

**International Republican
Institute**

**National Democratic Institute
for International Affairs**

Restoring Democracy in Cambodia The Difficult Road Ahead

Report of a Joint IRI-NDI Mission to Cambodia

August 29, 1997

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Working to strengthen and expand democracy worldwide



August 29, 1997

Dear Friends of Cambodia:

The tragic events of July and August in Cambodia have alarmed all of us who have been involved in the country's difficult struggle for democracy and peace. As you know, both the National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI) have invested considerable time, energy, and resources since 1992 to assist Cambodia in building a multiparty democracy governed by the rule of law. The violent coup of July 5 reversed much of the progress that Cambodia had made toward this goal.

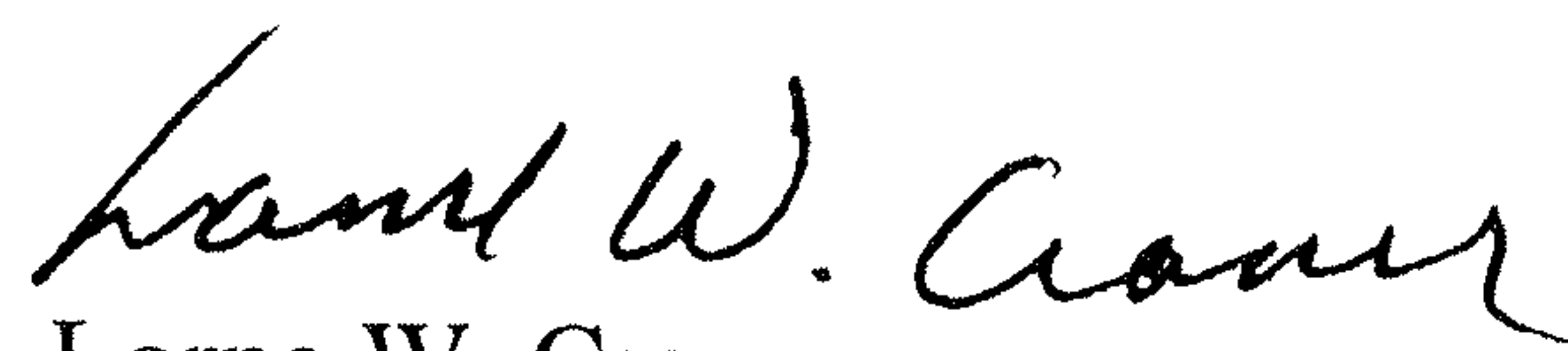
The enclosed report, *Restoring Democracy in Cambodia -- The Difficult Road Ahead*, summarizes the conclusions of a bipartisan delegation from IRI and NDI that visited Cambodia and Thailand from August 6 to 12. The delegation was led by Thomas Andrews, a former Member of the United States Congress and a former NDI Resident Representative in Cambodia, and Sichan Siv, former Deputy Assistant to President George Bush. The delegation met with a broad spectrum of Cambodian political and civic leaders to assess the extent of the damage done to Cambodian democracy and to determine what can be done to restore it.

The international community, in particular the United States, has played a pivotal role in Cambodia's democratic transition. The 1991 Paris Peace Accords and 1993 elections, which would not have happened without international leadership and support, were seen by the Cambodian people as an end to years of suffering under brutal regimes. The international community, which invested billions of dollars in Cambodia's democratic transition, must not abdicate its responsibility to protect this country's fragile democratic gains. The United States must take an active role in Cambodia if there is to be any real prospect of peace and democracy.

Thank you for your continued interest in Cambodia and we hope that you find the report useful. If we can provide further information or answer any questions, please do not hesitate to contact either IRI or NDI.



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EXECUTIVE SUMMARY

"Cambodia today is not a democracy that functions under the rule of law. Cambodia is being overwhelmed by the intentional effort of political forces to circumvent the democratic process. The result is not a reflection of the will of the Cambodian people, but the product of violence and an unconstitutional attempt to legitimize it." This was the conclusion, announced at a press conference in Phnom Penh on August 9, of the joint delegation from the International Republican Institute (IRI) and the National Democratic Institute for International Affairs (NDI) that visited Cambodia and Thailand to assess the August 6 vote in the National Assembly to replace First Prime Minister Prince Norodom Ranariddh.

The delegation visited Phnom Penh from August 6 to 10, 1997 to measure the extent of the damage done to Cambodian democracy and to determine what can be done to restore it. Both NDI and IRI have conducted programs in Cambodia since 1992 to support the development of elections, political parties, civic organizations, and the National Assembly. The delegation, led by Thomas Andrews, a former member of the United States Congress and a former NDI resident representative in Cambodia, and Sichan Siv, a former Deputy Assistant to President George Bush, met with a broad spectrum of Cambodian political and civic leaders and representatives of the international community concerned with the country's development. Immediately before and after the visit to Cambodia, the delegation also met in Bangkok, Thailand with members of Cambodia's National Assembly and other political leaders in exile, including First Prime Minister Ranariddh.

Based on the findings of the delegation, and informed by the institutes' collective experience with constitutional norms, parliamentary procedures, political party rules and election processes in more than 80 countries, as well as their work in Cambodia during the past five years, IRI and NDI have reached the following conclusions:

1. ***The National Assembly vote on August 6 to replace the duly elected First Prime Minister of Cambodia cannot be viewed as legitimate.*** The August 6 vote in the National Assembly to replace Prince Ranariddh as First Prime Minister was not a reflection of the will of the Cambodian people, but was rather the product of coercion and an unconstitutional attempt to legitimize the July 5 coup. Beyond violating the Cambodian Constitution and the commitments of the 1991 Paris Peace Accords, the legislative process was conducted under a cloud of intimidation, where many members of the National Assembly feared for their personal safety. These members were not able to represent the interests of their constituents or their country, but instead were required to vote under the threat of violence.

2. ***Recent events have reversed Cambodia's gains in democracy.*** Second Prime Minister Hun Sen and the Cambodian Peoples Party (CPP), which he leads, have consolidated control over the government, the police, the judiciary, the military, the security forces, and all political groups in the country. A systematic campaign of arrests, intimidation and harassment has resulted in the detention of hundreds of political activists, and Cambodian and international human rights groups have reported that more than 40 royalist party supporters were executed in the aftermath of the coup. The subversion of the rule of law makes it impossible for a genuine political

opposition, independent media, and nongovernmental organizations (NGOs) to operate freely and without fear of reprisal.

3. *Unless there are extraordinary and fundamental changes in the existing political environment, it will be impossible to hold genuine, democratic elections in May 1998.* The Cambodian government has called for May 1998 elections. If the actions since July 5, however, are accepted as legitimate by the international community, there is little hope that the required, extraordinary steps will be taken to ensure that elections will be fair. In order for elections to be meaningful, the 20 parliamentarians who were forced to flee the country must feel safe enough to return and compete in these elections. Human and political rights must be protected. The press must be allowed to operate freely. There must be evidence--not assurances, but evidence--that the safety of all politicians, human rights activists, election workers and journalists will be guaranteed. All those who have been detained must be released, and there cannot be any additional expulsions from the National Assembly. Furthermore, the current government and military forces loyal to it must be separated from the administration and management of the election process. These are the minimum requirements for creating a political environment in which elections may be possible.

4. *The international community should not abdicate its responsibility to protect Cambodia's fragile democratic gains.* The international community should be explicit in its rejection of the use of violence, the flagrant disregard of the principles of the constitution and the rule of law, and the violation of the Paris Peace Agreements. The international community must take an active role in Cambodia if there is to be any real prospect of restoring peace and democracy.

BACKGROUND

In agreeing to the terms of the 1991 Paris Peace Accords, all of the major Cambodian political leaders accepted the fundamental principle that "the Cambodian people shall have the right to determine their own political future through [a] free and fair election..." (Article 12 of the Comprehensive Settlement Agreement.) In signing those same accords, 19 nations accepted responsibility for the implementation and stewardship of the peace process that followed. On July 5, 1997, after years of slow erosion of its core principles, the Paris Agreement on a Comprehensive Political Settlement of the Cambodia Conflict finally collapsed.

The essence of the political solution outlined and elaborated at the Paris Conference was a commitment by all parties to make Cambodia a multiparty, democratic state operating under the rule of law. The violent military coup of July 5 was orchestrated by one of the central parties to the Paris Accords and was conducted in a final effort to subvert the principles and institutions of democracy that had been built through and during the peace process.

Democracy and the rule of law had been under assault in Cambodia even before the results of the United Nations-administered elections in May 1993 became known. Violence marred the 1993 campaign. The results of the election were undermined by threats of civil war and the subsequent formation of a coalition government that did not reflect the electoral outcome. Since the elections, four journalists have been killed and more injured, the offices of opposition political parties have been attacked and party workers have been threatened and harassed. Despite these disturbing trends, however, the principles of a multiparty government stood.

The prospects for democracy in Cambodia began a precipitous decline in 1997. The March 30 grenade attack on a peaceful political rally led by opposition leader Sam Rainsy signaled the descent into violence. The FBI, which investigated because an American was injured in the incident, is reported to have concluded that Hun Sen's personal bodyguard unit planned and executed the brazen attack. The violent overthrow of Prince Norodom Ranariddh, Cambodia's democratically elected First Prime Minister, the ensuing suppression of all political opposition and the illegitimate parliamentary vote replacing the First Prime Minister in early August effectively destroyed the brief experience with democracy in Cambodia.

In a demonstration of international concern for Cambodia, the International Republican Institute and the National Democratic Institute for International Affairs dispatched a joint delegation to Cambodia and Thailand to assess the August 6 vote by the National Assembly and to examine the political environment in the wake of the July 5 coup. The delegation met with a broad spectrum of Cambodian political and civic leaders and representatives of the international community concerned

with the country's development.¹ Immediately before and after the visit to Cambodia, the delegation also met in Bangkok, Thailand with members of parliament and other political leaders in exile, including First Prime Minister Norodom Ranariddh.

Both NDI and IRI have conducted programs in Cambodia since 1992 to support the development of elections, political parties, civic organizations, and the National Assembly. The delegation, led by Thomas Andrews, a former member of the United States Congress and a former NDI resident representative in Cambodia, and Sichan Siv, a former Deputy Assistant to President George Bush, visited Cambodia from August 6 to 10.

The Illegitimate Ouster and Replacement of First Prime Minister Ranariddh

On August 6, in an effort to give the ouster of the elected Prime Minister a veneer of legality and to restore some international legitimacy to the government, Hun Sen and the CPP orchestrated two votes in the National Assembly. The votes stripped Prince Ranariddh of his parliamentary immunity and purported to elect Foreign Minister Ung Huot to replace Ranariddh as First Prime Minister. In attendance were 50 CPP members, 42 Funcinpec (French acronym for the royalist party led by Prince Ranariddh) members and 7 members from other parties. Twenty members of the National Assembly who had fled the country in the days following the coup were absent.

The first vote was cast to strip Prince Ranariddh of his parliamentary immunity so he could be tried on charges of treason and illegally obtaining weapons. Although this vote ostensibly removed Ranariddh's immunity, it did not remove him from office, either as a member of the National Assembly or as First Prime Minister. The second vote, nominating Foreign Minister Ung Huot to become First Prime Minister, was held by secret ballot in the main hall of the Assembly. No debate preceded the balloting, which resulted in 86 votes for Ung Huot, four votes against, six abstentions, and three spoiled ballots.

These votes are clear violations of the Cambodian Constitution and of Cambodian law. At least two provisions of the Cambodian Constitution were violated. These require that the King designate a representative of the "winning party to form the Royal Government" (Article 100) and the First and Second Prime Ministers (Article 138) after obtaining the agreement of the President and both Vice Presidents of the National Assembly. Ung Huot's nomination did not receive the agreement of the President and both Vice Presidents because at the time of the vote the First Vice President had been elevated to Acting President and the Second Vice President, Son Soubert, who is in exile, had expressed his opposition to the nomination.

¹Many of the individuals with whom the IRI-NDI delegation met requested anonymity.

Furthermore, the Permanent Committee of the National Assembly, which sets the legislative agenda of the Assembly, did not meet its own requirements for a quorum. Under Provision 10 of the National Assembly's Internal Regulations, any meeting of the Assembly's Permanent Committee, must have a quorum of at least seven members. When the Permanent Committee met and decided to proceed with the two National Assembly votes, only six *bona fide* members of the committee were present. Thus, the action to convene the Assembly was illegal.

The Cambodian Constitution requires that the Prime Minister be a member of the "winning party" in the National Assembly (Article 100). Ung Huot's claim to represent Funcinpec is invalid for at least three reasons.

First, Ranariddh, in his capacity as president of Funcinpec, had dismissed Huot from the party in accordance with the party's by-laws. Under Provision 36 of Funcinpec's by-laws, the president of the party can temporarily dismiss a member for up to three months subject to review by the Steering Committee of the party.

Second, the Funcinpec leaders who nominated Ung Huot lacked a quorum and therefore the authority to nominate him. According to party regulations, a quorum totaling two thirds of the members of the party's Steering Committee, or 23 people, is required to conduct business. One member of parliament who attended the meeting said that only 15 members of the Steering Committee were present.

Third, Ung Huot's nomination was not approved by an absolute majority (17 members) of the Funcinpec Steering Committee, which is also required by party regulations.

Beyond the violations of the Cambodian Constitution and other laws, the votes in the National Assembly were conducted in a coercive manner. The vote to strip Ranariddh of his immunity was made by a public show of hands. Members of the Assembly told the delegation that the public method of balloting on the first question made it impossible to support Ranariddh. The sole member of the Assembly who voted against stripping Ranariddh of his immunity publicly explained his vote this way; "Hun Sen said he wanted opposition so I will be it."

The vote to elect a new First Prime Minister was ostensibly conducted by secret ballot. Several Assembly members said privately that despite the use of written ballots for the election of Ung Huot, they were not confident of the secrecy of their vote. The close proximity of seats in the Assembly and the lack of voting booths led some to conclude that their ballots were visible to others. Members of the Assembly told the delegation that given the prevailing atmosphere of intimidation they felt compelled to support Ung Huot.

Members of the National Assembly who remain in Cambodia and are not affiliated with the CPP continue to participate in the political process for varied reasons. Many have concluded that,

at least for the foreseeable future, they must submit to the CPP's political will. A few appear to believe that Hun Sen's actions were justified or are using the ouster of Ranariddh to advance their own political positions. The remainder have made very difficult personal decisions to stay in Cambodia and attempt to do what they can to act as a moderating force.

The delegation concluded that the National Assembly was operating under a profound sense of fear with a small group orchestrating its agenda and actions. In such a climate, no action taken by the Assembly, including the votes of August 6, can be considered a legitimate expression of the will of the Cambodian Assembly or the citizens it claims to represent.

Reversal of Cambodia's Gains in Democracy

An atmosphere of terror and intimidation now prevails in Cambodia. Cambodians are once again apprehensive about the future. They express concerns about the loss of democracy and the renewed threats to human rights. Members of the National Assembly and the public fear Hun Sen and the CPP network. Indeed, because of widespread fear, political opposition in the country has been silenced. There are many reasons for this fear, but all of them spring from an awareness that Hun Sen and the CPP will use financial inducements, intimidation and violence to defend their hold on power. There is little, if any, political space for a genuine political opposition, independent media or NGOs to operate freely.

According to Cambodian and international human rights monitors, at least 40 people were killed in the aftermath of the coup. In addition to the extrajudicial executions of Funcinpec officials and party supporters, many citizens have been searched, threatened, temporarily detained, or arrested. A number of people are still missing throughout the country. Despite the government's official denial of responsibility for torture, executions and disappearances, it has not taken any steps to identify and punish those responsible for these abuses.

Hun Sen continues to criticize the U.N. Center for Human Rights, which is the most significant defender of human rights in the country. On August 21, Hun Sen demanded that the United Nations replace its human rights team in Phnom Penh because of its reporting of abuses after the July coup.

The CPP is in complete control of Cambodia's military and police apparatus. All but a few senior Funcinpec military and intelligence leaders have been executed or have fled the country. Funcinpec units remaining within the military structure have acquiesced fully to CPP command. Senior Funcinpec police officials at the national and provincial level have been purged or coopted under CPP leadership. The July 7 execution of Ho Sok, the Interior Ministry Secretary of State and a senior Funcinpec official, in the compound of the Ministry of Interior demonstrated the extent to which CPP was willing to eliminate all threats. (Earlier that same day, CPP co-Minister of Interior

Sar Kheng had met with several foreign diplomats and had assured them that there would be no reprisals against Funcinpec supporters.)

During the coup and immediately thereafter, CPP soldiers and Hun Sen's bodyguard units inflicted heavy damage on opposition parties' headquarters and party leaders' homes. Party offices were looted and assets were seized. In addition to designating Ung Huot as head of Funcinpec, the CPP purported to install new leadership of the Buddhist Liberal Democratic Party (BLDP) and the Khmer Nation Party (KNP). (New leaders were named to the KNP, despite the fact that the party, under the leadership of Sam Rainsy, had previously been declared illegal.) Party leaders and workers continue to be harassed throughout the provinces and in Phnom Penh.

A number of prominent political leaders, including 20 elected members of the National Assembly--some of whom stayed in Cambodia through its darkest periods--have determined that they can not safely return to Phnom Penh and oppose Hun Sen. Members of the Assembly who remain in Phnom Penh privately indicated that they could not meet with the delegation specifically because they feared negative repercussions. Several members of the Assembly made it clear to the delegation that their political statements and actions were influenced by the fear of retribution against family members and staff or of the destruction of personal property.

The opposition media have become much more circumspect in their reporting. To date, only four of the 11 opposition newspapers have been allowed to resume publishing since the crackdown. People in provinces spoke of being warned by local CPP officials not to listen to the *Voice of America*. The delegation was told that Phnom Penh-based correspondents for the *Voice of America* have received specific threats about broadcasting reports unfavorable to the CPP. More than 15 journalists associated with the opposition have fled to Thailand.

Cambodia's democrats also point to the tepid response of the international community to the coup as a contributing factor to their sense of fear and isolation. This response, in their view, stands in stark contrast to the role played by the international community in promoting Cambodian democracy during the negotiations of Paris Peace Accords and the conduct of the 1993 elections.

Extraordinary and Fundamental Changes Needed To Hold Genuine, Democratic Elections

After the July 5 coup and the August 6 Assembly votes, elections scheduled for May 1998 are being proposed as a way out of the current crisis. Given the violent ouster of elected Prime Minister Ranariddh and the subsequent campaign of killings, extraordinary steps to address the climate of fear are necessary before the Cambodian people and the international community can consider seriously the possibility of elections. If these steps are not taken, elections will only consolidate authoritarian government and exacerbate the current crisis.

Following are some of the essential conditions that must exist before democratic elections in Cambodia are viable. These fundamental issues, involving the environment for political competition and control over the electoral, governmental and security machinery must be resolved before other, more traditional election-related issues will become relevant. Many of these requirements have already been mandated by the 1991 Paris Peace Accords.

- *Nonrecognition of the Results of the Coup.* Neither the government established by the coup nor the purported parliamentary election of a new First Prime Minister should be accepted as legitimate.
- *Negotiation Process Leading to Neutral Political Environment.* The current government and the opposition leaders in exile of Funcinpec, the BLDP, the KNP, and the Khmer Neutral Party must enter into meaningful negotiations over institutional arrangements for elections, possibly under the auspices of Paris Peace Accord framework. Such negotiations should seek to achieve a caretaker government or some other institutional arrangement that ensures that the current regime does not retain control of election administration, the courts, local administration, the police and the security forces. The CPP and the political leaders in exile must agree on laws governing the elections and the activities of political parties.
- *Elimination of Private Militias and Body Guard Units; Disarming of Political Factions.* The government and the CPP must depoliticize the military and the police. All political parties should sever their connections to the military by removing military leaders from their steering committees. Factions within the armed forces should be integrated into a single, national army.
- *Return of Political Leaders from Exile.* The Cambodian government and the CPP must create the conditions that will allow the exiled opposition leaders and their supporters to return to Cambodia and actively and freely participate in the political process.
- *Establishment of Legal Institutions.* Other institutions to ensure the rule of law in Cambodia must be established, including the Constitutional Council provided for in the constitution. An independent and effective judiciary is essential to protect human rights, resolve important constitutional conflicts that affect the functions of government, and fairly resolve election-related and other political disputes. The establishment of specially constituted election tribunals should also be considered.
- *Creation of an Independent Election Commission.* An independent election commission must be created and composed of representatives of all significant parties, as well as, independent figures. International experts might participate in election commission deliberations as *ex officio* members. The commission must have broad powers over election administration, election security and dispute resolution.

- *Freedom for Political Opposition.* The independence and legitimacy of democratic political parties must be respected. The government and/or the parties must:
 - a) allow existing political parties to select their own leaders in an environment free of intimidation and manipulation and avoid interference in the internal affairs of other parties;
 - b) return to the existing political parties the property they legally held before the July 5 coup, particularly BLDP and KNP offices and all parties' media outlets;
 - c) enact a political party law, agreed to by the exiled political leaders, that allows opposition political parties to be formed, to contest elections and to operate free of intimidation throughout the country;
 - d) prohibit the use of state resources, or resources obtained illegally, by any and all political parties;
 - e) ensure the freedom of candidates to campaign throughout country without the fear of harassment, intimidation or violence;
 - f) allow parties to freely establish offices, and to organize rallies and campaign events throughout the country; and
 - g) ensure the freedom of voters and citizens to express their views, and to attend campaign events without harassment or intimidation.
- *Human Rights Monitoring.* The government and all political parties must respect the independence and legitimacy of nongovernmental organizations, including those involved in human rights monitoring, civic and voter education, and election monitoring. International organizations concerned with strengthening human rights, the rule of law and democracy in Cambodia also should be permitted to operate freely.
- *Freedom of Expression and the Media.* The media must be allowed to function freely, and they must be reimbursed for equipment stolen or destroyed during the coup.

The Role of the International Community

The international community played a proud and central role in Cambodia's democratic transition. The 1991 Paris Peace Accords and 1993 elections, which would not have happened without international leadership and support, were seen by the Cambodian people as an end to years

of terror under brutal regimes. The international community, which invested billions of dollars in Cambodia's democratic transition, must not abdicate its responsibility to protect this country's fragile democratic gains. The international community, and especially the signatories to the Paris Peace Accords, must defend the principles of human rights and political freedom that are embodied in the Accords. To do less will only prolong Cambodia's suffering and send a dangerous signal to struggling democracies throughout the world.

The Delegation

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

The IRI-NDI delegation to Cambodia and Thailand in early August 1997 was led by Thomas Andrews, a former member of the United States Congress who served as NDI's representative in Phnom Penh in 1995, and Sichan Siv, former Deputy Assistant to President George Bush. The delegation also included Jeffrey Crouse, IRI Director of Programs in Asia and the Middle East; Elizabeth Dugan, IRI Field Representative in Thailand; Sophie Richardson, NDI Program Officer; and David Timberman, NDI Senior Consultant.