

BACK FROM THE BRINK  
**Cambodian democracy gets  
a second chance**

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# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>A. FROM CONFRONTATION TO COMPROMISE.....</b>	<b>3</b>
1. BACKGROUND .....	3
2. STRUGGLING TO CONVENE A NEW PARLIAMENT.....	4
3. FORGING A COALITION GOVERNMENT .....	6
<b>B. AIMS AND ACHIEVEMENTS .....</b>	<b>8</b>
1. THE OPPOSITION .....	8
2. THE CAMBODIA PEOPLE'S PARTY.....	12
3. THE INTERNATIONAL COMMUNITY .....	14
<b>C. PRESSING PROBLEMS .....</b>	<b>16</b>
1. THE HUMAN RIGHTS SITUATION .....	16
2. THE DEMISE OF THE KHMER ROUGE .....	19
3. REPATRIATION OF REFUGEES .....	23
4. SOCIO-ECONOMIC SITUATION.....	24
<b>D. MOVING ON.....</b>	<b>28</b>
<b>E. RECOMMENDATIONS.....</b>	<b>31</b>
<b>ATTACHMENTS .....</b>	<b>33</b>
NEW GOVERNMENT LINE-UP.....	33
ABOUT ICG	
LIST OF ICG REPORTS	



## BACK FROM THE BRINK Cambodian democracy gets a second chance

### EXECUTIVE SUMMARY

The international community collectively heaved a sigh of relief when Cambodia's rival factions moved back from the brink of disaster and agreed to form a fresh coalition government in November 1998 after weeks of violent protests and political deadlock.

But optimism is tempered by the knowledge that a previous shaky alliance between the two political parties forming the coalition – the powerful Cambodian People's Party (CPP) and the royalist FUNCINPEC party – was torn apart by fighting in July 1997.

Moreover, the renewed power-sharing agreement follows weeks of bitter and at times violent protests by opposition supporters who claimed the CPP victory in elections on 26 July 1998 was the product of widespread electoral fraud.

ICG addressed the electoral process and post-polls stand-off in its recent report, *Cambodia's Elections Turn Sour*, published 10 September 1998. The present report follows the tortuous path that led to the formation of a coalition government in November. It also looks ahead at the prospects for the coalition -- between two parties who regard each other as rivals rather than partners -- lasting out its five-year mandate intact.

This will largely depend on the ability of the two sides to learn from past mistakes, to set aside their mutual mistrust and to show real commitment to working together to resolving the host of overwhelming problems that plague the small Southeast Asian nation. High on the list of issues to be addressed are a stagnant economy, unrelenting and spreading poverty, rampant and illegal deforestation, general lawlessness, drug trafficking, corruption, a cumbersome and ineffective administration, widespread impunity, lack of legislation and a weak judiciary.

The coalition agreement and the apparent final demise of the Maoist Khmer Rouge guerrilla movement mean that the country is enjoying real peace for the first time in three decades. But the surrender of most of the surviving members of its top leadership has once again focussed attention on bringing to justice those behind the atrocities of the movement's 1975-79 rule. The government is caught between the need for peace and reconciliation on the one hand and the desire of the Cambodian people for justice and a statement against impunity on the other. Cambodia needs to get to grips with its past while establishing a foundation for a stable future.

In many ways the chances for success are greater than in 1993, when FUNCINPEC and CPP first tried working together, as there will only be one premier, a political platform has been agreed on before and officials are more experienced. Moreover, Cambodia should have a true parliamentary opposition for the first time in its modern history.

In the final section of this report, ICG sets out a number of specific areas where action by the new coalition government is most urgent. In particular, the report calls on the government to:

- **Break the cycle of impunity** by arresting and bringing to justice the veteran leaders of the Khmer Rouge as well as perpetrators of recent political violence;
- **Take Cambodia's democratisation process forward** by stepping up preparations for crucial local elections due this year; and
- **Reform public finances** by boosting internal revenue and shifting public expenditure away from the military and police in favour of under-funded socio-economic sectors such as education, health, agriculture and judicial reform.

The international donor community, meanwhile, should **maintain maximum pressure on the government in Phnom Penh to tackle the country's deep-rooted problems and deliver on its election promises**. Donors should wait until the coalition seems to be working well before rushing in with new offers of assistance. The release of future development aid should be tied to the achievement of specific policy objectives and the provision of funds paced to match the speed with which the government acts to meet its commitments.

Democracy has been given a second chance in Cambodia and all sides must be aware that this could be their last opportunity to move the country forward with the continuing blessing and assistance of the international community, which has invested vast financial and human resources into the country over the past decade.

A. FROM CONFRONTATION TO COMPROMISE – A CATALOGUE OF EVENTS

1. Background

The elections held on 26 July 1998 marked an historic moment in the development of Cambodian democracy. Unlike the elections of 1993 which were run by the UN, this time the polls were organised by Cambodians themselves, monitored by around 1,000 foreign observers – (including some 600 observers sent by about 40 countries gathered under the Joint International Observer Group/JIOG). While there were clear signs of intimidation and de facto censorship in the months preceding the polls, most observers gave voting day itself a seal of approval<sup>1</sup>.

Problems arose, however, during counting and when it became clear that the CPP would win the elections with an absolute majority, FUNCINPEC and the Sam Rainsy Party claimed fraud and said the formula for allocating seats had been changed illegally<sup>2</sup>. These complaints were given short shrift by the National Election Committee (NEC) and the Constitutional Council, both dominated by CPP supporters. The international community, anxious to avoid a constitutional crisis in Cambodia and the risk of instability, showed little sympathy.<sup>3</sup>

The opposition, spearheaded by the former finance minister Sam Rainsy, kicked off a civil disobedience campaign with a demonstration on 23 August 1998 that gathered some 10,000 people demanding a thorough investigation into fraud claims. The following day protestors began a sit-in protest outside parliament and their growing tented village was soon dubbed Democracy Square. Their anger flared when the Constitutional Council, final polls arbiter and the country's top legal body, rejected all their complaints on 31 August 1998.

On 1 September 1998, the NEC formally declared the CPP as winner of the elections, giving Hun Sen the right to form and head a new government. But any new government must command the support of

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<sup>1</sup> See earlier ICG reports, *Getting Cambodia Ready for Elections*, 12 January 1998; *Cambodia's Flawed Elections*, 16 June 1998; and *Cambodia's Elections Turn Sour*, 10 September 1998.

<sup>2</sup> The row over the seat allocation formula is dealt with at length in ICG's report, *Cambodia's Elections Turn Sour*

<sup>3</sup> Many analysts feel the international community perhaps made a pragmatic, rather than principled, observation about the elections. ICG addressed serious abuses following the 5-6 July 1997 factional fighting and during the electoral process in its three earlier reports. *Getting Cambodia Ready for Elections*, 13 January 1998; *Cambodia's Flawed Elections*, 16 June 1998; *Cambodia's Elections Turn Sour*, 10 September 1998. International Republican Institute President Lorne Craner, during testimony to a U.S. Congress Sub-committee on Asia and the Pacific meeting on 29 September 1998, described the electoral process as "among the worst" the U.S. body had observed since 1993. Some analysts feel this judgement unduly harsh.

three thirds of the assembly and CPP could only reach this target with the support of opposition members.<sup>4</sup>

The government reacted cautiously at first to opposition provocations and protests but Hun Sen become increasingly frustrated and needled by the fierce and at times irresponsible and inflammatory rhetoric of opposition leaders such as Sam Rainsy and Kem Sokha.<sup>5</sup>

Hun Sen's patience reached breaking point after two grenades were lobbed into the yard of his town house on 7 September 1998 -- military police swept through and destroyed Democracy Square the following day. Hun Sen blamed Sam Rainsy and the opposition leader sought sanctuary with the United Nations as a warrant was issued for his arrest, though this was later withdrawn.

But far from silencing the protests, the government action stirred up a hornet's nest and protestors took to the streets in large numbers while opposition leaders remained in sanctuary or hiding, worried about arrest and fearing for their lives.

More than one week of bloody clashes between anti-government protestors and police and between anti-government and pro-government forces left at least two people dead and many more missing. The chances for a breakthrough looked remote as each side dug in.

## 2. Struggling to Convene a New Parliament

The immediate aim of the CPP was to avoid a constitutional crisis by ensuring that the new National Assembly be sworn in before the mandate of the old house ran out on 23 September 1998. The continuing protests threatened to stymie this goal and Hun Sen warned that he would continue ruling with the old government if necessary.<sup>6</sup>

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<sup>4</sup> The CPP won 64 seats, or more than half the house, with just 41.4 percent of the vote, FUNCINPEC picked up 43 seats against 15 for the Sam Rainsy Party, which was contesting its first elections. The NEC put official turnout at 93.74 percent of the electorate or just over five million people.

<sup>5</sup> It should be noted that the opposition damaged their cause overseas with calls for attacks against Hun Sen and anti-Vietnamese rhetoric and must take some of the blame for the killings of at least four ethnic Vietnamese and damage to a monument to Cambodian-Vietnamese friendship. Animosity between the Khmers (Cambodians) and Vietnamese goes back at least two centuries and verbal attacks on the Vietnamese are a sure and easy crowd pleaser, but opposition reliance on such tactics is their Achilles Heel.

<sup>6</sup> The National Assembly had voted in August 1997 to appoint FUNCINPEC Foreign Minister Ung Huot to replace Ranariddh as first prime minister – Hun Sen was the second prime minister. The move was widely condemned as illegal but allowed Hun Sen to claim that his alliance with

But pressure for compromise was mounting, (ASEAN<sup>7</sup> and Japan both issued statements at the time recognising the results of the elections and urging the parties to settle their differences and form a government), while the government was able to put pressure on the opposition leaders<sup>8</sup> by barring them from leaving the country in violation of the constitution.

Efforts to force Sam Rainsy into backing down included a warning on 29 August 1998 by the Ministry of Interior that it had filed court papers seeking unspecified charges against him related to the deadly grenade attack on his opposition rally outside parliament on 30 March 1997<sup>9</sup>.

King Norodom Sihanouk had attempted to inject forward movement by offering on 2 September 1998 to host “family” talks at his royal retreat in the northwest town of Siem Reap, gateway to the ancient Angkor temples. These talks between the three parties, the NEC and the Constitutional Council, failed to break the deadlock and were followed by the government crackdown.

Following a failed attempt to break the deadlock by hosting talks at his royal retreat in the northwest town of Siem Reap, the king warned in an 11 September 1998 statement, that the opposition MPs would lose their parliamentary status and immunity if they failed to attend the inauguration of parliament. He said he would be unable to help if they encountered problems as a result.

The mounting casualty toll and pressure from the king and outside countries appears to have persuaded opposition leaders<sup>10</sup> to call for an end to the protests and agree to attend a summit meeting under the king’s chairmanship and to take part in the swearing in of the new parliament in Siem Reap on 24 September 1998.

Rainsy felt ready to emerge from UN sanctuary on 17 September 1998 but said he was still fearful for his life and arrest, and that he felt he

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FUNCINPEC had never been broken. Ung Huot, running for his own party, failed to win a seat in the new parliament.

<sup>7</sup> The Association of Southeast Asian Nations, grouping Brunei, Burma, Indonesia, Laos, Malaysia, The Philippines, Singapore, Thailand and Vietnam.

<sup>8</sup> The restrictions on opposition members are addressed in greater detail in the section on Human Rights. Opposition leaders were also clearly concerned about the mounting casualty toll from the protests.

<sup>9</sup> Disinterested observers believe this attack, which left at least 16 people dead and more than one hundred injured, was aimed at killing Sam Rainsy. The opposition leader, who escaped unscathed, blamed Hun Sen.

<sup>10</sup> The opposition also scaled back their demands, demanding only that the NEC reconcile ballots from the nine million issued and address their complaint that the formula for allocating seats had been changed. An earlier formula would have meant that the two opposition parties would have held an absolute majority in parliament. The seat allocation is addressed in ICG’s report, *Cambodia’s Elections Turn Sour*, 10 September 1998.

was a hostage and was going to the negotiating table under threat. He said he wanted to avoid further bloodshed.

The summit meeting in Siem Reap on 22 September 1998 was a positive step in that it helped defuse the increasingly violent crisis, but it failed to address proposals for a coalition. The meeting brought together CPP leaders Hun Sen and Chea Sim with Ranariddh and Sam Rainsy – it was the first time the prince and Hun Sen had met in more than a year.

The cautious optimism of the Siem Reap summit was shattered two days later when the swearing in of the new parliament at the 12<sup>th</sup> Century temple, Angkor Wat, was marred by an alleged attempt on the life of Hun Sen. A B-40 rocket, apparently triggered by remote control, was fired across the road leading from Siem Reap town to Angkor Wat at around the time MPs were heading to the temple. Hun Sen claimed it was a fresh attempt on his life.

The opposition denied responsibility for the attack, which left a teenage boy dead when the rocket hit his home. Amid contradictory accounts of the circumstances of the attack, analysts remain divided as to whom should bear responsibility. Some see it as a CPP ploy and others blame it on opposition military figures – the Khmer Rouge or royalists based on the Thai border. Others say it may have been aimed at opposition leaders.

Without doubt, the rocket attack helped put back a rapprochement. Scared opposition leaders, sporting their new parliamentary immunity and prestige, left the country<sup>11</sup> the next day fearing that the incident would be used as a pretext to arrest them.

### 3. Forging a Coalition Government

The CPP was keen to see coalition negotiations open and backed away from initial accusations against the opposition over the attack, paving the way for the first of a series of working group meetings to start in Phnom Penh.

But renewed threats of arrests and court summonses against those involved in the street protests<sup>12</sup> persuaded Ranariddh and Rainsy to

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<sup>11</sup> At one time more than 30 of the 53 opposition members of parliament were overseas, including all 15 deputies of the Sam Rainsy Party.

<sup>12</sup> Including opposition MP Kem Sokha, head of the parliamentary commission on human rights in the outgoing parliament. He was twice stopped from flying out of Cambodia by immigration officials. The government critic lost his parliamentary seat and immunity when the new assembly was convened and went into hiding the next day. He ignored two summonses to appear in court



postpone plans to return to Cambodia and subordinates were delegated to take part in the coalition talks. The first working group meeting was held on 29 September 1998 in Phnom Penh but achieved little.<sup>13</sup> A feature of the three working group meetings was that they showed the gap between the two sides – the opposition generally insisted on discussing their election complaints (above all the seat allocation formula) and the CPP said talks should focus on forging a coalition and getting parliament working.

Amid continuing stalemate,<sup>14</sup> Sihanouk was persuaded to postpone plans to go to China for medical treatment until a new government was formed. The King flew into Phnom Penh as the second round of talks began but his presence failed to spur the longed for breakthrough.

The CPP, in a bid to end the stalemate, called on Sihanouk to host a fresh summit and the king said he would only do so if the opposition agreed. This triggered a time-wasting argument over where the talks should be held with the opposition saying they should be held overseas on security grounds.

On 22 October 1998, Hun Sen put more pressure on the opposition by making a policy speech at a ceremony marking the seventh anniversary of the Paris Peace Accords.<sup>15</sup> It was a speech tailor-made to please donors<sup>16</sup>, but the strongman also issued a warning that he could no longer remain hostage to opposition maneuvering.

Pussyfooting followed about conditions until a breakthrough came on 7 November 1998 when Sihanouk met foreign ambassadors and, with encouragement, decided to offer his palace as sanctuary and his guards as security to Ranariddh and Rainsy if they returned. When Hun Sen gave written guarantees of safety, Ranariddh decided to accept and returned to the capital on 12 November 1998 for the first time since September.

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for questioning about his alleged role in stirring up demonstrators. He finally appeared in court on 15 December 1998 and denied accusations that he had incited violence and racial hatred during the August and September protests.

<sup>13</sup> Agence France-Presse quoted a CPP official as saying, "The first round of talks is like the first round of a boxing match. We do not know what the outcome will be just by watching the first round." Perhaps an unfortunate analogy given the past relations of the three parties involved.

<sup>14</sup> An American diplomat told ICG, "People looked like they were settling in for the long haul. There didn't appear to be any progress."

<sup>15</sup> The Paris Peace Accords, brokered by the United Nations and signed by the four warring factions on 23 October 1991, provided for building a liberal democracy under the rule of law. These legal documents were underwritten by 19 nations.

<sup>16</sup> See section on CPP Aims and Achievements.

In two days of talks chaired by Sihanouk, Ranariddh agreed to join a coalition headed by Hun Sen in exchange for amnesty for five people<sup>17</sup> and that he become the president (speaker) of the National Assembly. The CPP agreed that ministries should be split evenly, with defence and interior once again shared, while Hun Sen would be premier. The problem of what to do with Chea Sim was solved by the novel idea of setting up an upper house, the senate, which he would chair and also act as head of state in the king's absence. This would necessitate changing the constitution.

Sam Rainsy, while supporting Ranariddh's position, was cut out of the power-sharing arrangement though his party was to chair one of the nine parliamentary commissions envisaged. The CPP and FUNCINPEC would each get four.

"The big political crisis in our country has been solved, the political deadlock is over," a relieved Sihanouk said. He left for China the next day with a load off his mind. But only time will tell if his optimism was warranted.

FUNCINPEC and CPP formally cemented their renewed partnership at a ceremony on 23 November 1998, when it was revealed that Hun Sen would preside over an expanded 25-ministry government.<sup>18</sup> The new government was sworn in a week later.

## B. AIMS AND ACHIEVEMENTS

### 1. The Opposition<sup>19</sup>

The primary aim of all the political parties vying in the elections was to win at least a majority of seats, though all probably realised that some form of coalition would be inevitable. FUNCINPEC, feeling with

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<sup>17</sup> They were his two military commanders, Nhek Bun Chhay and Serey Kosal, the former FUNCINPEC secretary general Prince Norodom Sirivudh, former Interior Minister Sin Song and the king's son, Prince Norodom Chakrapong. The two latter, as members of the CPP, were implicated in a failed mid-1994 coup attempt, while Sirivudh was accused of trying to assassinate Hun Sen in 1995. All were in exile.

<sup>18</sup> CPP got 12 ministries, FUNCINPEC took 11 and two were shared, while each party appointed a deputy premier. In addition the royalists were given the Civil Aviation Secretariat and CPP received the Public Functions Secretariat. The three new ministries were Hydroelectricity and Meteorology; Construction; Inspection and Anti-Corruption.

<sup>19</sup> International analysts remain divided over the justness of the opposition cause, but for generally unsympathetic stands the writer is referred to the weekly Cambodia News Digest, an informative, reasonably balanced and often amusing weekly review published by the Cambodia Information Project of the NGO Forum. The special edition of 22 September 1998 is particularly critical of Sam Rainsy. Former Australian Ambassador to Cambodia Tony Kevin has also been critical of the opposition and the 11-24 December, 1998 edition of the Phnom Penh Post carries excerpts from a speech he made to the Australian Institute of International Affairs in Melbourne on 16 November 1998.

justification that it had been robbed of power by the CPP, was determined to put up a good showing and confident of victory.

But the decision of FUNCINPEC and the Sam Rainsy Party to run on separate tickets would split the opposition vote and help the CPP. They would likely have scored a resounding victory on a single ticket. Both men were also undoubtedly keen to see the downfall of Hun Sen, whom they believed was responsible for most of the ills that had befallen them and the country and their own set backs in particular.

While both parties did remarkably well in the elections -- considering the hurdles they faced and disadvantages compared to the ruling party -- they trailed the CPP and would not be able to prevent Hun Sen from becoming sole premier while their combined seat tally fell short of the absolute majority that would have allowed them to pass legislation.

An error was made, however, in not conducting a more thorough investigation into opposition charges of electoral fraud. While there was an element of the sore loser in the opposition intransigence, several of their complaints and demands had merit and should have been given more than a cursory and dismissive glance. When their concerns were rebuffed they started upping their demands, including calls for the resignation of Hun Sen.

In the face of mounting pressure and amid the violence, however, they scaled back their demands before agreeing to attend the convening of parliament. They now sought only a reconciliation of the unused ballots and resolution of the seat formula issue.<sup>20</sup>

The next stage in the process, forming a coalition government, was slow in large part because the opposition leaders were reluctant to return to Cambodia to take part in top level talks. But it is wrong to see the opposition as spoilers in the whole process. While it is unfortunate that the process took so long and was marred by violence, this can not be blamed squarely on the opposition – both sides appeared loath to budge.

The opposition had genuine concerns, though the government refused to act on them and the international community tried to push them to one side in its haste for a solution – not necessarily in Cambodia's best interests. Opposition leaders also had good reason to fear for their safety and while their continuing absence gave them a certain amount of leverage it should not be seen simply as a ploy to win concessions from the CPP.

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<sup>20</sup> The NEC finally announced on 10 October 1998 that 9,073,500 ballot papers had been issued and a check showed there were no major discrepancies. The opposition was not satisfied, saying their had been no verified reconciliation as they had not been allowed to witness the process.

A joint statement from FUNCINPEC and the Sam Rainsy Party, issued from Bangkok by Ranariddh on 4 November 1998, showed that the positions and policies of the CPP and the opposition were not so far apart<sup>21</sup>, on paper at least.

They called for confidence building measures, including military reintegration, amnesties and safety of the opposition, and outlined a “programme for a new direction.” This sought an end to impunity and corruption, respect for human rights, reconstitution of the NEC and Constitutional Council to make them more balanced. The statement urged that priority be given to administrative and judicial reform and proposed measures to alleviate poverty, improve the economy, protect workers and ensure resumption of IMF aid. They said the government must tackle illegal logging and protect the environment.

It was now a question of winning a satisfactory package from the CPP. This meant finding a suitable position for Ranariddh, who clearly would not be prepared to work under his old nemesis Hun Sen. In the end, both FUNCINPEC and CPP budged slightly but both had reason to be pleased with the final deal.

FUNCINPEC had secured almost 50 percent of the cabinet, including nominal joint control of the key defence and interior portfolios and leadership of the important justice and information ministries. CPP had originally insisted on keeping all five key ministries – defence, interior, justice, foreign affairs and finance -- and proposed a 60-40 percent carve up of the cabinet.

Ranariddh, whose political career and personal reputation lay in tatters in July 1997, had secured amnesty for two loyal military commanders and two of his relatives and won the plum post of parliamentary chairman for himself.

But there were costs. Ranariddh had been forced to accept Hun Sen’s leadership and, in effect, shelved most of his post-poll demands and complaints. FUNCINPEC was also seen as getting the raw deal in the allocation of the ministries, with CPP getting the money making ministries (such as finance, industry, commerce, agriculture, foreign affairs and planning) and FUNCINPEC taking social sector ministries (including rural development, health, education, women’s affairs and culture).

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<sup>21</sup> A Joint Proposal by FUNCINPEC and the Sam Rainsy Party. November 4, 1998. Ranariddh and Hun Sen both acknowledged the similarities, which gave them a base for negotiations and a common platform.

It had also accepted establishment of an upper house, which could possibly obstruct Ranariddh's control of law-making in the assembly if the two sides fell out again.

The prince appears to see his party as a watchdog and counter-balance to guard against government excesses or any shift towards autocracy. But it should be remembered that it did not have a good record in this department during its earlier partnership with the CPP.

Sam Rainsy, shut out of a power-sharing role, welcomed the government's policy programme announced in parliament but voted against accepting the coalition saying he doubted the cabinet's ability to carry out its programme as it brought together mostly the same crew that had steered Cambodia towards the rocks after 1993.<sup>22</sup>

"To install the same people in the government is a recipe for disaster and we will not support it," he said, asserting that the division of ministries left the CPP in "control of the two founts of power in Cambodia: guns and money."

He may seem to have gained least from the elections, but Sam Rainsy should not be seen a loser. For three years Sam Rainsy was the voice of dissent in Cambodia though his Khmer Nation Party was never recognised by the government.

The elections and the fresh commitment to democracy mean the renamed Sam Rainsy Party has gained acceptance as the official parliamentary opposition – a historic step forward for democracy in modern Cambodia, where past regimes have never really accepted the concept of a loyal opposition. It also has chairmanship of a parliamentary commission and the swing vote in the assembly's 12-member permanent committee.

Sam Rainsy has said the opposition will create a shadow cabinet to critique government actions and suggest improvement and changes in policy. But many officials and analysts fear he could become a destructive element in Cambodia politics, rather than the leader of a loyal though vigilant opposition that challenges the government constructively.

His combativeness and confrontational streak has returned to the fore since the formation of the government and he has reasserted that the polls were rigged, rejected the senate solution, called on ASEAN not to admit Cambodia as its 10<sup>th</sup> member, accused FUNCINPEC of selling out to the CPP and renewed his attacks on Hun Sen, including

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<sup>22</sup> See Sam Rainsy Party statement of 30 November 1998 -- "Main Points of Sam Rainsy's Address to National Assembly."

pressing U.S. senators to support a resolution seeking Hun Sen's trial for rights abuses.

Many diplomats and observers, while admiring much of what he has to say are wary of his methods – there is a feeling that Cambodia is perhaps not ready for the kind of freedoms and opposition tactics taken for granted in the west -- and his almost obsessional crusade against Hun Sen. They believe the Sam Rainsy Party should challenge the government in parliament rather than on the streets and should see change as a gradual process rather than working to bring things down in order to rebuild.

Others see him as an irresponsible and egocentric maverick, who was responsible for bringing Cambodia to the brink after the polls, while his supporters -- many based overseas -- laud his courage and commitment. Ultimately the question is whether or not the CPP will be ready to tolerate the party as a determined vocal opposition.

## 2. The Cambodian People's Party

Hun Sen sought through the elections to improve his tarnished image and win international legitimacy for a CPP-led government – a crown denied his party for more than a decade. He wanted to win a clear victory over the opposition in elections recognised as free and fair, but he had also long insisted that Cambodia must be led by a coalition well into the 20<sup>th</sup> Century. The CPP wanted a coalition on its own terms. It wanted to maintain clear power and in that aim it has been successful, though it has had to compromise after a bitter struggle.

The international community's swift acceptance of the elections<sup>23</sup> gave the CPP a great fillip, but initial elation soon turned to gloom when the opposition stubbornly refused to recognise the results and enter into coalition negotiations.

The government showed admirable early restraint but mounting frustration led to the sad events of September – seen by some as a case of the CPP once more shooting itself in the foot. The government has since defended its actions in a White Paper prepared with the help of U.S. lawyers.<sup>24</sup>

“What began as a protest against the election became an attempt to overthrow the government and an incitement to assassinate Prime

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<sup>23</sup> The JIOG announced on 27 July 1998 that “what could be observed by us on polling day was a process which was free and fair that enables it to reflect, in a credible way, the will of the Cambodian people.”

<sup>24</sup> *White Paper. The Defence of Young Democracy in Cambodia – The 1998 Elections and Its Aftermath.* 13 October 1998, Office of the Council of Ministers. The report relied largely on the English-Language foreign and local press for its sourcing.

Minister Hun Sen. What had been a peaceful situation changed into a violent one. None of this was by accident: As the events indicate, it was by design," said the White Paper, which alleged that the opposition had deliberately provoked violence as a tactical maneuver after losing the polls.

A frustrated Hun Sen, announcing a major policy statement on 22 October 1998, warned that he would go it alone if the opposition continued shutting the door to a coalition. In fact his speech, aimed at both donors and the opposition, established common ground between the rivals. It was probably aimed in part at warning the opposition that they did not have as much leverage as they might think.

His seven-point plan called for heightened security, new irrigation projects, a crackdown on illegal logging and protection of the environment, sweeping reforms of the administrative, fiscal and judiciary systems and measures to counter corruption and impunity -- all things guaranteed to please international donors.

But former Canadian Ambassador to Cambodia, Martin Collacott<sup>25</sup> noted that, "While he may have succeeded in pushing many of the right buttons in telling the international community what it wanted to hear, this is not the first time he has given such reassurances. One of the key indices in determining whether Hun Sen is serious about reform is how he deals with the lack of rule of law and state of impunity which pervades the country," he added. Most rights abuses of the past five years have gone unpunished and Collacott said opposition reservations about cooperating with Hun Sen were understandable.

But Hun Sen, though flawed, is not a monster. He cares about his country and has shown that he is slowly getting to grips with democratic concepts after tutelage under autocratic administrations -- under his leadership Cambodia has gone from communist isolation to becoming one of the freer countries in the region, relative as this may be.

He must also struggle against deeply vested military, political and business interests -- the sleaze factor -- if he is to achieve the goals set out in his 22 October 1998 speech and government programme of 30 November 1998. Pride at finally leading his country with the will of the world could push him to go the extra mile.

Ultimately, Hun Sen must be seen as the major winner of the elections. He is now the sole helmsman of the government, while his party has retained its dominant position and faces no significant military threat. The government has also regained its seat in the

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<sup>25</sup> *Phnom Penh Post*, 30 October-12 November, 1998.

United Nations, but fell short in its bid to become the 10<sup>th</sup> member of ASEAN by the end of 1998. Chea Sim, said to be his main power rival within the CPP, has been placated by the decision to form a second parliamentary chamber.

Pragmatists, while acknowledging the highly irregular nature of setting up the senate to placate one man, say it is worth it if it brings peace. It will clearly take time to debate and agree on its functions and composition – and how members will be appointed – but the danger remains that it could prove to be counter-productive.

Cambodia needs a parliament that works regularly and efficiently – so much important legislation was held up because of the squabble between FUNCINPEC and the CPP. But if the senate – which should review bills before they become law -- is handled wrongly and gathers partisan groups it could end up obstructing legislature.

### 3. The International Community

The international community, weary after years of political machinations and instability in Cambodia, was quick to give the electoral process a stamp of approval though critics have said most countries failed to place the polls in context and were not prepared to make a candid re-evaluation when doubts later emerged.

Overseas governments focussed on getting the rivals – particularly the CPP and FUNCINPEC – together to form a coalition. Their priority seemed to be to secure stability and work on developing democracy later.

Nevertheless, the international community's message was that the formation of any new government should reflect the election result and Cambodia's status in the international community would depend in part on that being achieved.

Donors became increasingly frustrated at the lack of movement, which threatened to negate the enormous financial and human resources they had invested in bringing peace to Cambodia. Some began to see the stay-away opposition leaders as responsible for the deadlock and stepped up ultimately successful efforts to persuade them to return home and pressure the government to provide security guarantees.

The international community welcomed the establishment of the coalition. For example the European Union, the biggest financial backer of the July elections, issued a statement on 19 November 1998 saying it would consider full resumption of aid when the government was installed.



The United States, which had been the harshest overseas critic of the Hun Sen government, said it recognised the coalition and supported its right to take back Cambodia's U.N. seat. The U.N. General Assembly on 7 December 1998 approved its Credentials Committee's decision to give Cambodia's seat to the coalition government.

Washington will review resumption of its development aid to Cambodia but is likely to wait and see how the coalition is working out before reopening the aid taps.

Relations between Cambodia and the U.S. became frosty after Hun Sen's 1997 power grab, but ties deteriorated further in the post-poll period, not least because of the anti-Hun Sen polemics of American politician and overseas opposition ally Dana Rohrbacher<sup>26</sup>, a Republican congressman whose California constituency contains a large Cambodian community.

Much confusion stemmed from the mistaken belief among Cambodian officials that attacks by individual members of the Congress represented official U.S. policy. When the House of Representatives passed House Resolution 533 on 10 October 1998, urging the U.S. government to support efforts to indict Hun Sen as a war criminal, the Clinton administration was forced to explain that it did not support the resolution.<sup>27</sup> The non-binding resolution was widely condemned by foreign diplomats, analysts and academics<sup>28</sup>.

Meanwhile, Hun Sen failed in his second major foreign policy goal – winning ASEAN membership at the group's 15-16 December 1998 leadership summit in Hanoi. This failure reflected growing and unprecedented divisions within the movement.<sup>29</sup>

ASEAN, while accepting the election results, had made it clear that it would not admit Cambodia unless there was an acceptable government. Most members believed that the coalition should be

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<sup>26</sup> For an interesting review of right-winger Rohrbacher's record on some important domestic issues see Joe Charny's letter to the *Cambodia Daily* of 11 September 1998.

<sup>27</sup> The U.S. State Department issued a statement saying, "US policy does not support the establishment of a tribunal for the purpose of investigating allegations of human rights violations and other crime focussed on only a single individual."

<sup>28</sup> For instance, Craig Etcheson and Stephen Heder, experts on the Khmer Rouge, wrote in an open letter to Congress on 26 October 1998 that, "Calls to indict Hun Sen of Cambodia for genocide, war crimes and crimes against humanity have no basis in fact or law. No credible evidence exists to support a charge that Hun Sen was implicated in such crimes." They added, "It is a disservice to the rule of law and the truth to make baseless or grossly exaggerated allegations to achieve a political end."

<sup>29</sup> The more democratic nations, Thailand and the Philippines, have called with limited success for the movement to adopt a policy of "flexible engagement." This would allow for criticism of other member countries where their policies affect the interests of the organisation. Opponents say it will undermine the sacred concepts of sovereignty and non-interference.

allowed to join at their December summit, but the Philippines, Singapore and Thailand argued that more time was needed to make sure the coalition was working harmoniously and for the senate to be set up.

In the absence of consensus and to save Hun Sen face, ASEAN leaders agreed to admit Cambodia as the 10<sup>th</sup> member but did not set a date for formal induction. Singapore's Prime Minister Goh Chok Tong likened the solution to a wedding, saying "Cambodia has already been registered, (its) just waiting for the wedding party."

## C. PRESSING PROBLEMS

### 1. The Human Rights Situation

#### **Government commits itself to protect human rights**

Hun Sen, in an address on 10 December 1998 marking the 50<sup>th</sup> Anniversary of the U,N, Declaration of Human Rights, sat at the same table as his erstwhile nemesis Prince Ranariddh and pledged his government's commitment to safeguarding human rights.

It was ironic, not only because of the past bad blood between the two men and past abuses meted out on the royalists by the CPP, but also because less than two weeks later police in the southern port of Sihanoukville arrested two local human rights workers on controversial charges and without warrants.

The LICADHO agency workers were accused of leading demonstrations, and encouraging riots, against the import of toxic waste from Taiwan, but LICADHO has said the two were only monitoring the protests and advising demonstrators of their rights. They remain in prison at the time of publication.

The formation of a coalition has raised hopes that the human rights situation in Cambodia will improve even if fears prevail in a still uncertain period and given that the record during the weeks under review was poor.

#### **Democracy Square crackdown "violent and unconstitutional"**

Armed riot police were relatively restrained when clearing protestors out of "Democracy Square" on 9 September 1998, but their action violated the constitutional principles of freedom of assembly and expression. The government said the move was necessary to maintain public order, but it served only to stir up unrest that left people dead and injured.

The government's strong-arm and unconstitutional tactics failed to muzzle the protestors, who took to the streets day after day, braving the violent fury of armed security forces and pro-CPP demonstrators. In fairness, it should be noted that some opposition demonstrators resorted to violence, throwing rocks and using slingshots against police. Some also taunted police with inflammatory and racist slogans.

The Phnom Penh-based United Nations Centre for Human Rights, whose staff had investigated cases of election-linked violence and intimidation since late May<sup>30</sup>, reported at the end of October that at least 34 people had been killed in August and September, including two killed during suppression of anti-government demonstrations and the four ethnic Vietnamese.<sup>31</sup>

"Four other deaths occurred either outside Phnom Penh or in circumstances which set them apart from those during the demonstrations, The remaining 24 killings were part of a surge that coincided with the suppression of opposition protests by the security authorities," the report said. It added that while no direct link could be established between the majority of the cases and the involvement of the victims in the demonstrations or other political activities, most of the dead bore signs of violent death.

The report said the centre was investigating the disappearance of 53 people not seen since the demonstrations dispersed. It said it had reports of more than 50 people being arrested but the government has said less than 30 people were detained and most since released.

### **Monks targeted by police**

A disturbing feature of the police tactics included their treatment of unarmed Buddhist monks who joined the demonstrations in large numbers. The saffron-robed monks, regarded with great reverence by Buddhists, were apparently singled out for beatings and harassment and many went into hiding or fled overseas.

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<sup>30</sup> Past reports from the centre have annoyed the Hun Sen government while some officials and pro-CPP newspapers accused certain U.N. staff of supporting demonstrators during the September protests. An Australian U.N. monitor was questioned by police for several hours and had his vehicle impounded after trying to take a badly beaten demonstrator to hospital on 14 September 1998.

<sup>31</sup> A number of U.N. reports are of interest for this period including: *Situation of Human Rights in Cambodia Report of the Secretary General* 17 September 1998 A/53/400; *Monitoring of Election-related Intimidation and Violence* (Report August 19 – Sept 23 1998) *Special Representative of the United Nations Secretary General for Human Rights in Cambodia*; *Monitoring of Election-Related Intimidation and Violence* (August 20 – October 28, 1998) *Special Representative of the United Nations Secretary-General for Human Rights in Cambodia*; *Presentation of the Report by the Special Representative of the Secretary-General on Human Rights in Cambodia, Third Committee of the General Assembly* 6 November 1998;

The government admits that armed police were sent to pagodas to tell monks not to take part in demonstrations, arguing that they should not get involved in politics. It strongly denied that any monks were killed or arrested by security forces, while some officials accused the opposition of disguising their supporters as monks.<sup>32</sup>

But the United Nations and local human rights groups reported that many monks were certainly injured during the demonstrations, including two hit by bullet fire, while the disturbances left at least two civilians dead. The rights groups soon began logging arrests of protestors and reports of bodies -- often mutilated, tied, gagged and blindfolded -- turning up in and around the capital.

### **Curbs on opposition figures**

While government forces clearly committed human rights abuses in cracking down on the protests, the administration also flagrantly violated the rights of opposition politicians in a clearly cynical bid to pressure them into attending the convening of a new parliament on 24 September 1998.

The government drew up a list of almost 70 senior opposition members barred from leaving the country, including Members of Parliament, policemen and servicemen, in clear violation of their constitutional rights.<sup>33</sup> Hun Sen<sup>34</sup> had hinted to reporters at Angkor Wat on 23 September 1998 that MPs who refused to attend the convening of the new parliament faced arrest. He said parliamentary immunity could be removed by vote if a deputy was charged with a crime. Accordingly, opposition fears for their safety, fuelled by the uncertainty that followed the rocket attack in Siem Reap, can not be dismissed.

### **Media restrictions**

The government's attitude towards the press during this period gave no more room for cheer. The Sambok Khmoum, or Beehive, radio station folded after the government said it had reneged on pledges not to comment on political issues (it is, however, expected to return to the air waves on 1 March 1999), while three newspapers were

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<sup>32</sup> Article 15 of the Law on Political Parties bars monks from conducting "any activity for supporting or opposing any political party." Monks, who are allowed to vote have said they were simply supporting human rights and democratic ideals.

<sup>33</sup> Article 40 of the Cambodian constitution guarantees freedom of movement to all citizens, while Article 80 guarantees immunity to members of parliament.

<sup>34</sup> Hun Sen had earlier claimed the ban was necessary to prevent potential suspects in the grenade attack on his Phnom Penh residence from leaving the country.

suspended.<sup>35</sup> Information Secretary of State Khieu Kanharith threatened to suspend two U.S.-owned newspapers (*The Cambodia Daily* and *The Phnom Penh Post*) and revoke the visa of the American correspondent of Deutsche Presse Agentur (DPA) due to their coverage of the Siem Reap rocket attack, but backed down after complaints from U.S. Ambassador Kenneth Quinn and others.<sup>36</sup>

The incoming information minister, FUNCINPEC's Lu Laysreng has pledged to foster a more politically neutral media and said he will not give the airwaves to political parties. His apparent neutrality is to be commended but only time will tell if he remains true to his word and it should be remembered that the former FUNCINPEC government cooperated in efforts to muzzle the press after 1993.

### **Some positive signs**

On the plus side, Hun Sen and the CPP should be commended for agreeing to the royal amnesty of Sam Rainsy's former security chief Srun Vong Vannak, who was released on 30 September 1998. He had been jailed for allegedly orchestrating the shooting slaying of Hun Sen's brother-in-law, Kov Samuth in 1996. The five amnesties agreed on at the 12-13 November summit, while welcome, were given for political reasons.

The death of Pol Pot and apparent total demise of the Maoist Khmer Rouge guerrilla group, seen as the biggest abusers of human rights in modern Cambodian history, was another very welcome positive development for the growth of democracy in Cambodia.

## 2. Demise of the Khmer Rouge

### **Khmer Rouge bows out**

The defection to the government of former Khmer Rouge deputy premier and foreign minister, Ieng Sary, in August 1996 signalled the beginning of the end for the secretive communist group, whose radical agrarian 1975-1979 rule led to the deaths of up to two million people from execution, disease, starvation and overwork.

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<sup>35</sup> Moneakser Khmer (Khmer Conscience) was suspended for articles critical of the king, Srorch Srang Cheat News (National Salvation News) was suspended for saying Sihanouk should be tried for crimes committed during Khmer Rouge rule and Udom Katté Khmer (Khmer Ideal) was suspended after it refused government demands that it source allegations that monks were being held by police for taking part in demonstrations.

<sup>36</sup> The UN Centre for Human Rights voiced its concern about government media policy in a statement issued on 15 October 1998, which called on the authorities to "ensure that press freedoms are upheld, and to refrain from actions that might be seen as infringing on the environment in which journalists operate." It added that responsible journalism was also important.

Khmer Rouge supremo Pol Pot died in April 1998, the remaining guerrilla forces seceded to the government in December and two of the three surviving hold-out revolutionary leaders – nominal chief Khieu Samphan and ideologue Nuon Chea<sup>37</sup> – surrendered to the government on Christmas Day.

The apparent eclipse of the movement (at least as a military force) together with the end of royalist resistance leaves the country free from warfare for the first time in three decades and provides the government with a tremendous opportunity to build on peace foundations by cutting defence budgets, launching a significant demobilisation programme and allocating resources to areas such as agriculture, rural development, education and health. .

### **Reconciliation versus justice and accountability**

The capitulation of the Khmer Rouge has come at a price and the emotive issue of what to do with those blamed for the horrors of the Cambodian killing fields has been resurrected, but it risks unraveling the newly won and fragile stability.

The former guerrillas maintain de facto control over significant areas of western and northern Cambodia – reward for pledging allegiance to Hun Sen -- and lingering suspicions remain about their loyalty and ultimate aims. A Trojan Horse theory cannot be totally ruled out and vigilance must be maintained inside and outside Cambodia.

The surrenders of Khieu Samphan and Nuon Chea and the resulting furore about their apparent immunity from prosecution has highlighted fears about the motives and loyalty of the Khmer Rouge and raised questions about their commitment to peace.

Many had criticised the decision in September 1996 to grant Ieng Sary a royal pardon for his membership of the Khmer Rouge<sup>38</sup> and 1979 conviction in absentia for genocide, but Hun Sen and then co-premier Ranariddh had argued that it was necessary in the interests of reconciliation and peace.

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<sup>37</sup> Khieu Samphan and Nuon Chea are among six surviving members of the standing committee of the Khmer Rouge's central committee. The others are Ieng Sary and his wife Ieng Thirith, now in Pailin, former zonal commander Ke Pauk, who defected to the government in March 1998 claiming innocence of killings attributed to him in the 1970s, and feared one-legged military commander Ta Mok, who is on the run in the Thai-Cambodian border area. The standing committee was the decision making body of the Pol Pot regime and any trial of Khmer Rouge leaders is likely to focus on its surviving members.

<sup>38</sup> National Assembly members adopted legislation banning the Khmer Rouge in July 1994. Ieng Sary and Pol Pot were both convicted of genocide and sentenced to death at a show trial in Phnom Penh.

The scramble to win over more Khmer Rouge leaders and fighters contributed to the deadly split in the government, with Hun Sen accusing Ranariddh of trying to forge a secret deal with Khieu Samphan shortly before their coalition government disintegrated at the beginning of July 1997.

The fluid nature of Cambodian politics was well demonstrated in 1998 when Hun Sen repeatedly insisted there would be no forgiveness for the Khmer Rouge hardliners, only to turn round after the defections of the two aged revolutionaries on 25 December 1998 and declare that, in the interests of national reconciliation, they should not face trial.

Domestic and overseas anger at this volte face, which came less than six weeks after Hun Sen reaffirmed his support for a tribunal during a meeting with a team of international jurists appointed by the United Nations to investigate the feasibility of a trial, was compounded by the VIP treatment lavished on the two during a week-long tour taking in Phnom Penh, the seaside and the Angkor temples.

Khieu Samphan attempted to atone for the past by declaring at a press conference in Phnom Penh on 29 December 1998 that he was “sorry, very sorry” for what had happened under the Khmer Rouge, while asserting that people should not dwell on the past but “let bygones be bygones” and work towards the development of Cambodia.

Hun Sen later backpedaled in the face of the uproar – King Sihanouk<sup>39</sup>, for example, weighed in by saying he was not willing to grant any more amnesties to Khmer Rouge leaders. He said his decision reflected the will of the people.

In a statement broadcast nationwide on 1 January 1999, the prime minister denied that the Khmer Rouge leaders had been given blanket immunity and he criticised the international community for being so quiet about the need for a tribunal for so many years. He has since said, in an interview with Agence France Presse on 16 January 1998, that he backed a trial for the Khmer Rouge leaders but it should not be restricted to Pol Pot’s regime but take in atrocities from 1970 to 1998 and examine the role of their international supporters.

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<sup>39</sup> The king, like former guerrilla fighter Hun Sen and almost everyone else in Cambodia’s political class has been tarred by association with the Khmer Rouge. Sihanouk formed an alliance with the Khmer Rouge after his government was overthrown in a 1970 coup. He was placed under palace arrest months after the Khmer Rouge came to power yet joined forces once more with the Khmer Rouge in the 1980s to fight the Vietnamese-installed government ultimately led by Hun Sen. Sihanouk and Hun Sen laid the foundations for peace by opening negotiations in 1987.

Hun Sen's New Year's Day message prompted bellicose statements from Pailin, where the military chief Ei Chhien<sup>40</sup> said any effort to bring Khmer Rouge leaders to trial could trigger renewed civil war. Analysts agree that any attempt to extract the Khmer Rouge leaders from Pailin would be difficult and costly without the cooperation of the military commanders.

Some may feel Hun Sen, facing a difficult situation, has grounds for some bitterness. The United Nations<sup>41</sup> had only decided in 1997 to launch an investigation into the feasibility of taking people to trial for abuses committed by the Khmer Rouge. The Khmer Rouge held Cambodia's U.N. seat with two resistance partners until 1991 and was a signatory to the Paris Peace Accords of that year but later reneged on the pact.

A three-man team led by former Australian Governor General Sir Ninian Stephens visited Cambodia in November to gather information. They left saying any trial should focus on standing committee members, but their final recommendations are not due till February.

It is unfortunate that just as the movement to bring the historic Khmer Rouge leaders to trial was gaining momentum, the Cambodian government is being seen as allowing the ringleaders to escape accountability on the grounds of reconciliation.

National reconciliation should not be achieved at any cost and there is some evidence that the military commanders in Khmer Rouge zones would not be willing to forego their recent acceptance into the national fold – with all the riches it has brought or promises – for the sake of a few old men. But their public postures continue to cause concern.<sup>42</sup>

It is not the place of this report to consider what kind of tribunal should take place or where<sup>43</sup> but it should clearly be conducted with the will of the Cambodian people – indications are that they wholeheartedly

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<sup>40</sup> An Agence France-Presse dispatch in the *Bangkok Post* on 8 January 1998 cited Ei Chhien as saying, "Some people want a trial to happen. If there is a trial there will be no profit, just loss... We want peace, not conflict. If Khmers are divided, Khmers die. We eat and sleep together, so who should stand trial." But the *Cambodia Daily* on 12 January 1998 quoted Ieng Sary's son, Ieng Vuth, as denying the reports that he and other senior officials in Pailin had warned of violence if arrests were made for a tribunal.

<sup>41</sup> Hun Sen and Ranariddh wrote to U.N. Secretary General Kofi Annan in June 1997 seeking UN help to bring the criminals behind Cambodia's holocaust to justice. The U.N. General Assembly formally asked Annan to appoint a team to investigate Khmer Rouge atrocities in November 1997.

<sup>42</sup> The Khmer Rouge can also no longer count on the support of former overseas allies such as China and Thailand, who have both shown firm support for the Phnom Penh government in recent years.

<sup>43</sup> However, international assistance would be essential as Cambodia's partisan judiciary system is clearly not equipped to conduct a fair trial of international standards.



support a review of their dark past. While the international community should not try to impose its will on Cambodia it should firmly encourage the government in the pursuit of justice.

Impunity<sup>44</sup> lies at the heart of the matter. If the Cambodian government cannot show itself to be acting against the worst human rights abusers in its recent history, then all those in power – from the village policeman to the prime minister -- will continue to accept and be seen to accept that they are not accountable for their actions. A trial would become an act of national catharsis and act as a scarecrow to all rights abusers.

The international community's concern might be late, but this is better than never, and it is in their interests as much as that of the Cambodian people to see the rule of law upheld in Cambodia and a blow struck against the climate of impunity.

We should not let bygones be bygones and a trial should reveal the truth, warts and all, however painful that might be to nations that supported the Khmer Rouge. ICG also believes any one found guilty of crimes against humanity should face punishment as pragmatic suggestions that conviction be followed amnesty make a mockery of the concept of accountability.

### 3. Repatriation of Refugees

Border-based fighting that followed the collapse of the coalition in 1997, the ousting of Khmer Rouge hardliners from the northern district of Anlong Veng in 1998 and renewed fighting between Khmer Rouge defectors and government forces in the Samlaut district of western Cambodia in 1997 created a new refugee problem for Thailand.

Thai camps were home to more than 350,000 Cambodian refugees when the country's four major warring factions signed the U.N.-brokered Paris Peace Accords in October 1991. A laudable U.N. operation saw most of them repatriated before the 1993 general elections.

The fresh exodus prompted the U.N. High Commissioner for Refugees to twice postpone plans to close their Cambodia operation, which is expected to continue working until at least December 1999. But hopes are now high that all the refugees will be able to return home in the coming few months. Some 10,000 had returned by the end of the year but there are still around 35,000 refugees living at three camps in the eastern provinces of Surin, Sisaket and Trat.

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<sup>44</sup> ICG has dealt at length with the question of impunity in its three previous reports on Cambodia.

UNHCR officials have said there was no evidence that those who have already returned were being persecuted, but a problem facing resettlement programmes is the presence of land mines in home areas of the refugees, especially around Samlaut. The government should take steps to ensure that refugees return only to safe areas.

Repatriation should be voluntary but there are concerns that some refugees may be under pressure from the Khmer Rouge in the Trat and Sisaket camps to return to certain areas.

Linked to repatriation is the question of reintegration of the rival forces and the sooner this process is carried out the better, but any retribution against those returning to the armed forces could jeopardise the whole exercise. There are still clearly tensions between the two sides.<sup>45</sup>

The pardon for top FUNCINPEC commander, Nhiek Bun Chhay, who formally relinquished command of his defiant troops on 3 December 1998, has paved the way for reintegration. The past problems within the security forces also highlight the need to depoliticise the military and police.

#### 4. The Socio-Economic Situation<sup>46</sup>

Cambodia's economy, development and most civilians have been the biggest casualties of the long spat between the country's leading political parties since tension between Hun Sen and Ranariddh first burst into the open in 1996.

Investment had already started slowing down before the fighting of July 1997, but the split saw several major donors suspend development aid, -- the government relies on overseas assistance for some 40 percent of its annual budget -- foreign investment almost dry up and tourists give the country a wide berth. The collapse of the coalition also coincided with the start of the Asian economic crisis.

The situation did not improve significantly in 1998 but many hope the formation of a new coalition will encourage investors and tourists to return and donors to reopen the rusted aid taps. This, of course, will depend on stability -- investors are likely to exercise caution until it has been shown that the government and the law is working effectively --

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<sup>45</sup> The *Cambodia Daily* reported on 14 January 1999 that authorities had a day earlier released eight royalists resistance officers held for five days on charges of harbouring an illegal army, including Khmer Rouge soldiers.

<sup>46</sup> Reports for further reference in connection with this section include: Cambodia UNDP 1997 *Annual Report*; Report on the Cambodian 1998 Joint Unicef-WFP Baseline *Survey of CASD* (Community Action for Social Development) *Project* and *WFP Target Areas*, December 1998. The *Cambodian Development Review*, a quarterly publication issued by the Cambodia Development Resource Institute, is a useful reference.

and improvement in the condition of the ailing world economy but there were faint signs of recovery at the end of 1998.

Finance Minister Keat Chhon has said Cambodia's gross domestic product (GDP) grew less than three percent in 1998 against earlier forecasts of 3.5 percent and annual increases of around six percent<sup>47</sup> from 1993 to 1996. He said the government would aim for four percent growth this year, but analysts believe this is optimistic.

The local currency, the riel, has also fallen since July 1997, from a steady 2,500 riels to the dollar to a reasonably stable 3,800. Inflation has not hit as hard as in neighbouring countries because Cambodia is a largely dollar economy, but this also means its labour costs have become less competitive. According to estimates by overseas economists per capita income rose from about US\$130 in 1990 to \$292 in 1996, but slumped back to around US\$275 in 1997.

Hun Sen has stressed in policy speeches that his government will focus on boosting the economy and righting social inequalities, but the budget of almost US\$400 million for 1999 leaves open questions about the administration's sincerity in tackling fundamental problems.

The military continues to get the lion's share, down slightly from 1998 but still accounting for around 40 percent of public expenditure.<sup>48</sup> The Finance Minister has explained that this money is needed in part to pay for integration of Khmer Rouge defectors – "buying peace" as he put it.

Expenditure on health, education and agriculture is set to rise, but these sectors have always received a pittance in the past. Donors have repeatedly called on the government to boost the budgets of the social sectors and to trim the ranks of the police, military and civil service.

Formation of a government will allow the government to once more take its begging bowl to the international community and Tokyo is expected to host the first donors meeting in almost two years on Cambodia in late February.

Cambodia was able to count on aid from the Consultative Group (CG) meetings of about US\$500 million a year between 1993 and 1996 and

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<sup>47</sup> It should be noted that much of the growth in these years took place in and around Phnom Penh only, The vast majority of investment after the formation of the coalition in 1993 was external, internally generated resources were relatively small and most went to care for the army and police. In the public sector, almost everything came from overseas. This massive externally-driven growth was reined back in 1997.

<sup>48</sup> It should also be pointed out that defence expenses tend to be revised, at the expense of the social sectors, during the year.

the government has indicated that it wants to win similar annual amounts through the turn of the century.

But the last CG meeting, held in Paris shortly before the fighting of July 1997, indicated that the international community was hardening its attitude towards Cambodia. Some economists believe the international community was so generous, and loath to ask tough questions of the government, in past years due to a feeling of guilt about Cambodia.

They say Cambodia is likely to face a much harder ride during the coming CG meeting, with donors demanding that Cambodia take much more stringent and effective measures to wean itself off international aid. Donors will be concerned about policy, effectiveness and strategy and this should help Cambodia prioritise and make the best choices.

Donors are likely to demand that Cambodia work more assiduously towards rural development and agricultural, administrative and fiscal reform<sup>49</sup>. Clearly, also, action against scourges such as illegal logging, smuggling and corruption would reduce the massive hemorrhaging of resources that the government should be able to count on. Demobilisation must also be a major focus.

Agence France Presse reported on 15 January 1998 that the government planned to cut the strength of its armed forces from 148,000 to 55,000 and trim police ranks to 24,000 from 60,000 at a cost of US\$154m a bill which Cambodia wanted the international community to foot. It quoted a government spokesman as saying Hun Sen would step down as commander in chief of the armed forces to make it more neutral.<sup>50</sup>

Aid levels will almost certainly drop even further – and become more conditional -- if Cambodia does nothing to address abuses. Yet there are some signs of progress and a commitment to deal with root problems. Small but positive measures include Hun Sen's decision to jettison most of his 100 or so advisors, while the government has said it will tax senior officials. More significantly the government, which relies almost exclusively on customs revenues for its internal income, introduced a value added tax of 10 percent on 1 January 1998. This tax, postponed from last year, will apply to the country's 2,000 largest businesses and replaces a four percent turnover tax.

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<sup>49</sup> UNDP's annual Cambodia report said it was particularly concerned that its Public Administration Reform programme and Public Finance and Monetary Management programme did not meet expectations as "an effective and efficient public administration and fiscal management are paramount requirements for peace and sustained poverty reduction."

<sup>50</sup> Military analysts reckon official figures for the security forces are exaggerated and say numbers are padded with ghost troops.

This is an important measure to modernise Cambodia's taxation system and boost treasury coffers, as was a decision on 31 December 1998 to introduce a three percent tax hike on imported cigarettes and alcohol. But these measures must be implemented effectively and fairly – there must be seen to be a level playing field if outsiders are to be encouraged to risk sinking money into Cambodia.

The lack of will to capture local money through taxes has been a particular bug-bear for overseas institutions. Cambodia has one of the smallest tax collection rates in the world, but it can clearly do better. The streets of Phnom Penh are choked with luxury cars and city casinos are patronised by the Cambodian *nouveau riche* – they should be tapped.

Another positive step came on 12 October 1998, when the Agriculture Ministry ordered an immediate nationwide halt to the transportation, purchase and sale illegally harvested logs.<sup>51</sup> But sceptics say the government has issued many such orders over the years, each one soon abused, and also note that the main beneficiaries of log sales are the military.

Media reports say that the government collected a mere US\$ 5 million from timber sales in 1998 – environmentalists have estimated that US\$ 200 million of illegal logs were cut during the 1997/98 dry season. They and the World Bank warned that Cambodia's timber resources could be depleted within five years, though the country is in a position to make significant sums through sustainable harvesting of its dwindling resources.

International financial institutions have been particularly incensed at the inactivity of the government against illegal logging and the International Monetary Fund cut part of a US\$120 million loan in 1996 on the grounds that the administration was not doing enough to ensure logging revenues came into the treasury.

If the government can show that it is taking positive and effective steps to crack down on abuses such as illegal logging and to raise revenues, it is more likely to receive a sympathetic ear to its requests for aid. These measures will take time to flower, however, and Cambodia will need to rely on significant outside fiscal assistance for some time.

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<sup>51</sup> Hun Sen pledged his governments commitment to saving the forests in his 22 October 1998 policy speech, saying the government would review concession contracts, stop new investment in wood processing, launch a reforestation programmes and prepare a forest management decree. Reports that their had been subsequent abatement, indicates that the problem boils down to political will.

Having said this, Cambodia should not be seen as a basket case. It is a country with enormous potential and once its natural and human resources are harnessed<sup>52</sup> there is no reason why the country cannot compete on an equal footing with its neighbours. The only major success story to date has been the garment industry, which has benefited from favourable quotas with Europe and the United States, though these could come under fire.

Meanwhile, despite optimism generated by the return to stability, many people in the countryside face severe food shortages -- largely because they simply cannot afford to pay for rice and not due to shortages of the staple. The economy is so dead in the water that these people have no opportunities to earn money. Cambodian aid workers reported cases in the provinces of families either selling their children for money and food or placing offering them as labour in exchange for feeding the youngsters.

The World Food Programme (WFP) distributed food to 1.7 million people (1.55 million received assistance through food for work programmes) around the countryside in 1998, or 15 percent of the population. WFP officials say some 56 percent of children under five nationwide are stunted by lack of food while 13 percent suffer acute malnutrition.

Aid workers say this is a serious long-term problem which authorities have failed to really acknowledge or recognise. It is certain to be addressed at the CG meeting with donors pushing for Cambodia to put more resources into the social and rural sectors.

Personal security also remains a problem in Cambodia, where police have had to deal with an alarming rise in kidnapping<sup>53</sup>. Foreigners are periodically targetted by armed robbers while most Cambodians have little confidence in the law and order forces.

#### D. MOVING ON

In *Cambodia's Elections Turn Sour*, ICG looked at some of the more important areas the new government should address. They included security, the return of refugees, the problem of impunity, establishing a rule of law, combating corruption, improving labour conditions, protecting the environment and natural resources and building good neighbourly ties.

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<sup>52</sup> For example Cambodia should be in a position to export agricultural products early in the next century and compete with industrial rivals once a work force has been educated.

<sup>53</sup> This is, also, perhaps symptomatic of the growing divide between the rich and the poor in Cambodia. The Khmer Rouge played on such a divide in their rise to power in the early 1970s.

The two sides agreed on a five-year political platform and worked out guidelines for how the coalition would work before the government was formally endorsed by parliament on 30 November 1998, something they had failed to do in 1993 and clearly an advantage.

Hun Sen pledged widespread financial, administrative and judicial reform and vowed to crack down on corruption, tackle illegal logging and work to boost education and health care. He affirmed a new commitment to human rights, including freedom of the press and expression, and recognised the right of the opposition to operate without restriction.

“We need to have one nation with one law. The economic government is the important subject at this time,” the prime minister said, indicating that government efforts would focus on reviving and building up the economy.

The fact that Cambodia is now led by only one prime minister should make it easier to work towards these admirable objectives – with two premiers things moved slowly as decisions were taken politically rather than technically -- while there are other positive signs that mistakes have been learnt from the past.

The decision to place most ministries under the control of one party, FUNCINPEC or CPP, should for the first time allow for a one party-chain of command, clearer accountability and less bureaucratic hurdles. On the down side, the number of senior officials in ministries has been almost doubled<sup>54</sup> – this will mean more expense and could deter some donors, who have been demanding cuts in the civil service for years.

Another positive step came on 22 December 1998, when 16 FUNCINPEC and 14 CPP members of parliament were replaced as they held senior government positions (minister or secretary of state). Ranariddh said the measure was aimed at ensuring a separation of powers and to boost the chances of reaching a regular working quorum in the assembly.<sup>55</sup>

On paper the coalition’s chances look good – Hun Sen is finally recognised globally as Cambodia’s sole premier and he no longer faces a military threat from rivals. There have been no major hiccups in the partnership to date, but obstacles lie ahead and doubts remain about its durability.

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<sup>54</sup> Most ministries will have two secretaries of state and five under-secretaries of state. This is essentially rewards for the faithful or “jobs for the boys.”

<sup>55</sup> Parliament needs to work more diligently and regularly. It did far too little in the past five years, partly because of failures to reach quorum and partly due to political differences. The legal foundations for a civil society are not yet in place as special interests and self-interest took sway over the common good. A raft of laws, including full business and criminal codes, needed to be passed quickly. The opposition could help buck things up and ensure regular and constructive debate.

How stable will the coalition be and how far will or can the government go to implement its programme and crack down on abuses? These are the two major areas for concern.

Stability of the coalition, partly touched on earlier, depends on the basis on which everyone thinks they are going in and it remains to be seen if they have overcome mutual suspicion and mistrust. If, for instance, FUNCINPEC's true motive is to try and split the CPP and have Hun Sen removed, the partnership is doomed.<sup>56</sup>

If Hun Sen has what he wants, if there are enough forces in his party to pull him back and if he is not unreasonably provoked by FUNCINPEC and Sam Rainsy, the coalition has a good chance.

There are also many potential obstacles to implementing the political platform. This depends not only on the political will of the leaders to push through change but also on their ability to control others powerful interests who profit through abuse.

"It's very hard putting the genie back in the bottle," a senior development aid worker said and it is difficult to escape the feeling that many of Cambodia's top officials will have to travel along a Damascus Road if real and lasting change is to come.

The senate is another possible source of friction if it competes with, rather than complements, the National Assembly. If it is neutral there will be room for it to reconcile different ideas and views in a democratic framework. If it is controlled by the CPP it could become just one more instrument for frustrating democratic opposition and entrenching power of the CPP.

The new government must also start preparing for the crucial next step in the democratic development, local elections. These were originally set to be held in 1997 but are not now expected until late 1999 at the earliest. The interior ministry is reportedly reworking a draft law. Issues to be worked out include whether voters should elect a single commune chief or a council of leaders and how the elections would take place.<sup>57</sup> Drafters are also mulling over whether to conduct staggered polls region by region or conduct elections for the whole country at the same time.

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<sup>56</sup> One analyst believed it depended in part on Ranariddh's ambition, whether he wanted ultimately to become prime minister or prime minister. If the later, he would need to remain on good terms with Hun Sen.

<sup>57</sup> See *Cambodia Daily* of 24 November 1998.



## E. RECOMMENDATIONS

### Tackling the culture of impunity

ICG believes the new government should start acting immediately to crack down on the culture of impunity and to implement the rule of law.

As a first step, it should make a clear-cut commitment to bringing to justice the worst abusers of human rights in Cambodia's modern history – the veteran leaders of the Khmer Rouge. The government should not wait until "reconciliation" is completed, but act swiftly now that it at last has substantial international support for a tribunal.

The international community should encourage and support the Cambodian government but not seek to dictate to it. It should also use its influence to encourage military commanders of the Khmer Rouge to hand over men such as Ieng Sary, Nuon Chea, Khieu Samphan and Ke Pauk for trial. The international community should also be ready to hear evidence about the role of foreign governments in the Cambodian tragedy of the past two decades.

Furthermore, the government should show its commitment to justice and the rule of law by arresting and putting on trial those responsible for human rights abuses since 1993 – including those behind the 30 March 1997 grenade attack on a peaceful opposition demonstration, the murderers of FUNCINPEC military personnel and supporters after the 1997 coup and the killers of opposition activists and demonstrators since the beginning of 1998.

### Taking Cambodia's democratisation process forward

The government needs to demonstrate its commitment to developing democracy by stepping up preparations for local elections. Commune elections are vitally important because they will see CPP-appointed officials facing competition for the first time in years and lay the foundations for the next general polls in 1993. Control of the communes gives a party immense political influence in the countryside. There are around 1,600 CPP-appointed commune chiefs nationwide and most have held their positions since 1979. The CPP's refusal to meet FUNCINPEC's demands for a more equitable share of power in the countryside was a major factor in poisoning relations between the two parties before 1997. CPP commune chiefs were also in a position to pressure registered voters before the July elections. Some fear the elections could turn into nasty turf battles.

Elections legislation should be put before parliament as soon as possible and the government should not be permitted to delay the commune polls. The international community should encourage the government by offering both technical and practical help.

### Budgetary reform

The government must take action to reduce the percentage of financial resources going to non-productive sectors (such as the military and the police) and shift spending towards socio-economic sectors. In particular, it should make a concerted effort to allocate more resources to education, agriculture and health and introduce and vigorously enforce new measures to boost internal tax revenues. The international community should encourage this shift by tailoring aid to under-funded sectors and making the provision of aid dependent on budgetary reform.

### Keeping pressure on the new government

The international community continues to have influence over events in Cambodia. The new government remains heavily dependent on the goodwill and financial support of the international donor community. If the progress of the past eight years in Cambodia is to be consolidated and further advances achieved, it is essential that donors remain vigilant and keep pressure on the government in Phnom Penh to deliver on key election promises. Aid remains the international community's main form of leverage and it should use it as both a carrot and stick.

Future development aid should be tied to the achievement of concrete policy objectives, such as action to tackle impunity and corruption, environmental protection and judicial reform. Furthermore, the release of development funds should be paced to match the speed with which the government acts to implement its programme and donors should wait until the coalition seems to be working well before rushing in with new offers of assistance.

Equally, ASEAN should not rush to admit Cambodia as a member but only welcome the country when it is clear that it will not be embarrassed by renewed stability after a few months.

**International Crisis Group**  
**Phnom Penh**  
**26 January 1998**

## Appendix I

### Government Line-Up

Prime Minister	Hun Sen (CPP)
Deputy Prime Ministers	Sar Kheng (CPP) Tol Lah (FUN)
Agriculture, Forestry and Fisheries	Chhea Song (CPP)
Commerce	Cham Prasidh (CPP)
Construction	Im Chhun Lim (CPP)
Council of Ministers	Sok An (CPP)
Culture and Fine Art	Princess Norodom Bopha Devi (FUN)
Defence	Tea Banh (CPP) Prince Sisowath Sirirath (FUN)
Education	Tol Lah (FUN)
Environment	Mok Mareth (CPP)
Finance	Keat Chhon (CPP)
Foreign Affairs	Hor Namhong (CPP)
Hydroelectricity and Meteorology	Lim Kean Huor (CPP)
Information	Lu Laysreng (FUN)
Inspection and Anti-Corruption	Khun Hang (FUN)
Interior	Sar Kheng (CPP) You Hockry (FUN)
Justice	Uk Vithun (FUN)
Industry, Mines and Energy	Suy Sem (CPP)
Planning	Chhay Than (CPP)
Post and Telecommunications	So Khun (CPP)
Public Health	Hong Sun Huot (FUN)
Religion	Chea Sareon (FUN)
Rural Development	Chhim Seaklent (FUN)
Social Affairs	Ith Samhent (CPP)
Transport and Public Works	Khy Teng Lim (FUN)
Tourism	Veng Sereyvuth (FUN)
Women's Affairs	Mu Sochua (FUN)