eyes gouged out, an ear cut off, his fingers cut off and all the flesh stripped from his bones to the middle of his thighs right down to his toes. The local district police inspector said it was a suicide. That demonstrates the sort of lack of concern by a lot of authorities about pursuing any serious investigation of what were clearly political killings. The UN Human Rights office has kept a pretty close monitoring of that. The figures are all around. They have been pursuing all of those, investigating them, and we do not need to go too far to get the facts.

In relation to other forms of intimidation, there have been hundreds of reports of beatings, death threats, shootings over people's houses, tearing down of signs and various other forms of intimidation. There were widespread reports of people being forced to take oaths to vote for the CPP and drink a glass of water with a bullet in it. There were mock elections held in villages and factories where, if people said they were going to vote for other than PPC, they were told they were voting wrongly and they were faced with dismissal in the factories. There was a process of attempting to destroy the secrecy of the ballot, or of people thinking it was secret, by taking their thumbprints or confiscating their registration cards. These all happened on a pretty wide scale, it would seem, and clearly important things, but they were technical breaches - like not having the seal on a ballot box; it was locked but no sealed. The COMFREL people were there, but they had not drawn attention to it, nor to the fact that people were not checking whether voters had black on their fingers - so it could be seen if they were voting twice or not. That was happening. They were not being checked, and COMFREL people were not stopping that. I think all the other observers had similar experience. They were basically very passive. I think Michael Maley's point is absolutely right: these people could be relatively intimidated because they have to live with it. If a report were to go out that something rotten happened in this particular village or commune, they would be the ones who obviously made the report, and they would have to live with the consequences. It is a very intimidating thing.

In one counting day event in which I took part, opposition party observers were stuck against the wall and could not look at the count. The COFFEL guy who was there said to me that this was happening. He would not raise it with the CEC chief himself. He raised it with me, so I raised it with the CEC chief and then it was cleaned up.

These are very important aspects in considering whether this election was acceptable or not. I believe strongly that our position in the international community ought to be that, although this was not an insignificant event - there was obviously great enthusiasm for democracy on the part of the Cambodian people, in the main - they were not given the opportunity to have a free and fair election, and that the Hun Sen government should be told that in no uncertain terms. Where that leaves Cambodia is more difficult. I certainly would not want to deny them their rights to aid and things like that, but I certainly do not think that we should give them, in any way at all, any kind of a bill of clearance on an election which was utterly unacceptable, by any democratic standards. (...)

“Unprofessional, non-transparent, politically irresponsible and, perhaps, even illegal.”

Peter Schier, permanent representative of the Konrad Adenauer Foundation in Cambodia, Excerpts of an article published in the Phnom Penh Post on August 21-September 3, 1998 (see the full text page 37).

The formula for the allocation of seats is one of the cornerstones of any electoral system of proportional representation. It can have vast political repercussions. It can decide about the absolute majority in parliament, and in the case of the elections in Cambodia in 1998 it does. (...)

A change in the seat allocation formula has to be made public. It simply cannot be done by a dead-of-night action as it appears to have been done at the moment. The way the NEC handled this change seems to be unprofessional, non-transparent, politically irresponsible and, perhaps, even illegal. (...)

Nicaraguan dictator Anastasio Somoza once told the opposition: *“You won the elections. But I won the count”*.

Unless the Constitutional Council is able and willing to make a fair judgment on the matter of the seat allocation formulas, that statement would need to be re-phrased to *“You won the elections, but I won the formula”* in order to match a situation which would be prevented from happening.

« Cambodia's 1998 election process : among the worst we have observed since 1993 »

Testimony of **Lorne W. Craner**, President of the International Republican Institute before the House International Relations Committee Subcommittee on East Asian and Pacific Affairs, Washington, September 28, 1998.

Mr. chairman,

It is an honor to testify again before you today here in the congress, where I spent much of the 1980's working on foreign policy issues, including Nicaragua, El Salvador, and Cambodia.

Election standards

Election observation has come a long way since those days. Ten years ago, the events of Election Day, whether citizens were able to cast their ballots in an orderly fashion, was the standard by which the democratic process was judged.

In the late 1980's and early 1990's, Latin American and east European dictators taught us a lesson, that the events surrounding the election are often more important than the day itself. Specifically, authoritarians realized that, to steal an election, they did not have to stuff the ballot boxes, but could instead achieve their objective in the months surrounding Election Day by means less apparent to traditional observers.

In effect, for IRI and other observation groups, a one part test for judging an election had to become a four part test if we were to accurately evaluate how representative of a country's democracy an election was.

The first part to be evaluated is the months long pre-election phase, during which the central issues are whether candidates and their supporters are allowed to campaign freely, whether they have equal opportunity to access both the media and the election commission itself, and whether voters are left free to decide for whom they will vote; the second part of the test is the conduct of Election Day itself which I outlined above; the third phase immediately follows Election Day: were ballots counted in an orderly, accurate manner, and were there opportunities for reasonable appeal of results doubted by some? and finally, in the longer term, after voting and counting ballots, did all parties respect the election's results?

IRI's experience

Since 1983 IRI has observed more than 70 elections in over three dozen countries. In doing so, we have only one asset that matters, and that is a reputation for impartiality—a willingness to call an election process like we see it, and to do so without regard to who won or lost.

Most recently, our approach led IRI to call the 1995 Haitian elections flawed, earning us criticism from democrats here in congress. It also led IRI to judge the 1996 Albanian elections flawed, earning IRI criticism from some in my own party who admire President Berisha.

Cambodia's election

Our willingness to call it like we see it leads IRI to judge Cambodia's 1998 election process similarly flawed, and among the worst we have observed since 1993.

The events that lead IRI to condemn it occurred not on Election Day, but in the days, weeks and months before and after the balloting. While the July 26th Election Day itself impressed many observers, including IRI, those of us who monitored the pre-election process, and remained to observe the counting and longer-term post-election events, believe that, taken as a whole, this election fell below the standard needed to be judged acceptable.

Let me divide Cambodia's elections process into the four phases I mentioned before to show how IRI reached its judgement.

In a July 14th joint statement, IRI and the national democratic institute (NDI) judged the pre-election phase « fundamentally flawed ». We did so because of:

- the July 1997 coup, and subsequent destruction of opposition party infrastructures;
- the failure to allow opposition leaders to return until less than six months before balloting, the denial to them of access to media once in-country, and the murder of up to 100 opposition members without any resolution to the crimes;
- the overwhelming ruling Cambodian peoples party (CPP) domination of the 11 member national election commission (NEC), with all but one of the non-CPP party seats given to CPP-backed splinter groups of opposition parties, and a hastily formed, biased constitutional council, the ultimate arbiter in election matters;
- more than 100% of those thought to be of voting age registering in some areas; the widely reported intimidation of voters, leading to a common belief that their votes were not secret. (this is one of the most problematic areas—in past elections where authoritarians controlled the process, a key factor leading to a genuine election result has been the voters' belief that they could cast their ballots in secret and therefore without fear of reprisal);
- election law and regulations that were debated and approved by the CPP and splinter groups of the opposition parties. The legitimate leaders and elements of the opposition parties were in exile in Bangkok, still fearing for their lives from the coup. (after his return to Phnom Penh, Prime Minister Ranariddh was able to have one element of the election law, the location of ballot counting, changed).

In short, during the pre-election period, the CPP wrote the rules and controlled the process.

As the IRI-NDI July 28th preliminary statement indicated, the second test, Cambodia's Election Day administration, was as good as many we have seen over the past five years, and deserves a high mark:

the election administration ran very smoothly at most places observed; few of our delegates saw any sign of Election Day intimidation; over 90% of those registered turned up at the polls.

There remains a question of whether pre-Election Day intimidation pre-ordained the votes of many Cambodians (most voters we asked directly said they were not intimidated). That said, had subsequent portions of the Cambodian election run as smoothly as the Election Day activities we observed, one could say that some pre-election problems, though unacceptable, were, in context, to a significant degree ameliorated.

Unfortunately, that is not the case. After a promising start, the third part of the election immediately following Election Day, the counting process, must be judged as deliberately incomplete:

- counting proceeded smoothly for part of July 27th; counting was halted in mid-afternoon of July 27th. According to a source high in the national election commission, this pause was ordered by CPP officials after the opposition took the lead in ballot counts;
- while legally obligated to do so, the NEC declined to address all but a few of the more than 800 Election Day and counting irregularities charged by the opposition; the constitutional council, supposedly the final arbiter of elections appeals, like the NEC refused to hear the majority of opposition complaints and sided completely with the NEC on issues important to the opposition, including used and unused ballots, recounts, and assembly seat allocation;
- during the counting process, with little explanation, the NEC revealed that the formula relating ballots won to assembly seats won had been changed before the election. While the original

formulas would have left the CPP with a minority of assembly seats, the formula finally decided upon gave the CPP a majority.

In the longer term, after voting and counting have ended, Cambodia's government has failed to act in the way one would expect in a democracy:

intimidation of the opposition resumed with the departure of observers;

Sam Rainsy himself narrowly missed being killed in an August 20th drive by shooting and grenade attack shortly after a media interview outside the ministry of interior. Rainsy was then detained for questioning in connection with the attack; at least 20 people, according to the U.N. center on human rights, are known to have been killed, and others went missing, during a three-week period of demonstrations and a sit in at Phnom Penh's « democracy square ». The sit in and demonstrations were forcibly ended after two grenades exploded outside Hun Sen's house while he was outside of town; following the grenade explosions, Hun Sen ordered the arrest of Rainsy, charging him with the attack. Rainsy took refuge with the special representative of the UN secretary general in Phnom Penh's Cambodiana hotel;

Cambodia's opposition politicians were also banned from travelling abroad after the grenade attack. While the ban still exists, prince Ranariddh and Rainsy were permitted to travel to Bangkok on September 25th.

The events of the last few days, with FUNCINPEC and the Rainsy party agreeing to attend the opening of Cambodia's parliament, under duress, should come as no surprise. Beyond the international pressure (mainly from Japan and Asian countries) exerted on the opposition to come to terms with Hun Sen, as King Sihanouk put it « in a Cambodia that is not a state of law and not a full fledged democracy, I have no other choice than to advise the weak to choose a policy that avoids misfortune for the people, the motherland and themselves. » One-sided negotiations cannot a lasting coalition make.

Cambodia's 1998 election constitutes a deliberate attempt to take advantage of the weaknesses in 1980's -style observation to have the process declared legitimate. Cambodia's government conducted an Election Day up to international standards, hoping that observers would ignore the hundreds of days of repression surrounding it. To a large degree, the strategy worked.

Excuses, excuses

We are already hearing excuses about why Cambodia's election fell so short of international standards. After every bad election, the two most common are:

Americans are judging the state of a country's democracy from the perspective of a nation with two hundred years of freedom (this was a common refrain from south African politicians seeking to extend apartheid in its dying days); or

The country in which the poor election took place is poor, and that the bar for an acceptable election should therefore be lowered.

At IRI, we hear these arguments after every poorly run election, and in IRI's experience of observing six dozen elections, such arguments are specious. I can say that because IRI has seen textbook elections in countries that are as poor as Cambodia, and while these countries have not experienced the trauma of Cambodia's killing fields, many have a longer history of dictatorship.

For example, a ruling party does not need to head a wealthy, long-time democracy to refrain from murdering its political opponents. Mongolia, a nation nearly as poor in Cambodia, with a longer history of dictatorship, had an election run—and lost—by former communists in 1996 without any election-related murders.

Nor must a country be a longstanding, wealthy democracy to properly count and recount ballots. One of the most well conducted elections IRI has observed was the 1994 Autonomous Council Election on the remote Miskito Coast of Nicaragua, the poorest region of a poor country emerging from decades of dictatorship.

Ramifications of accepting Cambodia's election

To accept this election would, in fact, devalue the worth of elections in building democracies around the world. Other dictators would feel free to kill opposition members, gut opposition party infrastructures, name a biased election commission, intimidate voters, conduct questionable ballot counts and refuse recounts, all the while confident that the international community will certify the process, as long as Election Day looks good.

Observers from the U.N., parts of Europe, China, Vietnam, and Burma are apparently willing to give such a certification to Cambodia's election, but the U.S. has a duty to billions around the world who look to us to uphold a higher standard of democracy. To agree to low standards for elections lowers the expectations of democracy for those voting. The U.S. should not give elections a bad name by assenting to recent events in Cambodia

Cambodia's election and U.S. policy

So where does this leave U.S. policy? We have a basic choice to make between accepting or not accepting the election process. Both the house and senate versions of the fiscal year 1999 foreign operations bill, makes clear the unwillingness of congress to accept Cambodia's elections.

This is not a case of trade sanctions being put in place against Cambodia, nor should withholding U.S. aid leave Washington alone in the world. While Asian may already have concluded that they are satisfied with the election, the Europeans (with the exception of France) have not. Leadership by the united states in setting forth our position and working with others to follow it has, in the past, produced results.

Action such as that contemplated by both houses of this congress would also have a high likelihood of producing results. The worldwide disgust that followed last July's coup had much of the desired effect on Hun Sen, largely because, unlike the 1980's, Moscow and Vietnam are unable to bankroll and guard his rule. Moreover, as anyone familiar with Hun Sen can tell you, he craves legitimacy, and, in his eyes, the ultimate legitimacy is acceptance by the U.S. history, specifically the events of the 1980's, 1993, 1997 and 1998 have shown that Hun Sen is not a democrat. It should by now be clear that any hope for democracy in Cambodia lies not with Hun Sen, but with Cambodia's opposition, whom we should support. Pressure should be placed on Hun Sen to change his ways, and not on the opposition to simultaneously risk their lives while debasing their understanding of democracy.

As you contemplate further steps, including whether the united states should back international financial institution assistance for Cambodia, the issue of Cambodia's U.N. seat, and whether a new U.S. ambassador should be confirmed, let me respectfully request your assistance on another issue.

The results of the FBI's investigation into the Easter 1997 grenade attack on Sam Rainsy should be made public. I appeal for your help on this for two reasons: first, among the reasons Rainsy is being threatened with arrest by Hun Sen's security forces is for supposedly attacking himself in the Easter grenade attack (a charge dismissed by the head of the UN Human Rights Office, which itself investigated the attack), and second, because an IRI employee, Ron Abney, was injured in the attack. Along with the congress, both men deserve to know who ordered and carried out the attack.

Conclusion

Cambodia has suffered conflict for almost thirty years. I am not among those who believe that U.S. policy during the Vietnam war resulted in the 1975 Khmer Rouge victory, but I do believe that, with the exception of 1991-1993, Cambodia for too long has suffered from the neglect of the international community. This was especially true during the last five years, when U.S. policy towards Cambodia at best consisted of building roads at the expense of building democracy, and at worst suffered from egregiously poor judgement.

If there is a people on earth who deserve better, it is Cambodians. The united states, including the U.S. congress, should help give Cambodians the future they deserve.

« *Brutocracy Wins : The Travesty of Cambodia's 'Fair' Elections* »

By Stephen Morris, a fellow at John Hopkins University's Paul H. Nitze School of Advanced International Studies, observed the Cambodian elections for the National Democratic Institute on International Affairs. Washington Post, August 9, 1998.

The July 26 elections in Cambodia were a failure for American foreign policy. Although a majority of the Cambodian people rejected the brutal and corrupt Hun Sen regime, that majority was not enough to remove the regime from power.

And despite the rush by many international observers to endorse the elections as free and fair, the entire process was clearly tampered with by the ruling party.

Yet the United States, warned well in advance that this might happen, allowed the opposition to be pressured by the Asians and Europeans into joining a political exercise in which the deck was stacked. In this policy, the Clinton administration failed to defend the moral and security interests of both the Cambodian people and the United States.

There were 39 parties contesting this election but only three main contenders, which between them won 88 percent of the vote. The first was the ruling Cambodian Peoples Party, the CPP, installed in power by the invading Vietnamese army in 1979. It is led by former members of the Khmer Rouge, the most enduring of whom is Hun Sen. Voted out of office in a U.N.-sponsored election in 1993, it pushed its way back into power that year by threatening to re-ignite civil war.

The second was Funcinpec, the royalist party led by King Sihanouk's son Prince Norodom Ranariddh, which won the 1993 election but unwillingly entered an unworkable coalition with the CPP at the timorous Sihanouk's request, and at the behest of a U.N. administration that refused to enforce its legal mandate.

That coalition fell apart in July 1997 when Hun Sen launched a coup.

The third contender was the Sam Rainsy Party, named after its leader, an outspoken former finance minister who was fired in 1994 after he denounced corruption within his own government.

In the days following the election, international observers trumpeted the fact that they saw no evidence of intimidation or fraud on election day. As one of them, I can confirm that observation.

But the election cannot be judged on the events of polling day alone. Unfair and unfree conditions obtained in the months before, and in the counting process that followed, thanks to CPP control over the election infrastructure, the national media and the local administration. Bribery and intimidation were rampant.

The international observers were spread thin. In fact, the small number of international observers (500) relative to the number of polling places (11,000) and counting centers (1,900) ensured that even if all teams were at different places at any one time, they were in no position to witness more than a fraction of the polling and counting processes.

Moreover, none of the international observers would have known which of the Cambodians at the polls were local CPP officials, whose presence was an intimidating one. But the voters certainly knew. Reports are now appearing in the Western press of actual ballot tampering during the voting and counting processes.

The problems with the election began long before the vote. Hun Sen's 1997 coup was followed by months of savage killing during which more than 100 opposition figures died. Despite the requests of the U.N. Office of Human Rights, none of these killings was properly investigated and no culprits have been apprehended.

Then, in May, the CPP conducted a thumb-print registration campaign to force the population to join the party. Bribes of food and clothing also were used.

In the province of Kratie, which I visited, the governor boasted that he had registered 75 percent of the population in the CPP. Throughout Cambodia, those who refused to join the CPP were identified as opponents of the government, and were subject to discrimination, threats and worse. At least 21 opposition activists were murdered in the month prior to the election, some in the most sadistic manner.

For example, one electoral observer from the royalist party, a double amputee named Thong Sophal, was found with his skull crushed, his eyes gouged out, his fingers and one ear cut off, and the skin scraped off his thigh stumps.

Hun Sen's police described Sophal's death as a suicide. This sadism is the hallmark of Hun Sen's police and militias. The gouging out of eyes seems to be the one-eyed prime minister's vengeful calling card.

Cambodian society has long been perverted by state violence and impunity.

Although there was no way for the CPP to determine who voted for which party, it spread rumors that it was able to do so. For many illiterate peasants, whose culture is permeated with belief in supernatural events, those rumors must have had some effect. Even influencing a small minority would have been enough to swing the election.

Furthermore, the opposition was denied anything approaching equal access to the mass media. Each party was restricted to five minutes per day on television, while Hun Sen was seen daily for long periods opening schools and hospitals, and pronouncing on national affairs.

The vote-counting process has been brought into question by opposition charges of fraud, given credence by the government's behavior. For example, final results have been continually postponed, and promised recounts in areas of irregularity have now been scheduled to take up to two months.

The only independent figure in the Fraud and Irregularities Committee of the National Election Committee, Kassie Neou, resigned in disgust. It was recently reported in the Western press that the formula for determining the allocation of seats from raw votes was changed by the authorities on May 28 without publicly informing the opposition parties. The formula gives the CPP, which won 41 percent of the vote, a majority of seats instead of a minority.

It is remarkable that so many Cambodians overcame fear and voted for the opposition. As in 1993, the opposition vote would have been even higher had there been no intimidation and manipulation. Even a difference of 10 percent of the votes nationwide would have dropped the official CPP tally to 31 percent.

The United States has a considerable stake in Cambodia's future—from a security as well as a moral standpoint. The U.S. government has spent nearly \$1 billion trying to implant democratic institutions there, only to see them destroyed by Hun Sen between 1993 and 1997.

It has pledged to assist the Cambodian people in bringing to justice all those responsible for the Khmer Rouge holocaust of 1975-78. Furthermore, the United States is greatly affected by the fact that criminal syndicates are using Cambodia as a transit point for world distribution of narcotics and are involved in defoliating Cambodia's forests with unrestricted logging.

All these American interests are incompatible with those of the Hun Sen regime. Hun Sen, himself an unrepentant former Khmer Rouge commander, has presided over the restoration with full amnesty of the vast majority of Khmer Rouge commanders and soldiers who were once loyal to Pol Pot. As for the syndicates which flourish in Cambodia today, they are protected by the regime, which lines its pockets with payments from loggers and drug traffickers.

No amount of American diplomacy is capable of resolving this incompatibility. Yet, some within the U.S. State Department seem not to have grasped this fundamental point. They act as if only « positive signaling » will cause Hun Sen and his team of recidivists to abandon their criminal ways.

Nowhere is this more apparent than in the U.S. response to the terrorist attack on an opposition political rally last year. On March 30, 1997, four grenades were tossed into a peaceful meeting of Sam Rainsy supporters, killing 16 and wounding more than 100. Circumstantial evidence has long pointed to the involvement of Hun Sen's bodyguards.

The wounding of an American citizen at the meeting, Ron Abney, triggered an FBI investigation. Yet despite the pleading of several U.S. congressmen and Cambodia's opposition leaders, the contents of that report have never been revealed.

Two months ago, Rainsy brought to the FBI's Bangkok office a man who has confessed to being one of the terrorists, and who has implicated Hun Sen's bodyguards as those who gave him orders. Yet the State Department still refuses to provide members of Congress with details. The conclusion that Rainsy and many Americans have drawn from this is that the State Department does not want to upset Hun Sen.

Apologists for the Hun Sen regime argue that Cambodia needs stability in order to develop, and that the firm hand of Hun Sen is more able to provide that than the undisciplined and quarrelsome noncommunist parties. But what is the virtue of « development » by defoliation and narcotics distribution? Nor does Hun Sen provide stability. Since the July coup, Cambodia—and especially Phnom Penh—have become totally lawless. Kidnapping of Cambodian businessmen for ransom has reached epidemic proportions. As one foreign witness, the writer Philip Gourevitch, reports in the Aug. 10 New Yorker, the police murder even nonviolent traffic offenders in public with impunity.

Cambodia can have a civilized government responsive both to its people's needs and to the security interests of its neighbors only if the Hun Sen regime is removed from power. Earlier this year, the United States could have stood firmly behind the beleaguered opposition parties and supported a boycott of the election until conditions for a genuinely free contest existed. It could now declare the election results unsatisfactory.

Instead of taking the moral lead, the United States is preoccupied with not being too far out of step with its European and Asian allies. But these allies, especially the French and Japanese, seem to care more about their regional political influence and investment opportunities than about Cambodia's fate or the struggle against international crime syndicates.

Many Western ambassadors in Phnom Penh are mesmerized by the possibility that they can moderate and do business with the Hun Sen regime.

In light of its cumulative policy failure, the morally decent new starting point for the United States is to act overtly as defender and protector of the safety of the Cambodian opposition. It must also make clear that it will not permit aid to any Cambodian government that is beholden to drug traffickers or that has ex-Khmer Rouge ministers. The United States should demand, as well, that Thailand arrest the dual Cambodian-Thai citizen who is the principal drug trafficker financing Hun Sen's regime.

If instead the Clinton administration follows the European and Asian inclination to appease Hun Sen, it will not only be undermining U.S. long-term interests; it will be committing a final indecent betrayal of a defenseless and downtrodden people.

“The complaints have not reached a satisfactory solution”

Martin Collacot is the former Canadian ambassador to Cambodia and was chief Canadian observer at the Canadian representative to the Joint International Observer Group during the July elections.

Controversy continues to surround the Cambodian elections. While international observers declared that the voting and ballot counting days were generally held in a free and fair atmosphere, opposition parties continue to argue that the ruling Cambodian People's Party used a variety of undemocratic and illegal means to obtain a majority of seats.

Observers from abroad and, most notably the Joint International Observers group (JIOG), pointed out that in a number of important respects the playing field was far from even. Violence and intimidation against opposition supporters was widespread and opposition parties were given limited and late access to the broadcast media.

JIOG's recommendation that all parties accept the results was moreover subject to the complaints and appeals process being carried out satisfactorily.

Clearly the complaints and appeals process has not at this stage reached a satisfactory solution. While the very large number of complaints registered suggests that some of them may not be of major import, the relatively small percentage that the National Election Committee has dealt with, leaves the distinct impression that opposition concerns have not been seriously addressed.

Lack of transparency on seat allocation formula remains a particularly contentious issue. In the circumstances, the NEC and other relevant government bodies cannot be said to have met the requirements of JIOG and other observation groups regarding the complaints and appeals process. (...)

The illegal change of the seat allocation formula

- **How the seat allocation formulas make all the difference, Peter Schier, Phnom Penh Post, August 21-September 3, 1998.**

How the seat allocation formulas make all the difference



BY PETER SCHIER

"When it comes to decision-making, it is the majority which counts, but when it comes to representation, it is the proportion which matters." - Victor Considérant, French Socialist politician, 1808-1893

After the recent elections for the National Assembly, quite a number of articles on the controversial formulas of the allocation of seats have appeared in the media.

However, there still seems to exist quite a lot of confusion and misunderstanding about this issue among many people, even "experts", and a large number of diplomats. This article tries to bring some light to a subject which has all the potential to create a serious constitutional crisis if it is not properly addressed.

The preamble and Article 51 of the Constitution as of Sept 21, 1993, prescribe "a multi-party liberal democratic regime" and "a policy of liberal democracy and pluralism" for Cambodia, thus creating the foundation for an electoral system of proportional representation in Cambodia.

Proportional representation implies that the number of seats allocated to a party should be proportional to the number of votes that party has received.

According to Article 76 of the Constitution the deputies of the National Assembly "shall be elected by a free, universal, equal, direct and secret ballot". With regard to the seat allocation formula the constitutional principle of the equality of votes is of utmost importance because it demands, amongst others, that each vote should have the same value as expressed in the number of seats.

Or, to put it another way: each seat in parliament should represent about the same number of votes, regardless to what party it belongs.

The Law on the Election of the National Assembly as of Dec 19, 1997, prescribes that "the electoral system shall be proportional representation, with provincial/municipal constituencies" (Article 5). Apart from that, the electoral law stipulates that "remaining seat(s) for a constituency shall be allocated in accordance with the greatest (highest) average formula" (Article 118).

Unfortunately, the provision of Article 118 is not clear at all, because there is no internationally recognized standard view on what constitutes the highest average formula.

- One group of experts (Cotteret/ Emeri; Martin; et al) pretends that the "highest average formula" or "method of the greatest divisors" comprises only the so-called "Jefferson method" which, in turn, gives the same result as the d'Hondt divisor system.

- Another group of experts (IDEA; Farrell; O'Neal; et al) subsumes a number of divisor systems to the notion of the "highest average system", ie:

- the Jefferson formula which is, in its results, equivalent to the d'Hondt system of the greatest divisors,

- the Sainte-Laguë formula (or Webster formula of major fractions), and,

- three modified Sainte Laguë versions.

Overall, the Jefferson or d'Hondt formula is judged to be the least proportional, while use of the pure Sainte-Laguë highest average formula and the largest remainder system using the Hare quota (equivalent to the UNTAC system) produce the greatest proportionality (Lijphart; Farrell; O'Neal; Gaughhofer; et al).

Few authors (eg M Gaughhofer) and experts have taken notice of the so-called "quota method" of two North American scholars ML Balinski and HP Young which they have proposed since 1975 in a considerable number of outstanding academic papers.

The reason for that might well be that the "quota method" is rather young in comparison to the other methods of seat allocation, most of which date back to end of the 19th or beginning of the 20th century.

The Balinski/Young method clearly belongs to the category of the highest average system because it establishes, like the Jefferson method, the highest average according to the formula $Vv/(Ns+1)$ for the allocation of remaining seats. In contrast to the Jefferson method, Balinski/Young then allocate the remaining seats in one step whereas the Jefferson method allocates the remaining seats in several steps.

The reason why Balinski/Young proposed their "quota method" is that no party should get more seats than its upper quota. Table 2 shows that in Kampong Chhnang the CPP, with a quota of 1.87 seats, would get 3 seats according to the Jefferson method. However, according to Balinski/Young, a party with a quota of 1.87 seats should get a

maximum of $1 + (0.87=)1 = 2$ seats because 0.87 seat can only be rounded up to 1 seat and definitively not to 2 additional seats.

In Kampong Cham where Funcinpec won most of the votes that party, with a quota of 6.92 seats, would be allocated 8 seats according to the Jefferson method whereas under Balinski/Young Funcinpec would only get 7 seats in Kampong Cham in due respect for the upper quota $6 + 1 = 7$.

Therefore, according to Balinski/Young and other authors, the Jefferson method of the highest average does not satisfy quota and tends to be disproportional in favor of the winning party. The figures provided in Table 1 prove this assessment to be correct.

From the above-mentioned we can conclude that the concept of the "greatest (highest) average formula" of seat allocation contains at least two methods:

- the Jefferson method which is equivalent to the d'Hondt system, and

- the Balinski/Young method.

Therefore, the provision of Article 118 of the Law on the Election of the National Assembly is unfortunately not conclusive as to what highest average method for the allocation of remaining seats should be used. Consequently, according to Article 16 of the electoral law, the National Election Committee (NEC) had the responsibility to decide on the seat allocation formula and to include it in the Regulations and Procedures for the elections.

The Khmer-language version of the Regulations as of May 6 and May 25, 1998, both of which were not marked as "Draft" and which had been distributed widely to political parties and interested organizations included in Annex V a formula for the allocation of seats which was identical to the Balinski/Young formula. This was the 1st NEC formula for seat allocation.

Then, at the end of May, that formula was apparently changed into the Jefferson (equivalent to d'Hondt) method, and a May 29 version of the Regulations including a new Annex V was produced and was apparently distributed to the political parties in the beginning of June.

However, the minutes of a NEC meeting on May 29 do not include any reference to the changed seat allocation formula or that this change had been discussed and de-

TABLE 1: Allocation of seats in the National Assembly after the elections of July 1998 according to various existing systems/formulas and in comparison with the number of votes

	CPP	FUNC	SRP	KDP	CNSP	Others	Total
Total number of valid votes	2,030,802	1,554,374	669,653	89,999	71,105	456,555	4,902,488
% of total votes for the respective party	41.42%	31.71%	14.27%	1.84%	1.45%	9.31%	100%
UNTAC system (Hare/Niemeyer formula of the highest remainder)	56 seats = 45.90%	40 seats = 32.79%	24 seats = 19.67%	1 seat = 0.82%	1 seat = 0.82%	0 seat	122 seats
Number of votes per seat	36,264	38,859	29,152				
Sainte-Laguë formula (divisors: 1, 3, 5, 7, etc.)	59 seats = 48.36%	43 seats = 35.25%	20 seats = 16.39%	0 seat	0 seat	0 seat	122 seats
Number of votes per seat	34,420	36,148	34,983				
1st NEC seat allocation formula (modified version of the Jefferson formula of the highest average as proposed by Balinski/Young)	59 seats = 48.36%	44 seats = 36.07%	18 seats = 14.75%	1 seat = 0.82%	0 seat	0 seat	122 seats
Number of votes per seat	34,420	35,327	38,870				
2nd NEC seat allocation formula (Jefferson formula of the highest average; equivalent to the d'Hondt formula)	64 seats = 52.46%	43 seats = 35.25%	15 seats = 12.30%	0 seats	0 seats	0 seats	122 seats
Number of votes per seat	31,731	36,148	46,644				

Analysis of the various systems/formulas to allocate seats in the context of the Cambodian national elections in July (Summary)

- 1) The Hare/Niemeyer formula of the highest remainder (UNTAC system) favors the smallest party to a disproportionate extent. (The logic behind this formula is that the smallest party in parliament can represent better the interests of those small parties which did not get enough votes to enter parliament.)
- 2) The Jefferson formula of the highest average (2nd NEC formula; equivalent to the d'Hondt system) favors the biggest party to a disproportional extent. (The logic behind this formula is to make the winning party strong enough so that it can form a stable government.)
- 3) The Balinski/Young formula of the highest average (1st NEC formula) is more proportional and representative than the above-mentioned two systems.
- 4) The Sainte-Laguë formula is the most proportional and representative of all formulas because it reflects at best the will of the voters as can be seen by comparing the average number of votes which each seat of the three parties represents.

cided by the members of the NEC. Too, the NEC did not issue a press release concerning the change in the formula of the seat allocation.

Most of the political parties and interested organizations became aware of the change in the seat allocation formula only after the election when they used the 1st NEC formula (Balinski/Young) to calculate the allocation of seats in the new National Assembly and compared it with the projections of the CPP, which seemed to be the only political party to be informed about the change in formula in time.

It has been said by a number of critics of the non-CPP parties that these parties did not do their homework properly by not carefully studying the Regulations as of May 29. Certainly, they share some responsibility for the present impasse. However, it should not be forgotten that many of them were struggling to rebuild party structures which had been destroyed during the coup in July 1997.

In addition to that, they had received earlier versions of the Regulations which were not marked as "Draft" and it was indeed not easy work to study carefully each new version of a document which comprised nearly 200 pages and compare it with earlier versions.

Finally, the NEC, when it released the May 29 version of the Regulations, should have issued at least a letter to the parties clearly pointing out the changes in the latest version.

The formula for the allocation of seats is one of the cornerstones of any electoral system of proportional representation. It can have vast political repercussions. It can decide about the absolute majority in parliament, and in the case of the elections in Cambodia in 1998 it does.

Table 1 shows that if the 1st NEC formula of Balinski/Young is applied, Funcinpec together with the Sam Rainsy Party would get 62 seats, whereas CPP would be allocated 59 seats (1 seat would go to the Khmer Democratic Party). However, if the 2nd NEC formula of Jefferson is used, CPP would get 64 seats and Funcinpec together with the Sam Rainsy Party would be allocated 58 seats.

In view of these consequences of the change of formula from Balinski/Young to Jefferson, the statement of the senior election technical adviser to the NEC, Mr Theo Noel, that "the revision of the formula was purely technical" is completely incomprehensible.

A change in the seat allocation formula has to be made public. It simply cannot be done by a dead-of-night action as it appears to have been done at the moment. The way the NEC handled this change seems to be unprofessional, non-transparent, politically irresponsible and, perhaps, even illegal.

Table 1 shows that there is not only a considerable difference in seat allocation between the 1st and the 2nd NEC formula but that there is also a significant difference in

proportional representation of the votes as expressed in the number of seats for each political party.

The 1st NEC formula of Balinski/Young produces fairly proportional results: The number of votes represented by each seat varies between 34,420 for the CPP seats and 38,870 for the seats of the Sam Rainsy Party, which results in a difference of 4,450 votes per seat. By far the best proportional result is produced by applying the Sainte-Lagué formula with a difference of only 1,728 votes per seat.

However, the 2nd NEC formula of Jefferson/d'Hondt produces by far the most disproportional result and the biggest inequality of votes in favor of the winning party (CPP) at the expense of the smallest party (SRP).

The number of votes represented by each seat varies between 31,731 for the CPP's seats and 46,644 for the seats of the Sam Rainsy Party, which results in a difference of 14,913 votes per seat.

This huge disproportion seems to be in contradiction to the principles of the equality of votes and of proportional representation as stipulated in Article 76 of the Constitution and in Article 5 of the Law on the Election of the National Assembly, respectively. Therefore, it seems that the 2nd NEC formula is not only in contradiction of the electoral law but also unconstitutional.

Nicaraguan dictator Anastasio Somoza once told the opposition: "You won the elections. But I won the count."

Unless the Constitutional Council is able and willing to make a fair judgement on the matter of the seat allocation formulas, that statement would need to be re-phrased to "You won the elections, but I won by formula" in order to match a situation which should be prevented from happening.

Peter Schier is the permanent representative of the Konrad-Adenauer-Foundation (KAF) in Cambodia.

TABLE 2: How the two seat allocation formulas work for Kampong Chhnang Province

1st NEC formula (Balinski/Young formula of the highest average)							
Total number of valid votes (V) = 168,763 Number of seats (S) = 4							
Quota, i.e. number of votes per seat (Q): V/S = 42,191							
Party	Number of votes (Vv)	Number of seats Ns = Vv/Q	Highest average HA = Vv/(Ns + 1)	Highest average	Allocation of all remaining seats	Total	Total number of seats
CPP	78,692	1.87	Vv/1+1	39,346	1	1+1	2
FUNC	47,046	1.12	Vv/1+1	23,523	1	1+1	2
SRP	11,143	0.26	Vv/0+1	11,143	0	0+0	0
Others	31,882						
Total	168,763	2+			2	2+2	4

2nd NEC formula (Jefferson formula of the highest average; the d'Hondt formula gives identical results)

Total number of valid votes (V) = 168,763 Number of seats (S) = 4

Quota, i.e. number of votes per seat (Q): V/S = 42,191

Party	Number of votes (Vv)	Number of seats Ns = Vv/Q	Highest average HA = Vv/(Ns + 1)	Highest average	Allocation of 1st remaining seat	Total	Highest average HA = Vv/(Ns + 1)	Highest average	Allocation of 2nd remaining seat	Total	Total number of seats
CPP	78,692	1.87	Vv/(1+1)	39,346	1	1+1	Vv/(2+1)	26,231	1	2+1	3
FUNC	47,046	1.12	Vv/(1+1)	23,523	0	1+0	Vv/(1+1)	23,523	0	1	1
SRP	11,143	0.26	Vv/(0+1)	11,143	0		Vv/(0+1)	11,143	0	0	0
Others	31,882										
Total	168,763	2+			1	2+1	2+1		1	3+1	4

Bodies in the Mekong :

The violent crackdown on the democratic movement

- **Thomas Hammarberg, Special Representative of the UN Secretary General for Human Rights**
- **Amnesty International**
- **CPP demos : the empire strikes back, Phnom Penh Post September 18-October 1, 1998**
- **Protest degenerates into dirty war, The Australian, September 12, 1998**
- **Sam Rainsy : Flawed elections led to crackdown, September 8, 1998**

« If a demonstration is broken up the least amount of force necessary must be used, and in all cases only non-lethal force must be employed. »

Statement by Ambassador Thomas Hammarberg, Special Representative of the United Nations Secretary General for Human Rights in Cambodia, August 28, 1998

The Special Representative encourages the government, political party leaders and all Cambodians to exercise restraint to ensure that Cambodians are able to exercise their freedom of assembly in a safe and peaceful manner.

Freedom of assembly is a fundamental human right under international and Cambodian law. Article 21 of the International Covenant on Civil and Political Rights, to which Cambodia is a party, protects « the right of peaceful assembly. » Articles 37 and 41 of the Cambodian Constitution also protect the « right to peacefully demonstrate » and « freedom of assembly. » Cambodian law also permits peaceful gatherings such as the one currently occurring in front of the National Assembly.

Both the authorities and the demonstrators have responsibilities which, if not properly observed, may result in violence, injury and death. Only violent demonstrations or those which may lead to violence by the demonstrators should be banned or broken. If a demonstration is broken up the least amount of force necessary must be used, and in all cases only non-lethal force must be employed. It should be noted that since 1993 no serious violence has ever been carried out by demonstrators. The only such violence thus far has been aimed at demonstrators, such as on 30 March 1997. Freedom of assembly should not be limited because of the threat from outside groups against demonstrators. Instead, it is the duty of the police and other relevant authorities to protect demonstrators from threats from political opponents and others.

During all demonstrations it is the joint responsibility of the authorities and demonstration organizers to ensure public health and the safety of the demonstrators, bystanders, passersby and security personnel. The Special representative welcomes the role of the authorities thus far in ensuring that the assembly has remained peaceful. He also welcomes the efforts made by the organizers of the demonstration to cooperate with the authorities to keep public roads and sidewalks clear, ensure proper sanitation, provide food and water to those in need, and keep weapons out of the park area.

Thus far the demonstrators have behaved in a generally peaceful manner. The Special Representative is deeply concerned, however, about recent public statements by political leaders which may incite violence against a particular political party or an ethnic group. It is the responsibility of public speakers, such as political party leaders addressing the current gathering, to avoid any language which may incite listeners to violence. He reiterates his earlier call that they refrain from using xenophobic rhetoric, particularly directed against persons of Vietnamese origin.

The Special Representative encourages continued dialogue between the relevant authorities and demonstration organizers to avoid misunderstandings and to resolve differences in a peaceful manner.

“Two people have been killed during demonstrations, while the bodies of 16 others have been found floating in rivers...many of them bearing signs of torture...”

Statement by Ambassador Thomas Hammarberg, Special Representative of the United Nations Secretary General for Human Rights in Cambodia, New York, September 16, 1998.

The Special representative is gravely concerned by the increasing numbers of arrests, disappearances, and discoveries of bodies being found in and around Phnom Penh since the government's September 7 crackdown on opposition protesters. During the past week at least two people have been killed during demonstrations, while the bodies of 16 others have been found floating in rivers, in irrigation ditches, and in shallow graves around the capital.

Many of the bodies bear signs of torture or other violence including bullet wounds and strangulation marks. Several of the bodies had their hands tied behind their back and were gagged and blindfolded. Four bodies have been examined by Cambodia Office of the High Commissioner for Human Rights (COHCHR) staff while detailed descriptions of other twelve have been obtained from interviews with multiple witnesses. The twelve include three women and two people in the clothing of Buddhist monks. Only one victim - Sath Sopheatra, 19, a student at the Bak Touk high school - has been positively identified. He was found together with another body near Samrong pagoda, in the Phnom Penh Thmei quarter of Phnom Penh. Both bodies were riddled with bullets and showed signs of beating. The COHCHR has established from witnesses that the two were taken to the place on 9 September apparently by plain-clothes police, and executed there by members of the district Gendarmerie. Sath Sopheatra is reported to have taken part in demonstrations up to September 8. According to police, both he and the other victim were robbers. In addition to the 16 bodies seen, so far COHCHR is investigating a further dozen reports of bodies being found by villagers in the vicinity of Phnom Penh. Information on all cases confirmed will be submitted to the Government in order that each can be thoroughly investigated.

During this same period the Special representative has received credible reports of scores of demonstrators being arrested, including students and Buddhist monks. Numerous other people have been reported missing by relatives. These arrests have been carried out in the capital reportedly by the Gendarmerie and the police, including the intervention police and Flying Tiger units. Despite the high number of arrests reported, the authorities have so far acknowledged only 22 arrested persons who are being detained in the Tuol Kork district police station, Phnom Penh.

Enquiries made by the Cambodia Office of the HCHR with the Gendarmerie and at almost every district police station in the capital have been unsuccessful, with the authorities denying having arrested or detained anyone. The Special Representative is seriously concerned that no other arrests have been acknowledged. He will soon submit a list of missing persons and reported arrests to the Government. While he is aware that in some instances demonstrators armed with slingshots have fired marbles demonstrators were essentially peaceful. The reason for these arrests of demonstrators is therefore unclear.

Given the urgency of the situation, the Special representative calls on the Government to acknowledge publicly all instances of arrests and detention in connection with demonstrations since September 7. Names of detainees and their current whereabouts should be made available, so that families can be informed, and charges against each individual clarified. In the absence of credible charges, these persons should be immediately released. All places of detention should be open to visits by the COHCHR and International Committee of the Red Cross. The Government should ensure that no one is detained in places that are not legal, and that those who may be held by security units are not harmed.

The Special representative calls once again for all parties involved in the current sensitive political situation, including political leaders, security forces, demonstrators and the public to refrain from using violence, and to commit themselves to dialogue as a means of resolving their differences. Violence can only nurture the desire for revenge and provoke still more violence.

CAMBODIA

**Protestors crushed by brutal force
Governments must end silence**

News Service 184/98

As « Friends of Cambodia » governments meet in New York, Amnesty International said it was time they ended their silence on the new wave of human rights abuses in Cambodia since the elections.

« Once again peaceful protestors, including Buddhist monks, have been shot on the streets of Phnom Penh, » Amnesty International said. « These latest violations are the consequence of near total impunity for authorities who abuse their power, reinforced by the complicit silence of the international community. »

Amnesty International called on « Friends of Cambodia » governments to condemn the recent upsurge in human rights violations and to use their influence with the Cambodian authorities to urge restraint and the lifting of restrictions on the freedom of movement for opposition politicians and Buddhist monks.

« These governments seem ready to wash their hands of Cambodia in the aftermath of the contested elections. But they must not shirk their responsibility to guarantee human rights to Cambodia's people, irrespective of the political crisis. »

The human rights organization today released a report detailing deaths and injuries to protestors following the use of excessive force to disperse demonstrations from 7 September 1998. It expressed concern for the safety of dozens of people who were arrested during the crackdown, but whose current whereabouts is unknown.

« Given Cambodia's recent history of political killings, 'disappearances' and torture, it is imperative that the authorities publicly account for those they have arrested, ensure they are properly treated, and release anyone held for their peaceful political activities. »

In its report, Amnesty International called on the opposition parties involved in the protests to exercise restraint and contribute to respect for human rights.

« We regret the inflammatory rhetoric that opposition figures have used against Cambodia's ethnic Vietnamese minority, and condemn recent racist attacks. But these do not excuse a more generalised crackdown on legitimate and peaceful protest and expressions of public discontent. »

Amnesty International also expressed concern about ongoing threats from the security forces against human rights workers, including staff of the Cambodia Office of the United Nations High Commissioner for Human Rights.

KINGDOM OF CAMBODIA

Demonstrations crushed with excessive use of force

SUMMARY

As Foreign Ministers from a number of the « Friends of Cambodia » group of countries meet in New York this week Amnesty International calls on the international community to recognise the fact that serious human rights violations -- including killings and beatings of peaceful demonstrators--have taken place in Cambodia. They should urge the Cambodian authorities to exercise restraint and lift the restrictions on freedom of movement of opposition politicians and Buddhist monks. There has been almost complete silence from other governments on the violations of human rights that have occurred in recent weeks, just as there was on the violations that took place before the elections. Amnesty International believes that the crushing of opposition protests in Phnom Penh from 7 September was a violation of international human rights standards to which Cambodia is a state party, and involved excessive use of force on the part of the authorities. By using this level of force to break up what had been largely peaceful demonstrations, the authorities violated the rights of their own people and directly caused loss of life and personal injury. Among the victims are monks and young people. The organization also knows that many more people were detained than has been admitted by the government, and it fears for their safety, particularly given the large number of credible reports of bodies being found in Phnom Penh and the surrounding area.

In their violent actions to crush the demonstrations, the Cambodian authorities violated the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The general provisions of these principles state:

« Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles. »

Amnesty International has documented casualty figures associated with the violent dispersal of protestors. The organization knows of over 60 people who sought hospital treatment for their injuries, fourteen of whom had bullet wounds. At least six people needed treatment for the effects of electric shock batons, wielded by the Military Police. Amnesty International notes that the vast majority of the opposition protests were peaceful, and almost all protestors were unarmed. Those that did engage in some violence, which began after the killing of an opposition supporter by the police on 7 September were armed with stones and bottles. The use of live ammunition to disperse these people, and the peaceful protestors, including monks, represents excessive use of force. Amnesty International also condemns the racist killings by angry mobs of as many as five ethnic Vietnamese people in Phnom Penh and expresses concern that the inflammatory rhetoric used by some opposition politicians and their supporters during the protests constituted incitement to racial hatred, and may have contributed to these attacks.

Amnesty International is concerned at the current government restrictions on the freedom of movement of members of parliament-elect, current members of parliament, and Buddhist monks. These restrictions violate Cambodia's constitution, and the International Covenant on Civil and Political Rights, to which Cambodia is a state party.

KEYWORDS:

This report summarizes a 13-page document (5258 words), : KINGDOM OF CAMBODIA Demonstrations crushed with excessive use of force (AI Index: ASA 23/26/98) issued by Amnesty International in 22 September 1998. Anyone wishing further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

CAMBODIA

UA 245/98

Fear of torture / Fear for safety / Fear of « disappearance »

Dozens of people arrested in Phnom Penh in the last ten days, including: Bun Ly, Meas Piseth, Luor Hak, Sim Den, Cham Sarin, Eng Seng Hean, Set Ny, Chhuon Saroeung, Keo Sambath, Kim Sovan, Soy Kim, Chay Sok Thay, Sek Thea, Chhom Chea, Bun Tha, Sun Mao, Chhim Hay, Kim Lay, Lon Chhay, Nuo Phong.

Amnesty International fears for the safety of dozens of people who have been arrested in Phnom Penh in the last ten days, after the security forces violently dispersed a sit-down demonstration in front of the National Assembly on 8 September 1998. Opposition activities have continued, which the authorities have tried to crush.

The Cambodian authorities have acknowledged only 22 arrests, although Amnesty International has received reports of many more. At least 20 people have been taken to the Tuol Kork District Police Station. It is not known where others have been detained.

Amnesty International fears for the safety of those in detention, and believes they are at risk of torture, ill-treatment and possible « disappearance ». Detainees in Cambodia are frequently subjected to beatings in police custody, during the first 48 hours of detention. Amnesty International also fears that some of those arrested may be in urgent need of medical attention, as the security forces broke up the opposition protests with excessive force, beating demonstrators with batons, and firing live ammunition.

Amnesty International is investigating reports of up to 14 deaths in the last ten days, which may have been connected with the break up of the protests. The organization fears that some of those arrested may have been killed.

BACKGROUND INFORMATION

The political situation in Cambodia has become increasingly tense and violent in the last fortnight. Opposition politicians and their supporters have been engaged in protests against alleged electoral fraud following the 26 July 1998 general elections, in which the ruling Cambodian People's Party was declared the winner. The protests have been peaceful, although the rhetoric of some politicians was virulently anti-Vietnamese; four ethnic Vietnamese in Phnom Penh were killed by angry mobs, several days before the security forces broke up the protests.

RECOMMENDED ACTION:

Please send telegrams/telexes/faxes/express/airmail letters in English or French or your own language:

- calling on the authorities to ensure that all those in detention in connection with the violent dispersal of the opposition protests are not subjected to torture, ill-treatment or « disappearance » ;
- urging that all those in detention are given immediate access to lawyers, their families and medical attention as required;
- asking that a complete list of all those detained, their places of detention and any charges against them be made public;
- urging that all those detained solely for their peaceful participation in the opposition protest movement be immediately and unconditionally released.

PLEASE SEND APPEALS IMMEDIATELY TO :

Samdech Hun Sen
Second Prime Minister
Office of the Council of Ministers
Phnom Penh
Cambodia
Faxes: + 855 23 42 6134 (if voice, ask for fax)
Telegrams: HE Hun Sen, Phnom Penh, Cambodia
Salutation: Your Excellency

HE Sar Kheng
Minister of Interior
Office of the Council of Ministers
Phnom Penh
Cambodia
Faxes: +855 23 42 6144 (if voice, ask for fax)
Telegrams: HE Sar Kheng, Phnom Penh, Cambodia
Salutation: Your Excellency

COPIES TO : to diplomatic representatives of Cambodia accredited to your country.

Check with the International Secretariat, or your section office, if sending appeals after 27 October 1998.

« No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment » . Article 5, The Universal Declaration of Human Rights

CAMBODIA

Further information on UA 245/98 (ASA 23/25/98, 15 September 1998) –
Fear of torture/Fear for safety/Fear of "disappearance"

**Scores, possibly over 200 people, arrested in Phnom Penh
between 7 September 16 September 1998**

Amnesty International has obtained more information on the number of people arrested during a violent crackdown on opposition protests in Phnom Penh after 7 September 1998. The organization believes that scores, and possibly over 200 people, were arrested. The authorities have acknowledged only 22 arrests, and have claimed that 19 of those have been released (including all but one of the people named in the original Urgent Action).

New information about the number of bodies found in Phnom Penh and the surrounding area has reached Amnesty International. The organization believes that at least 20 people and possibly many more, have been killed in the last two weeks. Amnesty International fears that the unacknowledged prisoners may be among the dead.

Credible eyewitness testimony of the arrest of Buddhist monks, students and others, and separate credible eyewitness reports of dead bodies in Phnom Penh and the surrounding area, combined with outright denial by the Cambodian authorities that any of those killed were protestors, leads Amnesty International to fear for the safety of all detainees.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/ airmail letters in English or French or in your own language:

- urging the Cambodian authorities to issue a complete list of all those detained in Phnom Penh since 7 September 1998, their place of detention and any charges against them;
- urging that independent, impartial investigations commence immediately into the fate and whereabouts of all those believed to have been arrested since 7 September;
- urging that all those currently in detention have access to their families, lawyers and medical personnel;
- reminding the government of Cambodia of its commitment to the Universal Declaration of Human Rights, in particular Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

APPEALS TO:

Samdech Hun Sen
Second Prime Minister
Office of the Council of Ministers
Phnom Penh
Cambodia
Faxes: +855 23 42 6134 (if voice, ask for fax)
Telegrams: HE Hun Sen, Phnom Penh,
Cambodia
Salutation: Your Excellency

HE Sar Kheng
Minister of Interior
Office of the Council of Ministers
Phnom Penh
Cambodia
Faxes: +855 23 42 6144
Telegrams: HE Sar Kheng, Phnom Penh,
Cambodia
Salutation: Your Excellency

COPIES TO: diplomatic representatives of Cambodia accredited to your country.
PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 2 November 1998.

CPP demos: the empire strikes back

BY BOU SAROFUN
AND JAMES ECKARDT

PHNOM PENH turned on a sullen welcome for CPP protesters who descended on the city last weekend. Shops were closed, bystanders taunted and the occasional rock barrage was hurled at the demonstrators.

It was a marked contrast to the opposition demonstrations which often had a light-hearted air, at least until the police crackdown.

Many of the CPP demonstrators were armed with sticks and rocks which made a belligerent impression. Protest organizers carried ICOM radios. Some wore military trousers and loose civilian shirts, concealing handguns.

One shopkeeper near the demonstration said she and other retailers moved stock back to their homes when they saw the crowd, fearing it could turn ugly.

This is not to say that the city was united in opposition to the CPP who, after all, gained a third of Phnom Penh's votes.

The first CPP demonstrators on Friday were, in fact, drawn from squatter strongholds like Tonle Bassac village. As early as Sept 1, during the heyday of Democracy Square, village chief Keth Seng Oeum told the *Post* that he had submitted a request to the Ministry of Interior to stage a CPP counter-demonstration but was turned down.

On Friday morning, CPP forces were unleashed, sweeping opposition protesters from the US Embassy with gunshots and club charges. Then 50 truckloads of CPP men gathered in front of the Royal Palace and the Hotel Sofitel Cambodiana, armed with sticks and stones.

Outside the palace, mounted on a motorcycle and monitoring his troops with an ICOM radio, was Yim Vorin who identified himself as a civil servant from Phnom Penh.

"All my neighbors are here," he said. "Hun Sen won the election and we are here to support him. Without him, there is no government, no development. I'm happy to be here. We read newspapers about the protests — not good. The grenades at Hun Sen's house made people angry too."

At the gateway of the Cambodiana stood Ministry of Defense official Kham Chan Tarong and Mek Dara, deputy police director of criminal investigation, both in civilian clothes.

"The focus of the new demonstrations is the US Embassy and the Cambodiana," said Kham



LOOKING FOR TROUBLE

Pro-CPP demonstrators — mostly trucked in from the provinces — roamed the streets of Phnom Penh from Sept 11-13, often engaging in violent confrontations with opposition supporters.

Peter Grant

Cham Tarong. "The purpose was to give messages to both President Clinton and the UN's Kofi Annan. The problem is winners and losers. We want to form a government. They don't want a government. We want peace, development, national reconciliation. They don't."

Mek Dara echoed: "People are disturbed at the attempt to make the government fail. They see the illegal demonstrations and they are angry. Today the people are supporting the winner of the elections. I support the will of the people."

"They want an end to illegal demonstrations, not to prolong the sit-in at the park," added Tarong. "I feel sorry for what happened to that park. People used to come there with their girlfriends. Now the park will be beautified... Asean, the EU, Japan, France, Friends of Cambodia — all support the results of the election. This is the will of the voters, not just 10,000, but 11 million."

Saturday was a series of running skirmishes. On Street 63 near Silop Market, for example, a small group of CPP supporters were beaten by an opposition crowd who confiscated their sticks and burned them before being dispersed by police.

The day before, several CPP demonstrators whipped out pistols from under their belts and wildly fired on the opposition, wounding three.

A stick-wielding CPP crowd on Saturday followed a cyclist mounted with a loudspeaker at Psar Thmei. "We have been patient a long time!" cried the man with the microphone. "The election winner is hurt when the losers don't accept the results. Down with those who incite people to hold anarchic demonstrations!"

A middle-aged CPP follower

who claimed to be a high school student said: "We carry sticks to protect ourselves in case there's a fight with the opposition."

A young girl in the rally shouted: "Down with the *yuon* communists!"

An older woman hushed her. "Be careful what you say! This is not a Sam Rainsy demonstration. It's Hun Sen's!"

On Saturday night, the pro-CPP masses were trundled out to Olympic Stadium: a fleet of 160 cars, pickups and 10-wheel trucks from Kandal, Takeo, Kampong Speu, Kampong Cham, Kramas, cash and food were handed out. Singers and comedians entertained.

In the morning, 8,000 demonstrators, almost all men, formed up before the speaker's platform. The bleachers behind were empty.

An occasional line received applause — "Human rights groups should stop interfering in our internal affairs!" — but the *chaiyos* were mostly perfunctory. As speeches droned on, the crowd dwindled to 500 sitters. The rest returned to their trucks, tearing into a free breakfast of bread and sardines.

Speeches that morning — and throughout the day via mobile loudspeakers — were strictly choreographed, sticking to a party script. Sam Rainsy was accused of being a war-monger, a destroyer of the economy, a labor troublemaker, a felon, the son of a traitor, a manipulator who disguised his bodyguards and Khmer Rouge hard-liners as Buddhist monks. Similarly Prince Ranariddh

was given some advice, namely he must accept the results of the election, stop illegal demonstrations, cease disguising his bodyguards as Buddhist monks, take responsibility for the crimes of resistance general Khan Savoeun and attend the National Assembly opening on Sept 24. "All of us have to respect democracy in Cambodia," concluded both.

As the trucks rumbled out of Olympic Stadium, market vendors closed their shops. "We're afraid," said one woman.

"If they were Sam Rainsy demonstrators, I wouldn't be afraid," added another. "But these people are sent by Hun Sen and they could be robbers."

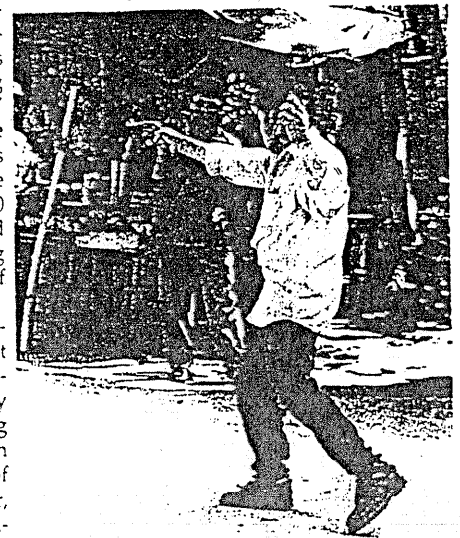
Some marchers waved CPP flagstied to truncheons. "The foundation of the CPP is solid!" declared one burly marcher, whacking his club into his palm.

Sporadic looting broke out at the early stages of the convoy's route, as CPP supporters clambered off the trucks to respond to taunts. For the most part, Sihanouk Boulevard was cleared of traffic and patrolled by police bearing AK-47s as the convoy slowly proceeded down to Independence Monument.

As the convoy crept past the Cambodiana, orators using loud speakers taunted Sam Rainsy, holed up inside, as a traitor.

Hand-lettered signs read: "We strongly support the results of the Election July 26, 1998" and "We want peace and development."

(Continued on Page 6)



PISTOL PACKIN'

A pro-CPP demonstration organizer shoots at an opposition rally Sept 11 on Street 63 near the US Embassy. Three opposition supporters were shot and wounded during the clash.

CPP demos...

(Continued from Page 2)

Truckloads were divided by village: men in one wearing red kramas, another purple, another white caps.

A teenager from Takeo eating noodles on grass outside the Cambodiana said: "I came here for the meeting in the stadium to support the election results and to call for all parties to participate in the National Assembly. I didn't expect to be walking around with sticks and stones. But if [the opposition] has the right to beat us, we have the right to beat them back. We are not cows to let them beat us whenever they want."

The convoy came to rest at lunch time. CPP supporters stretched out in whatever shade they could find from the Cambodiana all along the riverside to Royal Palace and the park fronting the National Museum.

Here a slingshot sniper fired marble rounds into the crowd from the roof of a nearby building. The crowd reacted with rage, brandishing sticks and hurling stones at the offending building. A line of village chiefs and police confined the growing mob to the opposite sidewalk, frantically signaling for peace. Eventually everyone settled down to styrofoam box lunches.

The CPP convoy pulled out at 2:15pm. As they cruised up Pochentong Road past the train station, taunts from a corner noodle shop caused one truckload to empty out on to the street. A shop stall was smashed and its owner bloodied before police intervened.

Apart from incidents like this, the CPP loyalists stayed

where they were — crammed on back of the trucks — or walked in well-formed, straight lines as demanded by the organizers.

Emboldened after their departure, some 5,000 opposition demonstrators formed up on Norodom Boulevard, only to be dispersed by police firing rounds over their heads.

A pro-opposition moto procession nonetheless gathered and wound its way through the city, picking up supporters along the way. By the time it reached the riverside near dusk, it had swelled to perhaps 15,000.

General Chhin Chan Pour, deputy chief of the Military Police, said in a telephone interview that his mission was to provide for the safety of CPP demonstrators and to prevent conflicts between them and the opposition.

But why could the police not provide similar security to opposition demonstrators?

"You cannot call such mobs a political demonstration because they have no idea what their demands are," he replied.

However he said the CPP deserved protection because they were well organized and knew what they wanted.

"The military is neutral. We have to protect well-organized demonstrations, even if they are illegal," he said.

One moto driver summed up his feelings as he watched Sunday's CPP rally saying: "Hun Sen a good man. But Sam Rainsy, Prince Ranariddh, they good too." Then he strained his English further to express a better-the-devil-you-know sentiment: "If no have Hun Sen, I don't know. If I have Hun Sen, I know."

« *Protest degenerates into dirty war* »

Huw Watkin, The Australian, September 12, 1998 (Excerpts)

"We have heard radio communications between security personnel where police have been instructed to seize and dispose of the bodies of people killed" said one rights monitor.

"It's clear they realise the bad public relations image that dead bodies create".

Rights groups have expressed concern for about six demonstrators seized by police, who are reportedly being held incommunicado. Those fears were strengthened with the discovery of two bodies - one of a 19-years-old student - in a shallow grave on the outskirts of Phnom Penh.

Police claimed the pair had been killed while attempting to escape the scene of an unspecified crime, but rights workers say the brutality of the killings - one victim had both eyes shot out - indicates a political motive.

The rights group ADHOC went further, claiming the two had been arrested for participating in anti-government demonstrations and that a death squad had executed them in front of local villagers.

“Flawed elections led to crackdown”

Statement of the **Sam Rainsy Party**, Cabinet of the President,
Phnom Penh, September 8, 1998

The destruction of Democracy Square and the violent crackdown on peaceful protesters is the final proof that the Hun Sen regime cares nothing about democracy or freedom of expression. Hun Sen will do whatever is necessary to retain his grip on power.

The crackdown is the direct result of a deeply flawed election carried out with consistent disregard for the law by institutions that were not neutral. It was a systematic effort by Hun Sen to legitimize himself in the eyes of the international community. If Hun Sen could have won without cheating then he would have done so, but it seems this was not possible. When the opposition refused to drop its demands that the election results be investigated according to the law, Hun Sen evidently realized that the victory he won through cheating would never survive an investigation.

The election committee and Constitutional Council, both of them filled with ruling party supporters, refused to consider the opposition's complaints. When the King hosted a meeting to look at the technical problems with the election, Hun Sen tried desperately to change the agenda. When the opposition stuck to its promise not to accept the results of an election that appears to have been rigged, Hun Sen cracked down on the protesters.

The crackdown is a show of force meant to destroy democracy in Cambodia, to terrorize the people who found their voices in Democracy Square, and to distract attention from the real issue that the people were protesting: cheating in the election.

Hun Sen's actions today prove that he is the primary obstacle to democracy and progress in Cambodia. More than ever, the Sam Rainsy Party maintains its insistence on a legal election process and refuses to participate in a National Assembly that does not credibly reflect the will of the people.

We are relieved that the casualties of today's crackdown do not appear to be as numerous or as serious as we feared they might be. We attribute this largely to the efforts of the international community to convince Hun Sen to moderate his actions and we are deeply grateful to the diplomatic corps for those efforts.

Meanwhile we consider Hun Sen to be directly and personally responsible for the damage, injuries and deaths his orders inflicted on Cambodians who were only exercising their rights.

Now we ask the international community to make a sustained and consistent effort to help bring democracy to Cambodia, to support transparency and legality in the democratic process, and to back a serious investigation into the election result as required by law and without regard to previous assessments they may have made.

The Cambodian people will not give up their rights to free expression and their hope for democracy. The people may change the form of their struggle because of today's acts of repression, but they will not give up the struggle.

Threat, coercion and blackmail : How Hun Sen negotiates

- **King Sihanouk**
- **Sam Rainsy**
- **Hun Sen**

"In a Cambodia which is not a state of law and not a fully fledged democracy, I have no other choice to advice the weak to choose a policy that avoid misfortune for the people, the motherland, and themselves".

King Sihanouk, September 13, 1998

"I wish to state solemnly that I have never had any intention to apply pressure on any individual or any political party at all.

There are some Cambodians who say that I have no right to leave Cambodia, even for medical treatment in Beijing, so long as a National Assembly chairman has not yet been appointed to act as the acting Head of State during my absence. (...)

I am opposed to any modification of our Constitution. Somehow, I will not object if the people's representatives, who are against Hun Sen's opposition, or others want to change our Constitution in conformity with what the Constitution permits. However, they should not—for one or another reason—say that it is the tactics of or pressure from the King. All of our politicians must be responsible for their own actions. They should not hold me accountable before our nation, people, and country for their actions, maneuvers, and so forth."

King Sihanouk, October 6, 1998

Bulletin Mensuel de Documentation, as read by announcer on Phnom Penh National Radio

Sam Rainsy : "I am under threat"

Associated Press, Tuesday September 22.

Sam Rainsy told reporters his agreement to attend the meeting and bring his party to parliament was made under duress. Hun Sen had called specifically for his arrest after the grenade incident, and the outspoken politician took refuge more than a week in the office of the main United Nation Representative in Cambodia. *"I am under threat. This coercion, so whatever I decide, by legal standards, is not valid. Anything obtained, extorted under duress is not valid"* said Sam Rainsy. (...)

Hun Sen : « They have no choice »

News Conference by Hun Sen in Siemreap on September 23, 1998, broadcasted on National Radio (Excerpts)

Hun Sen [in English] : « Now, I hope tomorrow we will have a meeting of the National Assembly. And after, I hope all parties, especially Cambodian People's Party and Party, will discuss for create the new government.

This is normal, not beyond normal. This is normal of the people, the Khmer people. Sometimes very strong, sometimes flexible, and sometimes hardliners. This is normally of the Kampuchean people. Now, I hope until the time for discuss, not confrontation, not confrontation. And I hope now fall down step by step and arrival to create new government. »

A correspondent [in English] : « Are you confident you can go for coalition? »

Hun Sen [in English] : « Yes, yes, yes. This is not, they have no choice because only one choice: meeting of the National Assembly and create government. If cannot accept this way, old government continues, continues five years more [words indistinct]. This is now I, I hope and I think that until now we election already [words indistinct]. (...)

This is democracy culture, democracy culture. And this is the first reason. And second reason, I think that from campaign election until now, I see the political line of the CPP and political line of the Sam Rangsi Party [SRP] very far [word indistinct] 180 degree—difficult for campaign two-line political parties, for join campaign for create political program of government. But smaller party and 15 seats, no need. Because this coalition between CPP and FUNCINPEC, we have 107 seats in National Assembly. Enough, enough, no need SRP. And I want SRP opposition in National Assembly and for control. They [word indistinct] people, they can speak in National Assembly. They no need demonstrations and sit-in in garden before the National Assembly. No need sit-in. (...)

But in the first time, working of the CPP and FUNCINPEC discuss for two problems. We must discuss political program of government [words indistinct] and discuss new government for five years. We can discuss and combine two political parties for campaign political program of government. Second, we cannot change, do not say more who prime minister, because Prime Minister Hun Sen, Hun Sen, Hun Sen. This cannot change. If they not accept, they can choose [their] new chairman of the party [who] can working with me. You see, I agree with the American analysts. They advised me two parties cannot accept Hun Sen, they can choose their new leaders of the two parties. The new leaders can working Hun Sen. This is Hun Sen the winner, the party winner. (...)

President Chea Sim will be for choose chairman of the National Assembly. And yesterday, Prince Ranariddh, he told the meeting he cannot, he do not want become the chairman of the National Assembly and become the prime minister. He still National Assembly member only. Very good. And yesterday Prince Ranariddh, he still wanted National Assembly member only. »

A correspondent [in English] : « Did yesterday you have conversation with Prince Ranariddh ? »

Hun Sen [in English] : « Yes »

A correspondent [in English] : « At what time the conversation took place?

Hun Sen [in English] : « Before I met him yesterday, I met by phone two times. In May and luckily two weeks ago. I [pause] and yesterday he visited Banteay Srei [temple]. Now I am citizen, not Hun Sen—Prime Minister. (...)

I warned in the meeting do not dream resolve present government. If resolve present government, must be accepted from military group as a coup d' etat. We preserve the present government the same and take military action to stop that coup d' etat. This was what I warned in the meeting. And second, I warned do not dream change CPP, change candidate of prime minister. Because before election, the CPP meeting declared, chose Hun Sen as candidate prime minister if CPP leads in election. Why they cannot accept? This is internal affairs of the CPP. CPP chose Hun Sen before election and the people voted CPP and Hun Sen. Not divide, because the Cambodian people know if they voted for the CPP, Hun Sen become the prime minister. Why they cannot accept? This is what I told them: This cannot democracy; this is for fall down. This is for topple the regime. I told them you can see CNN or NBC, you can see they write demonstrations cannot for irregularities of the election but destroy regime, Hun Sen's regime and monarchy. If destroy Hun Sen's regime, the same destroy monarchy. (...)

This is tomorrow I tell them. This is cannot. Demonstrations cannot for irregularities of the election, but the wrong way destroy the government and the present regime. I told them preparing to the court, some people to the court. And now, I [word indistinct] some people they have, tomorrow they have privilege, immunity. But some people have not immunity because the court will continue. I can tell you why president of the SRP the first, Kong Koam [SRP vice-president] the first. Yesterday, I told in the meeting I asked His Excellency Kong Koam you cannot [have] immunity. You can go first for the court. And Koem Sokha [secretary general of the Son Sann Party] tomorrow he finishes immunity, they can go to the court. And some people more, we can procedure in National Assembly, because tomorrow I told the King and told the meeting, we must respect political freedom of the people, but we must respect the law and we can try the bad people for violence. So, do not respect political freedom but cannot ignore the law. And told the King and I told the meeting I guarantee with the general secretary of the United Nations Kofi Annan on political action in the law. But their activities, this is penal crime. I cannot guarantee. Violence kills the Vietnamese people, kills the people, and destroy public property, and appealed police and armed forces to kill me, and appealed the United States to shoot missiles to my house. This is the penal crime, not political activities in the law. (...)

This the prosecutor's and the court's problem, not Hun Sen, not Hun Sen. And this is the procedure of the National Assembly. Prosecutor and the court, not Hun Sen. They are now kept in the hand of prosecutor, including Sam Rangsi, who is the chieftain for order for the demonstrations. You can see TV. They appealed the United States shoot missiles to my house. I am Cambodian Prime Minister, why they want [to] kill. And they appealed the armed forces for kill me, I am Prime Minister. If you or you and you, if they want to kill, if Sam Rangsi wants [to] kill, Sam Rangsi will be captured soon. Because Sam Rangsi is political [word indistinct] cannot kill the people. And Hun Sen, the people also. The same people, but now still in power. Why they want to kill? This is in the hand of prosecutor.

A correspondent [in English] : « If Sam Rangsi becomes an MP in the National Assembly, will he still be arrested ? »

Hun Sen [in English] : « This is the procedure of the court and procedure of the National Assembly. And I support the court. This is criminal activities, penal crimes, not political. This is kill people. I do not protect the penal crimes. (...)

I am waiting until tomorrow. If tomorrow they cannot join, they have not immunity [words indistinct]. But this is prosecutor needs or not [words indistinct]. This is three ways: arrest, or summon, or warrant to invite that person to come to the court. I do not understand the court can arrest or invite him. You can ask the court. (...)

At the meeting yesterday, I directly warned them that they should not dream of having a transitional government. It is because there is no law allowing anyone, including the King, to dissolve the old government. This government can only be dissolved once a new government replaces it. This is the first warning.

Hun Sen [in Khmer] : I also warned them that if any dissolution took place, this would look like a military coup. So, they would immediately get a reaction from the military that protects this government. So, they are asked not to dream of having a transitional government. The Ung Huot-Hun Sen government will continue. We will continue like this, because this is a government mechanism that nobody can dissolve.

Hun Sen : « If we club a snake on its tail, it can still bite. So, we should club it on its head »

News Conference by Hun Sen in Siemreap on September 24, 1998, broadcasted on National Radio (Excerpts)

Hun Sen [in Khmer] : « After my death, the problem will not end but it will get worse instead. And I think that if Hun Sen dies, the opposition leaders will also die very soon.

Experts have clearly determined that it was the opposition, which carried out the action. It is because the opposition appealed to the United States to fire missiles at me and also appealed to the armed forces to shoot me. So, the action is definitely masterminded by those ringleaders. Therefore, I think that if the opposition leaders do not avert future attacks and do not advise their forces to stop terrorist acts to destroy my life, they will die miserably. No one other than these people should be suspected. (...)

The networks, which carried out this activity, are the same networks, which carried out the activities during the last electoral campaign. Some of them have been organized as terrorist groups.

I already sent two secret recorded cassette tapes to the King a few days ago, because we have already identified those who took part in a terrorist attack. (...)

Availing myself of this opportunity, I appeal to the perpetrators to come out and confess and provide us with information. We will offer them a \$200,000 reward. We will not punish them but reward them with \$200,000 for just identifying those behind the attempt to kill me. Yesterday, I signed a letter requesting the King to pardon Srun Vongvannak, who was implicated in the murder of my brother-in-law. He is one of Sam Rangsi's men. The King has already pardoned him as requested. Concerning this morning's assassination attempt, I ask the perpetrators to come out. We will not punish them but offer them a reward of \$200,000, which is equivalent to 22 kg of pure gold. I wish to tell them that if they do not hurry up and come out, they might be liquidated by their leaders ».

A correspondent [in Khmer] : « Does this mean that the overseas travel ban will not be lifted ? »

Hun Sen [in Khmer] : « I wish to say that I signed and sent a letter today to the Interior Minister asking him to allow them to travel freely. The police director general should discuss with the prosecutor on ways to allow them to travel freely during the investigation. But they have to return when they are summoned by the court.

However, to my understanding, two persons might be summoned by the court. So, they might not be able to travel abroad. I do not know when the court will summon all of them, but I do know that the judiciary police and the investigative judge have already prepared their documents. And perhaps, two persons will be summoned ahead of the others. The two no longer enjoy the parliamentary immunity. So, we can summon or invite them for questioning about their illegal activities during the illegal demonstrations [in Phnom Penh]. As for others, they are free to leave the country, but they have to return when they are summoned by the court. I hope that they will return at the court's summons if they are innocent. And I believe that if they do not return, they will be tried in absentia by the court. »

A correspondent [in Khmer] : « Who are the two persons ? »

Hun Sen [in Khmer] : I think that it is better to wait until the court summons them. However, I can tell you that the parliamentary immunity of one of them expires today, because he was not reelected. And another person may be the leader of a political party who lost the election. They are all deprived of immunity; so, there is no need to ask permission from the National Assembly [to summon them]. Anyway, this matter belongs to the court. I do not know when the court will summon them. This should be left to the court.

However, I think that this sort of thing should not be allowed to exist in Cambodia. If we club a snake on its tail, it can still bite; so, we should club it on its head.

Prospects

“The people of Cambodia become more bitter and angry over the way the international community betrayed them.”

Testimony of **Sam Rainsy**, President, Sam Rainsy Party, before the US Senate Foreign Relations Committee, Asia & Pacific Subcommittee, October 2, 1998
(As prepared and brought to Washington, there may have been changes in it on actual delivery).

Mr. Chairman, I am very happy that I am able to be here today, and honored to tell the United States Senate about the situation in Cambodia after the elections and the important role that the United States can play there. Less than two weeks ago I could not even have left my country without being arrested.

The last few months have been among the most difficult in my life, and that is true for many Cambodians who support democracy. There have been some hopeful signs, but our experience in the recent election has been deeply disappointing and painful. What should have been a step toward democracy has turned out to be a step toward one-man rule by Hun Sen. Given his past record, it is not surprising that he wanted that. But it is surprising that the international community, for the most part, has made it so easy for him.

We in the opposition have said from the beginning that democracy cannot be built on an undemocratic foundation, without the rule of law. Throughout the electoral process we pointed out the many serious flaws in the process, and even withdrew from it at one stage. But under heavy pressure, we reluctantly accepted the assurances of the international community that the elections would be assessed fairly and not pre-judged.

Perhaps this was an error on our part, because the United Nations and most of the other sponsors and observers of the election did not effectively challenge the conditions that made a fair election impossible. Throughout the campaign our activists were harassed, threatened and killed with complete impunity. Since the coup in July of 1997 there were between 100 and 200 political murders that we know about, but not a single prosecution. To its credit the United Nations has documented the regime's campaign of intimidation quite thoroughly, but as I said, the killing has not stopped.

Only the ruling party had extensive access to the media over the last five years, while the other parties had just five minutes a day each during the one month before the polling day.

The ruling party took control of all electoral institutions, and used that control to skew the results and prevent transparency throughout the process. These institutions even doctored the method for seat allocation in the middle of the election process, changing it to one that is badly disproportional and would give the ruling party a majority of seats with only 41 percent of the official vote.

Our complaints were thrown out without due process, and when thousands and thousands of people demonstrated and demanded investigation of their electoral complaints, the regime cracked down, beating and shooting unarmed people, including Buddhist monks. Hundreds of peaceful protesters are missing, and the United Nations human rights office is still finding the bodies of dozens of victims. Many were tortured terribly.

And you have heard about all the false accusations that the regime has used as excuses to forbid opposition leaders from leaving the country, in order to frighten us into accepting a so-called coalition. I myself had to spend ten days hiding in the United Nations office, while the regime's paid demonstrators took over the streets, armed with clubs and guns. All this because the election authorities wouldn't obey the election law and wouldn't make more than a token effort to address

complaints. They even refused to count up the used and unused ballots, which is a normal procedure and would be easy to do—if the election were clean.

Now the Cambodian people are confused, frustrated and angry. They don't understand why the international community is supporting the official election results and even pressuring the opposition to join a coalition, instead of pressuring the Cambodian government to obey its own laws. I myself have been criticized for a rhetorical statement I made, about the United States firing missiles at Hun Sen's house, in order to point out the consistently lawless and terroristic behavior of his regime.

If we are forced into a coalition without being able to correct underlying problems, Cambodia will be put back in the hands of Hun Sen. His record shows that he will do whatever it takes to stay in power, and that while he is in power there can be no rule of law in Cambodia. In the last five years we saw unrestrained corruption, human rights violations, environmental destruction, and exploitation by Hun Sen. He kept his political opposition in check while he building up his own political and military machine, in part by making deals with some of the worst Khmer Rouge leaders and giving them choice positions. Anyone who thought Hun Sen was the solution to Cambodia's problems should know better by now.

But we have to be realistic. We realize every problem cannot be solved at once. We have offered compromise after compromise because we do not want to obstruct any progress toward peace and development in Cambodia. We can even work with Hun Sen in some capacity, as long as we are working within the laws and Constitution of Cambodia.

It has been very painful for us to make the compromises we have made. We don't want to betray our supporters who only want democracy, but we don't want to endanger them either. That is why political reforms such as an independent judiciary must be introduced early in this process: so that the opposition leaders can negotiate without fearing for the safety of themselves and their supporters.

Without a proper and legal resolution of the problems with the elections, the elections will have no credibility among the Cambodian people. Unless there are political reforms, their desire for change—so clearly expressed on July 26--will not have a peaceful outlet. Instead of stability it will be who knows how many more years of corruption and exploitation, while the people of Cambodia become more bitter and angry over the way the international community betrayed them.

For better or for worse, the Cambodian people look to the United States as the standard-bearer of democracy and the conscience of the world. It was the United States that took Hun Sen's coup seriously last year. The reaction of the United States was one of the few times that Hun Sen has received a message other than one of accommodation.

Now we are at the end of the process that Hun Sen started with the coup. He expects that the world will legitimize his rule, and cloak his increasingly dictatorial behavior in the mantle of democracy. We are asking the United States to be the standard-bearer again, while there is still an chance to get Cambodia back on the road to democracy.

Mr. Chairman, we hope that the United States will make it clear that it will refuse to recognize any Cambodian government that is formed while no one even knows what the election results should properly be. The same goes for any government that is the result of coercion.

Until there is a legitimate government, we urge the United States to continue to withhold aid as it is doing, and to oppose IMF and other multilateral lending. We have to start cleaning up the corruption and introduce fiscal transparency to Cambodia, so that the aid actually helps the Cambodian people.

And until there is a legitimate government, we urge the United States to vote to keep Cambodia's UN seat vacant and oppose other international recognition, and to leave the ambassador's post vacant after the departure of Ambassador Kenneth Quinn. (I should also mention that it will be critically important that the next ambassador be someone who will take a very proactive approach to democratic development in Cambodia, because we are heading into a decisive period.)

Outside of the elections, we hope that the United States will intensify its efforts to expose the Cambodian regime's role in illegal logging, drug-trafficking, money-laundering and acts of terrorism such as the grenade attack on March 30, 1997 that killed at least 16 people. (We continue to urge the FBI to release its report on its investigation into that attack.)

I truly believe the United States has the opportunity now to make a historic contribution to my country's future by maintaining its leadership in support of democracy and human rights there. I thank you for those efforts in the past, and for the opportunity to explain our position here today.

What Sam Rainsy did really say

The following are extracts from recent public (Video tapes available) statements by Sam Rainsy in regard to the political issues of national independence, illegal immigration, and border disputes.

Please note Sam Rainsy has publicly made similar statements, before and after the elections, about the necessity to avoid violence. However, he has often been either misquoted or quoted out of context in reference to the current Vietnamese installed leadership (« Yuon Puppet »), the international drug trafficking (comparison with Noriega of Panama), and State-induced terrorism (comparison with Khadafi of Libya).

He has raised issues of illegal immigration and border disputes between Cambodia and her neighbouring countries, and insisted they be resolved in legal and peaceful ways.

Furthermore, when he appealed to the national armed forces to turn their guns to those who would order them to shoot at a crowd of peaceful demonstrators, he meant that the armed forces should instead protect the people from the tyrants (comparison with popular uprisings against Marcos of the Philippines). Sam Rainsy has never asked the armed forces to shoot at any Cambodian leader in particular.

On human rights and violence

Sam Rainsy, Saturday, September 5, 1998, between 5:00 pm and 6:00 pm, Democracy Square, Phnom Penh, in front of approximately 8,000 people.

« Democrats are those who respect human rights. Human rights apply to all human beings, regardless of their ethnic backgrounds. Among human rights are the rights to life, to dignity, and to freedom.

In my capacity as a human being, a Khmer, a Buddhist and a democrat, I urge you not to commit any act of violence, especially against the Yuon (Vietnamese) people. Don't hurt anybody; don't touch a single hair of anybody. Not only violence is morally wrong, it would damage our cause; our only cause is democracy. Let's keep it pure, and not tarnish it with any act of violence. »

Sam Rainsy, Sunday, September 6, 1998, between 8:00 am and 9:00 am, Olympic Stadium, Phnom Penh, in front of approximately 12,000 people.

« Don't fall into the trap laid by the present communist government. They want us to use violence in order to crack down on us and to tarnish our image. We are accused of being racist. Recent acts of violence against the Yuon (Vietnamese) have damaged the cause of democracy in Cambodia. I urge you to avoid any form of violence. Let's make sure that our demonstration today is absolutely peaceful ».

Sam Rainsy, Sunday, September 6, 1998, between 5:00 pm and 6:00 pm, Democracy Square, Phnom Penh, in front of approximately 10,000 people.

« We have to raise moral standards in our society. We must start doing this by respecting human life. According to Lord Buddha's teaching, life is sacred and we must show compassion and tolerance. We must not act like the Khmer Rouge and the communists who condemn people without evidence. When the communists think that there is one culprit whom they can not identify in a group of one hundred people, they do not hesitate to punish the whole group, even though they know that in the group, there are ninety-nine innocent people. We must not act like the communists; we must not accuse anybody without unquestionable evidence.

Yesterday I appealed to you to stick to non-violence, to respect human life and dignity, to respect other people's property, and public property. This morning, at the Olympic Stadium, I made the same appeal. And now you hear the same appeal from me again ».

Condemning racist violence

Statement signed by Sam Raisy and released on July 17, 1998 after the killing of four Vietnamese in Kratié.

The Sam Rainsy Party condemns the heartless and evil attack that took the lives of four people in Kratie on Wednesday. There can be no excuse or justification for such a crime, whether motivated by greed, politics or ethnic hatred.

We are outraged by suggestions that opposition groups could be responsible for this atrocity. There is no room in the Sam Rainsy Party for anyone who would participate or advocate a crime of violence, especially during the electoral process.

We beg all Cambodians, as individuals and as members of groups, from all political parties, from all security forces, and from all ethnic groups to respect each other's rights. Any act of violence is a betrayal of the nation and the people of Cambodia

Statement entitled « ATTACKS ARE NOT THE ACTS OF PATRIOTS », signed by Sam Raisy and released on September 4, 1998 after the killing of four Vietnamese in Phnom Penh

President Sam Rainsy and the Sam Rainsy Party condemn in the strongest terms possible the heartless attacks this morning and yesterday, which reportedly left three people dead and a fourth in grave danger of losing her life.

No one has the right to attack another human being or to take another person's life. There is no excuse and no justification. It does not make any difference whether the person is the same or a different ethnic group.

The individuals who carried out these acts are not Cambodian patriots. They betray the ideals of peace, justice and freedom that true patriots support. Real Cambodian patriots must struggle to build a better and more democratic society for everybody.

I, Sam Rainsy, urge you with all my heart not to join them. Work tirelessly for peace in Cambodia. Answer lies not with lies, but with the truth. Answer violence not with violence, but with ideas, hope, and love for all human beings.

Once again we urge the health authorities to work closely with international agencies to investigate the rumors of poisoning quickly and to supply the public with accurate information so that panic is reduced.

We also urge the legal authorities to work closely with the international and local human rights agencies to investigate all attacks.

We must all work together to prevent these tragedies from being repeated.

Position on illegal immigrants, border disputes and foreign residents

Bilingual leaflet (Khmer-English) dated July 15, 1998 and widely distributed at the rallies held during the electoral campaign

As President of the Sam Rainsy Party, I now understand that some of my speeches and some materials distributed by my party have contributed to fears among people of Vietnamese background in Cambodia, and to concern over relations between Cambodia and its eastern neighbor.

The history of relations between the Khmer and the Vietnamese people is a long one, marked by too much strife and too much bloodshed. Both peoples have the duty to work together to build a better future. We must all learn a better way, and as President, I pledge to lead the Sam Rainsy Party by example.

The Sam Rainsy Party does reject foreign domination of any kind, does consider illegal immigration as a serious problem, and is deeply concerned about unresolved issues of lands and sea borders. We have the will to solve these issues on the basis of national and international law, with full respect for human rights. In my speeches, I intend to target only the present government, which has failed to defend Cambodia's independence, sovereignty and territorial integrity. I do not intend to target any country or any people.

As I have stated in many of my speeches, in portions that have not always been reported, I and my party reject any policy or practice of hate or violence. We are absolutely committed to upholding and protecting the rights of anyone in Cambodia regardless of his or her nationality or ethnic background. We have on several occasions condemned acts of violence against ethnic Vietnamese residents, and will continue to do so, just as we condemn all acts of violence.

We look forward to building a free and independent Cambodia, with friendly and cooperative relations with all its neighbors. Anyone who calls for violence or disseminates a message of hate should not be regarded as representing the Sam Rainsy Party.

Sam Rainsy did not appeal to soldiers to shoot Hun Sen : How Raoul Jennard distorted on purpose a Sam Rainsy's quotation

Letter of Rich Garella, Communications Officer, Cabinet of the President, Sam Rainsy Party, published by *The Cambodia Daily*, on September 18, 1998.

Until now we have been reluctant to dignify Raoul Jennard's August 26 Internet diatribe against Sam Rainsy by responding to it. Now that it has been republished locally, in the Vision, we would like to respond in *The Cambodia Daily* because Jennard has misquoted the Daily along with Rainsy.

On August 25, *The Cambodia Daily* quoted Rainsy as saying, in translation: « If troops are ordered against peaceful civilians, I appeal to government armed forces, the forces of Chea Sim and the forces of Sar Kheng and all soldiers and those compatriots from the border to rise up together and turn your gun point to get Hun Sen to step down from his position. »

Jennard quickly seized an opportunity that most of us would never even notice. A snip here and a snip there, and he managed to rework Rainsy's statement into an unconditional call for the assassination of Hun Sen. For extra points he created an affiliation with the Khmer Rouge: « I appeal to government armed forces, the forces of Chea Sim and the forces of Sar Kheng and all soldiers and those compatriots from the border [the remaining Khmer Rouge forces] to rise up together and turn your gun point to get Hun Sen. »

Jennard goes on to credit *The Cambodia Daily* for the quotation he has so badly mauled. In fact, Rainsy has never asked the armed forces to shoot at any Cambodian leader. On the contrary, he has consistently appealed to them to refuse to obey illegal orders that violate human rights, such as an order to shoot at peaceful protesters.

Jennard-and the Vision-should refrain from altering quotations lifted from their journalistic betters, especially when it is for the purpose of libel. If Jennard feels he must manufacture evidence against Rainsy, he could do better than this clumsy job. Others certainly have.

There is no reason to comment on the rest of Jennard's work. But we do hope that someone is paying him for his efforts. It would be a pity if he were throwing away his credibility for nothing.

Sam Rainsy did not appeal to soldiers to shoot Hun Sen

**« RAINSY REJECTS FALSE ACCUSATIONS », Statement of the Sam Rainsy Party,
September 9, 1998**

Party president Sam Rainsy rejects the accusations leveled at him by officials of the Hun Sen regime, including the accusation that he called for security forces to shoot Hun Sen.

In fact, Rainsy has appealed to soldiers and police, saying that if they were ordered to shoot at the crowd, they should turn their guns toward those who made such an illegal order. He did not appeal to them to shoot anyone.

The regime has fabricated, distorted, or falsely attributed to Rainsy all of the acts that the regime is using to justify its crackdown on peaceful protesters for democracy. It is the same tactic that the regime has used many times before to harass, intimidate and imprison its political opponents and to justify its anti-democratic actions.

We appeal to the international community to reject the charade presented by the regime in its effort to prevent examination of the election results. The Sam Rainsy Party would welcome the opportunity to review and examine these accusations before any neutral body of inquiry.

Sam Rainsy did not appeal to the US to strike Hun Sen

Statement of the Cabinet of the President, Sam Rainsy Party, Phnom Penh, August 27, 1998

We wish to make clear that the comments made during an August 25 speech by party president Sam Rainsy were not intended as a serious appeal for air strikes on the residence of the Second Prime Minister by any foreign power, or as a threat of any kind.

The president was comparing the past actions of the Second Prime Minister in sponsoring terrorist acts to the actions of other figures in the world who are listed and treated as terrorists.

We regret that these comments, taken out of their context in an impromptu speech, may have created a misunderstanding about our expectations. We hope that they have not caused any confusion.