

## **Cambodia's 1998 Election: Understanding Why it Was Not a 'Miracle on the Mekong'**

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There are no clean and competent leaders in Cambodia. (King Sihanouk, quoted by Sichan Siv 1998)

At 6:00 a.m. on 26 July 1998, Sous Yet was standing in a queue at a high school behind the National Bank in central Phnom Penh waiting to cast his vote for only the second time in his life. Unable to conceal his excitement, he described how he had woken at 2:00, 3:00 and 4:00 a.m., risen at 5:00 a.m., and was waiting for the polling station to open at 7:00 a.m.<sup>1</sup> He was one of more than four million Cambodians who were hoping to determine the shape of the government for the next 5 years. The 1998 Cambodian election came 5 years after the massive United Nations peacekeeping mission—UN Transitional Authority in Cambodia (UNTAC)—that was expected to bring democracy to this small Southeast Asian country that had experienced 25 years of war and virtually no political development.

Within 48 hours of the poll closing, the two main international observer groups effectively declared voting day and counting day free and fair. On that basis, former United States congressman Stephen Solarz, who had a high profile and a long association with Cambodia, publicly pronounced the 26 July 1998 election a 'miracle on the Mekong', referring to the river on which Phnom Penh is built (Solarz 1998). However, as an electoral process cannot be judged on voting and counting alone, many observers and international organisations declared that the 1998 Cambodian electoral process was adversely controlled by the incumbent regime, and that the periods before and after the election were characterised by intimidation, coercion and violence, and a lack of accountability and transparency.

This paper suggests the election was not a 'miracle on the Mekong' because it was not free and fair, due to three factors, outlined in the section 'Understanding why': the incumbent regime's failure to separate state and party, and the executive and judiciary; its failure to establish rule of law and respect for human rights; and its non-acceptance of a political opposition. Further, it is suggested that until these three factors are rectified, the next election cannot be a 'miracle' either. First, however, the paper begins with a background on what constitutes free and fair elections, Cambodian political society and the incumbent regime's influence before, during and after the 1998 election.

### **What constitutes free and fair**

As Craner (1998) said, 10 years ago, the events of election day—whether citizens were able to cast their ballots freely, in an orderly fashion—was the standard by which the democratic process was judged. That criterion has since expanded to include some basic principles: candidates have access to voters; fair and balanced media coverage; the registration of voters,

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<sup>1</sup> Author interview with Sous Yet at the polling station, broadcast on ABC Radio's *Asia Pacific*, 23 September 1998. Sous Yet had been my assistant in Cambodia, 1990–1994.

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and the count of votes is free from manipulation by parties or powerful individuals; and the process is not influenced by violence, intimidation or bribery. Goodwin-Gill (1994: 85–6) stipulated a secret ballot be held at regular intervals on the basis of universal and equal suffrage. His criteria for free and fair elections included the right of the individual to: join a political party; express political opinions without interference; seek, receive and impart information, and make an informed choice; move freely within the country; have access to the media to put political views; have secure lives and property; and have the protection of the law to remedy violation of political and electoral rights. Elklit and Svensson (1997) said ‘fair’ included: a transparent electoral process, impartial treatment of candidates by police, the army and the courts; equal opportunities for political parties and independent candidates; an orderly election campaign; equal access to media; impartial allotment of public funds to political parties; and no misuse of government facilities for campaign purposes. As the International Republican Institute (IRI) and the National Democratic Institute (NDI) pointed out, in a combined statement:

An election, of course, is much more than an administrative process or what happens on election day itself. Elections can be divided into four distinct phases: (1) the pre-election phase, which includes the campaign environment and voter registration and other technical preparations for balloting; (2) the balloting on election day; (3) the counting and consolidation of results; and (4) the investigation and adjudication of complaints and the formation of a government. (International Republican Institute & National Democratic Institute 1998a)

In 1993, the UNTAC chief, Yasushi Akashi, declared the election free and fair<sup>2</sup>—without defining either term—despite the assassination of more than 100 opposition members, numerous grenade attacks on opposition party offices, almost daily reports of intimidation and harassment, and lack of equitable media access. Based on observation at the time and since, I contend that the 1993 election was free in that people were free to go to the polling booths and vote—and 90 per cent of registered voters did. But the election campaign was not fair, as the incumbent Cambodian People’s Party (CPP) retained control of the state apparatus, including the electronic media, and used intimidation, coercion and violence to gain votes.

The International Crisis Group offered two benchmarks for the 1998 Cambodian election:

If the opposition wins in a decisive way—despite intimidation, vote buying and violence—the international community can easily conclude that the elections were sufficiently free and fair to reflect the Cambodian electorate’s determination for change. However, if the ruling party wins convincingly, doubts will always persist over the conduct of the polls: it will never be possible to determine whether the Cambodian People’s Party election victory was a result of intimidation, vote buying and violence or else it broadly represented the will of the people. (1998a)

When considering whether or not the 1998 election was free and fair, the two most significant events of 1997 should be taken into account: the 30 March grenade attack on a peaceful opposition-organised rally outside the National Assembly, in which at least 16 people were killed and perhaps 100 injured;<sup>3</sup> and the so-called ‘coup’ of 5–6 July,<sup>4</sup> which resulted in at

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<sup>2</sup> At a meeting of the Supreme National Council, Phnom Penh, 10 June 1993, and to the media immediately after, where I was present.

<sup>3</sup> The number of casualties has not been confirmed, although Amnesty International estimated between 150 and 170 people were at the demonstration, and 70–80 per cent were injured or killed, of whom at least 16 died, meaning 89–120 injured (Amnesty International 1997). The *Phnom Penh Post* of 15 October 1999, reporting the US Federal Bureau of Investigations’ investigation into the attack, said at least 19 were killed and 150 injured.

<sup>4</sup> Academics, diplomats and others are divided as to whether the 5–6 July fighting constituted a coup d’état. Most media, human rights groups and those opposed to CPP refer to the events as a coup, hence the inverted commas in this paper. The most popular alternative terms are ‘the incident’ or ‘the events of July’. Notably, Amnesty International reports refer to ‘the events of July’; even Ranariddh in 1999 switched from ‘the coup’ to ‘the July incident’.

least 80 extra-judicial killings and the removal of Prince Norodom Ranariddh as Prime Minister (see the section 'The July fighting ...').

### **Cambodian political society**

Cambodia's current social, political and administrative environment is shaped not as much by the Khmer Rouge period (1974–1979) and events thereafter, but more by the ancient system of patronage, monarchs and Buddhism. Thion determined that, historically, Cambodia was characterised by hierarchy, nepotism, corruption and factionalism (1987: 162). Chandler identified that three of Cambodia's 'visions of order' were royalism, parliamentarianism and socialism. Royalism, he said, 'is a primordial institution that has been in place for over a thousand years', but parliamentarianism and socialism have shallow roots in Cambodian history (1997: 25). Marks pointed out that in the past 50 years, although various Cambodian constitutions espoused liberalism, 'constitutions have been ornamental appendages of political regimes' (1994: 50–1). Marks also noted that patronage and clientship at the village level were an essential part of the social structure up to the nineteenth century (1994: 50–1); and, according to Shawcross, 'the complex patterns of family, patronage, and political relationships that made up Cambodian society' defeated UNTAC's attempts to control the administration in the lead-up to the 1993 election (1994: 13).

Since the 1950s, Cambodian political society had been largely shaped by Norodom Sihanouk, as king, prime minister, chief of state (Chandler 1993, 1994, 1997; Osborne 1994) and since 1993, to a lesser extent, as king again. Not known as a champion of democratic principles, Sihanouk wrote, in 1981, of himself, 'J'ai été, c'est vrai, un chef d'Etat autoritaire' ('It is true that I have been an authoritarian head of state') (Osborne 1994: xi). And in 1998, Sihanouk did not express a very high opinion of the leadership in Phnom Penh when, a few days after the election, he granted an audience to Sichan Siv<sup>5</sup> who recalled the King's comments:

He said that there are three types of leadership: one is clean and competent; the second is competent and corrupt; the third is corrupt and incompetent. He said there are a lot of corrupt and incompetent leaders in Cambodia, there are few clean and incompetent leaders in Cambodia, and there are no clean and competent leaders in Cambodia. (Sichan Siv 1998)

Cambodia is a largely Buddhist country, and Buddhism is the state religion (Constitution 1989), but according to Schier,<sup>6</sup> the Cambodian leaders failed to set an example by not following even the most basic principles of Buddhism: 'They are killing, they are stealing, they are lying, they are womanising and they are drinking like hell' (Schier 1998a).

The blending of functions between rulers and the state is often cited as a problem with contemporary Cambodian political society. However, historically there has been no concept of separation between religious and political authority, and the state itself. Chandler noted when discussing the Angkorian King Suryavarman I: 'Priestly and bureaucratic functions, seldom separate in practice, were institutionalized' (1993: 41–2). Combining monarchism and Theravada Buddhism, Sihanouk, as king and prime minister, became the paramount symbol of unity, the religious protector and the source of moral law (Thion 1987: 151–6). Even Ranariddh, from 1993 to 1997, oscillated between being prince and prime minister. Of more concern today is the lack of separation of party and state, and of executive and

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<sup>5</sup> Arguably the most influential American–Cambodian and a former Deputy Assistant to US President George Bush; has frequently returned to Cambodia since 1992; and was a senior member of the IRI–NDI observer delegation.

<sup>6</sup> A Cambodian author who ran the German nongovernmental organisation (NGO), the Konrad Adenauer Foundation, in Phnom Penh.

judiciary, both of which were evident throughout the 1990s (Marks 1994: 87; Frieson 1996: 183–207; Ledgerwood 1996: 116–31; Heder 1998; Touch 1999). Kingsbury (2000) suggests Cambodia's current leader Hun Sen represents the convergence of two models of authority—Leninism and remnants of the Angkorian model—where, in both cases, ultimate authority is concentrated in the person at the pinnacle of the power structure (see also Thion 1987: 151–6). Kingsbury (1999) further suggested that, traditionally, leaders were not obliged to account for decisions and the use of their power, hence Hun Sen's arbitrary use of authority (see Heder 1998: 2, 3) reflects a clash of traditional (feudal) and modern (democratic) ideals.

While elements of the CPP hierarchy had displayed more liberal tendencies in recent years, up to the 1998 election, Hun Sen had not. Just before the election, Heder portrayed the Second Prime Minister as a ruthless dictator who used violence for his own ends and appeared to enjoy doing so in order to perpetuate public fear of himself:

[C]onsolidating democracy, promoting civil and political rights and closing the books on the Khmer Rouge genocide through a proper system of justice were never on his agenda ... [He tried] to retard or reverse any progress toward the institutionalization of democratic procedures of governance, of human rights protection and of fair trial ... Hun Sen's behaviour since 1993 showed that he had no moral compunction about using political violence when it suited him ... Indeed, he often seemed to flaunt his ability to perpetuate political violence with impunity, just to show Cambodians how unstoppable he was. (Heder 1998: 2, 3)

### CPP's influence since 1979

Since the early 1980s, Cambodia had been run by what Marks described as 'a single-party, highly centralized state that controlled all aspects of public life and left no space for a genuine civil society' (1994: 54–5). From January 1979, the authority in Cambodia was one entity, although it had several names, concurrently and consecutively, and from 1993 to 1998 exercised its power through a coalition government.<sup>7</sup> At its core were three figures: Heng Samrin, Chea Sim and Hun Sen. This authority, by whatever name, owed its inception to Vietnamese support. Hanoi installed a Leninist-style communist structure in the party and civil administration in Phnom Penh, although, as Heder and Ledgerwood pointed out, over time this was diluted in part by preference for traditional Cambodian patron–client relationships (1996: 7).

Although party and state were to have been separated before the 1993 UN-supervised election, the party (CPP), the government (SOC), the administration (SOC) and the armed forces (CPAF) were one (see also Jones and PoKempner 1993: 44; Heininger 1994: 88; Marks 1994: 87; Heder and Ledgerwood 1996: 7; Berry 1997: 230). Judges took directions from ministers, CPAF was an arm of the party, and until 1992, all media was controlled by the state/party. This amalgam of party, administration, legislature and judiciary continued through to the 1998 election, even though during the preceding 5 years, CPP shared government with the royalist FUNCINPEC party.

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<sup>7</sup> The People's Republic of Kampuchea of 1979 was renamed the State of Cambodia (SOC) in May 1989; the Revolutionary People's Party of Kampuchea of 1979 was renamed the Cambodian People's Party (CPP) in October 1991. After September 1993, the country was renamed the Kingdom of Cambodia and was run by the Royal Government of Cambodia, which was a coalition of CPP and Front Uni National pour un Cambodge Independent, Neutre, Pacifique, et Cooperatif (FUNCINPEC), and SOC/PP's army, the Cambodian People's Armed Forces (CPAF), was joined by that of FUNCINPEC to form the Royal Cambodian Armed Forces. The acronyms SOC and CPP are used in this paper for simplicity to incorporate 'the authority' that perpetuated since 1979, and to highlight the fact that party and state were not separated.

Since the mid-1980s, SOC/ CPP had perpetuated and consolidated its power: first, by rationalising that tight measures were needed to control the Khmer Rouge and two non-communist resistance forces who might be encroaching and infiltrating; and second, by constantly reminding the population that SOC/ CPP had saved them from the genocidal regime, the unspoken message being that if the populace did not agree with what SOC/ CPP was doing, the alternative might be a return of Khmer Rouge genocide.

SOC/ CPP's influence was pervasive. It controlled virtually the entire administrative and security apparatus. Its centralised, highly structured control on the military and administration was evident throughout the country, from central, provincial, district, commune to village level (Marks 1994: 54–5; Frieson 1996: 183–207; Ledgerwood 1996: 116–31). Shawcross, for example, described 'entrenched, labyrinthine local administrations' (1994: 13). Freedom of expression was not tolerated, and no opposition, of any form, was allowed (Jones and PoKempner 1993: 46; Heininger 1994: 88; Shawcross 1994: 9–10; Ledgerwood 1996: 124). As Heder said, 'The [CPP] had been created for and continued to aspire to monopolizing political predominance in Cambodia' (1998: 2).

During the 1993 election, the principal opposition parties were FUNCINPEC and Buddhist Liberal Democratic Party (BLDP)<sup>8</sup> who, under previous names and structures, had conducted a guerilla war against SOC/ CPP for the previous 13 years. Coercion, intimidation and violence by SOC/ CPP against these parties in the lead-up to the election has been well documented (United Nations 1993; United Nations Transitional Authority in Cambodia 1993; Frieson 1996: 183–207; Ledgerwood 1996: 114–33). However, Ledgerwood argued that SOC/ CPP's action against the opposition should be viewed in the context of Khmer Rouge activities at that time and SOC/ CPP's traditional means for dealing with 'the enemy'. As the May 1993 election approached, the Khmer Rouge, which signed the 1991 Paris Peace Agreement but later refused to join the peace process, escalated attacks against SOC/ CPP, its army (CPAF), ordinary Cambodians, ethnic Vietnamese and the UN. At the same time, several opposition parties were setting up party structures in provincial towns and spreading their networks over much of the country, registering members and holding party meetings, and they were regarded by SOC/ CPP as the enemy (Ledgerwood 1996: 117–24).

Despite killings and intimidation, FUNCINPEC gained the most votes but was forced to accept CPP in a coalition government, hence the royalist party was no longer seen as a direct enemy. However, that changed in July 1997 when fighting between CPP and FUNCINPEC forces caused Ranariddh and his supporters to flee the country, at which point, in the eyes of CPP, they once again became an enemy and were the subject of intimidation and violence. This was also evident preceding the 1998 election, according to reports by the United Nations Centre for Human Rights (1998a,b), the International Crisis Group (1998b,c), Amnesty International (1998), Human Rights Watch Asia (1998), the International Republican Institute (1998), the National Democratic Institute (1998) and IRI–NDI combined (International Republican Institute & National Democratic Institute 1998a,b).

### **The July fighting and its impact on the election**

The 1993-established FUNCINPEC–CPP coalition government developed cracks during 1994–95, chasms in 1996 (see also Frost 1996: 7–8; Heder 1998: 3–4), and finally split apart on 5–6 July 1997 when military loyal to CPP confronted those loyal to FUNCINPEC during 36 hours of fighting in and around Phnom Penh. Immediately before and during the fighting, Ranariddh and his top aides and generals fled to Bangkok or the Thai border, abandoning

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<sup>8</sup> FUNCINPEC contested the 1993 election led by Prince Norodom Ranariddh; and the BLDP, formerly the Khmer People's National Liberation Front, led by Son Sann. The BLDP split in 1995—the Ieng Mouly faction sided with CPP and unsuccessfully contested the 1998 election as the Buddhist Liberal Party; and the renamed Son Sann Party joined FUNCINPEC after its defeat in the 1998 election.

their seats in parliament and positions in government, which were soon filled by former FUNCINPEC MPs and officials who sided with CPP. Security units loyal to CPP had clashed with those loyal to FUNCINPEC in preceding weeks, such was the tension between the coalition partners. The 5–6 July fighting was precipitated by CPP and FUNCINPEC competing to entice remaining Khmer Rouge units to defect to their respective parties and was the culmination of tensions that had been building between the two parties since the coalition was formed in 1993. In that sense, both sides were equally guilty/innocent, and who fired the first shots on the morning of 5 July seems irrelevant in the aftermath.

The impact of 5–6 July was threefold. Politically, it split an already factionalised FUNCINPEC, and physically it scattered FUNCINPEC supporters, turning them into refugees (in Thailand) or sending them into hiding, thus temporarily dismantling the party network as well as FUNCINPEC's military and intelligence structures. Second, it effectively suspended any opposition, silenced the pro-opposition media, and severely reduced confidence in freedom of expression and opposition party activity, which in turn sent underground many FUNCINPEC provincial officials and supporters who had not fled to Thailand. Third, in the international arena, the legitimacy of a government without Ranariddh was questionable; hence, the UN declared Cambodia's seat at the General Assembly vacant and the Association of Southeast Asian Nations postponed Cambodia's membership.

The fighting split FUNCINPEC into five factions, including three that subsequently formed parties and contested the 1998 election against Ranariddh.<sup>9</sup> None of the three parties won seats in the National Assembly; however, the split deprived Ranariddh of vital votes that might have given him a parliamentary majority. Overwhelming evidence suggests that the split was engineered by CPP, most likely by Hun Sen personally.<sup>10</sup> The CPP/Hun Sen catalyst can also be credited with earlier splits in the other two main parties, BLDP and the Sam Rainsy Party (SRP), and previous FUNCINPEC break-aways (such as Sam Rainsy, Prince Sirivudh, Ung Phan and Toan Chay).

The 5–6 July fighting was followed by what Human Rights Watch Asia (HRWA) described as 'a systematic campaign of intimidation, torture, and summary executions' (Human Rights Watch Asia 1998: 5). In addition to those caught in the fighting, UN Centre for Human Rights (UNCHR) confirmed at least 83 and probably 88 extra-judicial killings, of mostly FUNCINPEC security personnel but also 15 government soldiers presumed executed by FUNCINPEC (*Phnom Penh Post* 1998a). Also, HRWA reported more than 500 FUNCINPEC soldiers were temporarily confined in detention centres, with at least 30 tortured (1998: 5). It was 10 months before Ranariddh returned to Phnom Penh, 1 year before the former Armed Forces Deputy Chief of Staff General Nhiek Bun Chhay returned, and as of October 1999, FUNCINPEC reconnaissance pilots had still not been allowed to fly.

The removal of Ranariddh, Rainsy and Son Sann activists suspended any viable opposition and any voice of disagreement in Cambodia for almost 1 year. It was only in the weeks before the 26 July 1998 election that opposition voices were heard again and parties dared campaign openly. According to Colm,<sup>11</sup> as a result of the July fighting and the 30

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<sup>9</sup> The five were led by: Ranariddh in exile; Ung Huot who joined Hun Sen with the title but not power of First Prime Minister; former army general and Siem Reap governor Toan Chay, who in April rejected Ranariddh's leadership; National Assembly First Vice-President Loy Sim Chheang; and Funcinpec's *dean* (*de facto* vice-president) Nady Tan. Subsequently, Huot, Chay and Chheang all formed new parties; Tan, together with Industry Minister Pou Sothirak, joined Hout's party to contest the election.

<sup>10</sup> Based on author interviews with key members of CPP, FUNCINPEC and the smaller parties, in Cambodia, July–August 1997 and July–August 1998.

<sup>11</sup> Sara Colm had worked with Cambodians since the 1980s: in San Francisco, where she edited a Khmer-language newspaper; in Cambodia as founding editor of the *Phnom Penh Post*; and during UNTAC as a human rights officer. She returned for the election as a representative of HRWA.

March grenade attack, many of the recent democratic gains—increased freedom of the press, assembly and association, and the establishment of non-government and human rights organisations—were reversed when journalists fled the country, opposition supporters went underground and NGOs became a lot more reticent about speaking out (Colm 1998). International Crisis Group reported that as a result of the July fighting and the associated extra-judicial killings, opposition activists at grass-roots level nation-wide were ‘cowed into silence by intimidation and harassment’ (1998d: 6–7). HRWA noted that virtually all political party signs in the provinces, aside from those of CPP, were removed. HRWA also reported that CPP police and military surrounded houses of FUNCINPEC and opposition members, and confiscated weapons and party membership lists; FUNCINPEC supporters were detained for up to 1 week; and FUNCINPEC offices were ransacked and looted (Human Rights Watch Asia 1998: 6).

### **CPP's control**

In addition to propaganda and intimidation, and the removal of the opposition, CPP was able to spread its control further through using the state apparatus. The coalition government of 1993–1997 had not succeeded—perhaps not even seriously attempted—to separate state and party; hence, in the lead-up to the 1998 election, CPP was still in control of the state apparatus, much as it had been since 1979.

CPP's firm grip on the State-run radio and television made it difficult for opposition parties to broadcast policies and express opinions. Radio and television were important vehicles for election campaigning, especially in an oral society with 50 per cent adult illiteracy, where 80–90 per cent of the population lived in the countryside and newspapers had little following. In 1993, Radio UNTAC allowed parties other than CPP to reach rural voters. However, for the 1998 election, there was no UN radio; FUNCINPEC radio and television, dismantled during the July fighting, had not been reinstated; and access to state-media was less than in 1993. Of the other opposition parties, only Son Sann's was granted a radio licence (after 4 years and six requests) but too late to establish the station before the election (Human Rights Watch Asia 1998: 21).

Ranariddh was still regarded by many in the international community as the First Prime Minister, yet his return to Phnom Penh 10 months after the ‘coup’ was not reported in any of the state-run broadcast media and, consequently, other media,<sup>12</sup> despite the fact that it was the top story on CNN and other world broadcasts that day (*Phnom Penh Post* 1998b). Assertions by the opposition and international organisations that the opposition was not being given equitable media access were supported by statistical analysis by the UNCHR, which showed that members of CPP appeared on state and quasi-state television and radio 918 times in June, compared with 39 appearances of FUNCINPEC members and 19 of Sam Rainsy Party members (United Nations Centre for Human Rights 1998c). Even King Sihanouk noted, ‘Our information system is not independent, not democratic, not neutral, not fair’ (*Phnom Penh Post* 1998b).

CPP was widely perceived to also control the electoral machinery. Both the political party law (of October 1997) and the electoral law (December 1997) were passed when the National Assembly was CPP-dominated; that is, after Ranariddh and 20 of his MPs had been forced to leave the country in July. In February 1998, 5 months before the election, the government established the National Election Committee (NEC), which was mandated to organise, oversee and monitor the registration of voters, parties and candidates, supervise the electoral

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<sup>12</sup> Vice-Minister of Information Khieu Kanharith later (July 1998) told the author that the government media did not report Ranariddh's return in case it generated unrest, and the other media followed suit.

campaign, organise polling and counting, then verify the accuracy of the vote count. The NEC was supported by Provincial Electoral Commissions and Commune Electoral Commissions. However, as Heder noted: ‘National, provincial and communal Electoral Committees and Commissions are basically creatures of [CPP]. Like the police, army, and the courts, they have little choice but to operate according to the dictates of Hun Sen’ (1998: 6).

The NEC and commissions were composed largely of people known to be CPP officials or supporters (Craner 1998; Human Rights Watch Asia 1998: 23; International Crisis Group 1998c: 9–11; National Democratic Institute 1998), but complaints to this effect submitted to the National Assembly were ignored by the pro-CPP parliament (Human Rights Watch Asia 1998: 23). Furthermore, the NEC was widely perceived by Cambodians and international observers to be under CPP influence, and perhaps taking directions from senior CPP personnel.<sup>13</sup> As Craner said, ‘In short, during the pre-election period, the CPP wrote the rules and controlled the process’ (1998).

Amid considerable controversy, the Constitutional Council, which under the Constitution was to interpret laws and mediate electoral disputes, was convened 1 month before the election, almost 5 years after the Constitution was promulgated. In addition, six of the nine members were CPP affiliates. The King’s three nominees had refused to take their seats, saying the Council was not neutral. As HRWA pointed out, without a Council, there was no mechanism to determine whether the electoral and party laws were constitutional, and no avenue of appeal (1998: 24). Sanderson and Maley<sup>14</sup> concluded that it was never the intention of the CPP to allow an independent and impartial election commission: ‘It sought from the start to control the entire apparatus ... and it certainly achieved its objective’ (1998: 248).

### International participation

During the 1993 election, opposition parties and candidates had 22,000 UN personnel to guard them and monitor the poll to ensure it was free and fair. The UN had 12 battalions with soldiers plus human rights and police officers, electoral workers, civil administrators and 50,000 Cambodian electoral workers spread throughout the countryside, protecting all political parties and every polling booth, monitoring the campaign and the voting.

To determine whether the 1998 election was free and fair, about 500 international observers were sent by national governments grouped together as the Joint International Observer Group (JIOG), which was under the direction of the European Union (EU). Another 200 observers were dispatched by international human rights and non-government organisations, including Amnesty, HRWA, IRI–NDI, VOCE and ANFREL.<sup>15</sup> Three newly formed Cambodian electoral organisations—the Neutral and Independent Committee for Free Elections in Cambodia, the Coalition for Free and Fair Elections, and the Committee for Free and Fair Elections—fielded observers at virtually every station, as did the three main parties: CPP, FUNCINPEC and SRP.

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<sup>13</sup> This perception increased on the first night of counting when NEC officials called a news conference to announce preliminary results then postponed for more than an hour, then refused to release results, leading to speculation that the NEC figures were not the same as CPP’s and therefore more time was needed to reconcile the figures. Also, FUNCINPEC argued, but was not able to prove, that instructions were sent from CPP operatives to certain (named) counting stations at around 11:00 a.m. on the first day of counting.

<sup>14</sup> Lt-Gen. John Sanderson was UNTAC’s military commander; Michael Maley was deputy chief of UNTAC’s electoral component.

<sup>15</sup> Volunteer Observers for the Cambodian Election (VOCE), the Asian Network for Free Elections (ANFREL), and IRI and NDI fielded a combined observer team.



The task of the observers was to help the international community determine whether the election was free and fair. Prior to the election, a declaration of free and fair was regarded as a foregone conclusion, as: (a) the EU, which contributed US\$11.5 million to the election and was leading the international observers, was not expected to admit it had sponsored and supervised a non-success; and (b) the international community wanted to be able to work with a future government that had been declared legitimate by international observers. This latter attitude led diplomats in Phnom Penh to strongly influence JIOG's operations and public statements. However, from other quarters, in the months before the election, there were calls for the election to be postponed, as it increasingly appeared that it would be pseudo democracy—an 'obscene farce' according to Heder:

[A] crooked election is worse than no election because it debauches the currency of democracy, and betrays the principles that the international community promoted through [the] UN in 1993. For the international community to come back in 1998, observe an obscene farce and then declare it on par with 1993 is hypocrisy and duplicity on an outrageous scale ... If the international community goes through with a farce, it will be a serious blow to democracy not only in Cambodia, but in the region. (1998: 7)

### **Pre-election period**

The most moving sight and sound in Phnom Penh on the eve of the election was of campaign rallies proceeding through the streets. Thousands of supporters turned out for a FUNCINPEC motorbike rally, and thousands more in cars and trucks for a SRP procession from the city centre to Tak Mau just south of the capital. The rallies signalled a political freedom not seen for almost a year. However, the merriment belied the pre-election traumas that included killings, intimidation and harassment. The 1997 March grenade attack and July 'coup' were the two most publicised events; however the UNCHR and international and domestic human rights groups investigated dozens of other cases of less conspicuous activities. UNCHR, for example, documented 189 cases in the 2 months between 20 May and 16 July (1998a). International Crisis Group noted:

[O]pposition parties had suffered from serious abuses in the months leading up to July 26 ... These abuses consisted of widespread and subtle intimidation of potential opposition voters in the countryside, de facto vote buying by [CPP], inequitable media coverage, and violence, including killings of opposition activists. (1998a)

IRI–NDI described the pre-election period as 'fundamentally flawed' (1998b), because of:

(1) widespread intimidation, violence and a climate of impunity ... (2) flaws in the institutional framework, including the make-up of the NEC, ruling party control of the election administration, and the failure of the Constitutional Council to be properly constituted ... and (3) a denial of equal access to the electronic media by opposition parties. (1998a)

CPP's pervasive influence allowed it to implement some of its more subtle forms of pre-election intimidation, such as asking people at temples to pledge support for CPP then to drink a glass of water with a bullet in the bottom, the unspoken message being: 'break the oath and the bullet ends up in your body'. Another was the controversial 'thumbprint campaign', which was organised by CPP after official registration and was aimed at making less-educated members of the public believe their thumbprint could be traced to the ballot paper, thus revealing who they voted for.

### **Polling and counting**

Thirty-nine political parties contested the 26 July election, although not all fielded candidates in all provinces; hence, the NEC printed ballot papers for each province. The NEC, with no prior experience, faced the massive task of organising the election, which included registering

voters, running an electoral education campaign, importing ballot papers and indelible ink, printing registration lists, training electoral workers, and the logistics of transporting electoral kits including ballot papers to the provinces. The NEC defied the skeptics and, after the election, was congratulated for the smooth running of the poll in administrative terms (Craner 1998; International Republican Institute & National Democratic Institute 1998a; Joint International Observer Group 1998a; National Democratic Institute 1998; Neutral and Impartial Committee for Free Elections in Cambodia 1998; Volunteer Observers for the Cambodian Election 1998).

By the end of voting day, most Cambodian and international observers reported a good turnout and a trouble-free operation.<sup>16</sup> However, there was subtle intimidation that may have been missed by international observers, according to Colm who pointed out that Cambodia comprises small villages and people know how to interpret the body language of officials:

The election commissions at the village, district and provincial level were dominated by CPP members, then unofficially you have people hanging around the polling stations, sometimes looking rather stern, wearing sunglasses, holding small radios—people you've known all your life. A commune in Cambodia is a small administrative grouping, and people know what other people are up to—nothing is private. (1998)

This kind of subtle intimidation—a reflection of CPP's long-term influence and control—plus political killings before the polling, led several international organisations, including HRWA, Amnesty and International Crisis Group, to deem the election not free and fair. However, on the night of the 27th, before ballots had been centralised and irregularity reports submitted, JIOG declared *voting day and counting day* was 'free and fair to an extent that enables it to reflect, in a credible way, the will of the Cambodian people' (Joint International Observer Group 1998a), although 72 hours earlier, JIOG had said it was concerned about unsolved killings, intimidation and impunity, and access to the media (Joint International Observer Group 1998b). Before noon the next day, IRI–NDI declared 'polling day went remarkably smoothly', and declared, 'we were impressed with the apparent efficiency and transparency of the count' (1998a). The IRI–NDI statement did not use the words free and fair. However, at the news conference, delegation co-leader, former US congressman Stephen Solarz, stunned even his own delegation members<sup>17</sup> by pronouncing the election a 'miracle on the Mekong' (1998). Subsequently, the International Republican Institute (1998) certified 'the July 26 parliamentary elections did not meet the standards of democratic elections' and the National Democratic Institute (1998) reported 'systemic problems with the electoral process' and continuing concerns about the credibility of the NEC and the Constitutional Council.

JIOG's 27 July statement was too narrow, focusing only on the 2 days of voting and counting, and ignoring well-documented cases of assassinations, intimidation, manipulation and infiltration by CPP in the pre-election period. And both the JIOG and IRI–NDI statements were premature, as the counting and complaints procedures had not been undertaken. On the first day of counting, 27 July, SRP issued a statement saying it had received reports of widespread irregularities, and urging observer organisations to wait 2 or 3 weeks before certifying the elections. The statement listed eight types of irregularities reported to its offices, including cases of polling station officials putting a check-mark on people's ballots for them, local officials confiscating voter cards before people voted, observers prevented from entering polling stations and counting centres, people with inked fingers permitted to vote, missing ballots, counting staff refusing to show ballots to observers,

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<sup>16</sup> Personal observation and communications—during voting day, the author visited numerous polling stations, interviewed electoral workers and observers, attended the NEC news conference, and visited political party offices.

<sup>17</sup> Personal communications with team members who requested anonymity.

illegal security forces at polling stations, and what it called 'enormous disparities in polling results' (Sam Rainsy Party 1998).<sup>18</sup> The following day, at the very moment the IRI-NDI delegation was making public its declaration at a news conference, FUNCINPEC (1998) issued a statement saying that it refused to accept the results due to counting fraud, and demanded a recount of ballots.

### **The election result and its aftermath**

Four significant events occurred immediately after the election, and all four confirmed that Cambodia's elite were not advancing in terms of political development if political development includes: (1) respect for political opponents; (2) independence, transparency and accountability of state institutions; (3) an adequate procedure for complaints and redress; and (4) freedom of speech and assembly. First, FUNCINPEC and Sam Rainsy officials and supporters in provinces fled from harassment and death threats—perceived or real—suggesting they expected retribution from their political opponents. Second, displaying lack of transparency, the NEC belatedly and without due notification changed the seat-allocation formula to one that favoured the winning party (CPP) and further disadvantaged the smallest (SRP) (Schier 1998b). Third, both the NEC and the Constitutional Council refused to investigate the more than 850 complaints of electoral 'fraud' and irregularities lodged by the opposition parties.<sup>19</sup> Fourth, the complaints rejection led to a sit-in by up to 10,000 demonstrators at 'Democracy Park' outside the National Assembly, which was broken up after 2 weeks by police and military firing assault rifles and using electric batons, which instigated another 5 days of street clashes. As a result, at least three people were shot dead by the security forces, scores of people were arrested, dozens were unaccounted for, and two dozen bodies were later found in and around the capital (Amnesty International 1998: 5–11, 1999).

Despite the controversy, the NEC declared that CPP had gained 64 seats in the 122-seat National Assembly, FUNCINPEC gained 43 seats, and the Sam Rainsy Party gained 15. Under the NEC's first formula (which opposition parties, diplomats and the media assumed was being used), CPP would have been allocated 59 seats, FUNCINPEC 44 and SRP 18 (Schier 1998b), giving the latter two a higher combined allocation but not the two-thirds needed to form government. However, even using the NEC's second formula, the result was closer than that reflected in the final seat allocation, according to Sanderson and Maley, who calculated that the difference was 0.13 per cent, which could have been influenced by CPP's pre-election activities:

If FUNCINPEC had won 390 more votes in Kompong Thom and 1980 more votes in Kep, and if the Sam Rainsy Party had won 2634 more votes in Kampot and 1399 more votes in Prey Veng, the CPP would have been deprived of a majority in the National Assembly, and FUNCINPEC and the Sam Rainsy Party would together have held the majority. The total of these shortfalls, 6403 votes, represents only 0.13 percent of the total valid vote nationwide. (1998: 246)

Even if both sides had agreed on the seat allocation, the new parliament was not able to convene, as MPs from FUNCINPEC and SRP refused to take their seats until the electoral complaints were heard. At the same time, behind the scenes, the three parties were discussing

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<sup>18</sup> ANFREL also reported 30 July violations of ballot secrecy, threats against voters, vote buying attempts and invalidation of ballots: 'ANFREL calls for more vigilance', Phnom Penh, 30 July 1998.

<sup>19</sup> Opposition party statements used the word 'fraud', although in private conversation, members, including Ranariddh, talked of 'irregularities' and 'anomalies'. Solarz commented to the author that, with a few exceptions, most complaints were no different to those received by electoral officials in his home constituency in the US.

possible coalition trade-offs (*Phnom Penh Post* 1998c). Under the Constitution, the winning party had the right to form government but required two-thirds of the National Assembly votes to do so. As CPP needed 82 votes, the support of FUNCINPEC was inevitable (a coalition with SRP would yield only 79 seats), but because of the disputed result, FUNCINPEC refused to join CPP. The two-thirds majority was only required for significant events, such as extension of parliament, removal of parliamentary immunity, election of the parliamentary president and vice-presidents, approval of the government and dismissal of a member (Constitution 1993)—most bills required a simple majority, which CPP had (with 64 out of 122 seats). Hence, FUNCINPEC could have gone into opposition and given CPP the two-thirds, *when needed*, in return for a list of demands. This would have given Cambodia its first parliamentary opposition party. However, that did not happen, although Ranariddh discussed it as a possibility.<sup>20</sup> The deadlock continued, and, although the National Assembly members were sworn-in during a ceremony at Siem Reap on 24 September, and Sihanouk brokered several talks between the three parties, it was 23 November before FUNCINPEC and CPP finalised an agreement for a coalition government, with Sihanouk playing a crucial role.

The new National Assembly finally convened on 30 November, 4 months after the election, and confirmed Hun Sen as Prime Minister and Ranariddh as Assembly president. (Part of the agreement was the creation of an upper house and that former Assembly president Chea Sim would be president of that Senate.) In his inaugural speech, Hun Sen talked of reforms in the civil service, the judiciary, police and military; said judges' salaries would be increased; an anti-corruption institution would be established; and the army and police would become more disciplined. He also pledged the new government's commitment to human rights, including the right of opposition parties to operate (*Phnom Penh Post* 1998d). However, Hun Sen had made such pledges before and the government's record in this area was not good. For example, the Cambodian Human Rights Committee (CHRC), established by the government in June 1998, did not process one case in its first year (*Phnom Penh Post* 1999a), yet the UN Centre for Human Rights, which Hun Sen wanted to replace with the CHRC, had investigated and provided documentation on 81 cases of post-'coup' killings.

## Understanding why

In the final section of this paper, I suggest that the election was not free and fair because none of the features of Cambodian politics at that time matched those required for political development: (1) the party and state were still operating as one, and the judiciary was not independent of the executive; (2) party affiliation and impunity dominated, rather than separation of powers and respect for rule of law and human rights; and (3) the role and rights of a political opposition had not been accepted by the political elite.

### *Separation of party and state; separation of powers*

The administration, military, judiciary and media are all linked to political parties, predominantly CPP but also to a lesser extent FUNCINPEC, Rainsy and the remnants of BLDP. Middle and lower-ranking civil servants, for example, answer to party bosses rather than their administrative chiefs; the state-run media is CPP-run; and certain units of the military serve the party of their origin rather than the state.<sup>21</sup> As Mong Hay (1999) noted, 'public interest

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<sup>20</sup> Ranariddh told the author, 3 August 1998, this is what he personally favoured, although at that stage FUNCINPEC had not made a decision to accept or reject this option.

<sup>21</sup> Based on personal experience, having worked in Cambodia for 6 years including 1 year as a government advisor, and for short periods in 1998 and 1999.

still comes second to party or personal interests'. Party influence in administration was very evident in the lead-up to the election, when civil servants were campaigning rather than administering, and after the election, when those who had campaigned for a party other than CPP feared they would lose their public-service jobs. CPP officials whose districts did not do well also feared losing their administrative positions.<sup>22</sup> From the earlier discussion in this paper, it is clear that CPP's pervasiveness ensured it controlled the electoral machinery and the electronic media to its advantage during the lead-up to the election and through the Constitutional Council during the appeals process after the election.

Lack of separation of powers is a major problem, yet disengaging the executive and judiciary will be essential if Cambodian leaders are to embrace democracy. Marks cited Fernando<sup>23</sup> as saying in 1993 that 'the whole concept of independence of the judiciary was alien' to Cambodian judges, and in order to meet the constitutional provisions on independence, 'it would be necessary to abolish the judiciary as it exists now, completely' (Marks 1994: 87). Donovan, another lawyer with considerable Cambodia experience, commented: 'Until the police are taught to work within the confines of the law, under the direction of prosecutors and subject to correction by the judiciary, the lawlessness ... will continue' (1993: 71).

However, since then, the political elite has not embraced, perhaps not even understood the need for, the separation of powers. As Mong Hay said, 'the Minister of Justice [still] controls the judiciary' (1999). He also noted that most judges were appointed during the SOC/ CPP period (therefore indebted to CPP) and most were appointed more on the basis of their political loyalty to CPP than on merit. By 1998, more lawyers were practising, courts were better resourced, and delays for trial were substantially truncated, but the courts were still a poor arm of the State, coercion still dominated and separation had not occurred (Plunkett 1998). Young (1998), for example, highlighted the action of Justice Minister Chem Sngun in suspending, in December 1997, the three Appeal Court judges the first time they overturned a conviction; and Touch (1999) detailed CPP's links with the Ministry of Justice, the Supreme Council of Magistracy and the Constitutional Council. Chea Sim, for example, was acting chairman of the Supreme Council of Magistracy, the country's judicial overseer, and simultaneously acting head of state, president of CPP, and president of parliament (*Phnom Penh Post* 1998e).

The challenge will be for the current Cambodian leaders to abandon: (a) remnants of traditional systems, including patron-client relations and the notion that the leader controls all arms of the state; (b) legacies of their Leninist origins; and (c) victors' justice, which, according to Heder (1999), has become deeply entrenched in Cambodia. Marks argued that the judiciary could not be reformed and disengaged from the political elite until salaries and training were increased: '[Until] conditions for an independent judiciary [are] met, impunity for protected people in the system of patronage of Cambodia is likely to continue' (1998).

#### *Rule of law, human rights and impunity*

Dicey's principles of rule of law apply as much today as in 1885: that regular law have supremacy over arbitrary power; that there be equality before the law of all persons, including government officials; and that constitutional law be fully incorporated in ordinary law (Walker 1988: 20). Furthermore, and more recently, the Commission on Global

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<sup>22</sup> My observation and discussions; also interview with Lao Mong Hay, Executive Director, Khmer Institute of Democracy, Phnom Penh, 3 August 1998.

<sup>23</sup> During UNTAC, Stephen Marks was Deputy Director of the Human Rights Component, and Basil Fernando was head of the Component's Investigation Unit.

Governance deemed that rule of law is essential to the well-being of a society (1995). And, as Hourn (1998) said,<sup>24</sup> the failure to re-establish rule of law has had economic as well as human rights repercussions and hindered the development of civil society in Cambodia.

The opportunity to begin the process of re-establishing rule of law in Cambodia came with the UN's \$1.6 billion peacekeeping mission, but UNTAC failed to lay the foundation for judicial reform, which could have been incorporated in the peacekeeping mission and been designed to continue after the peacekeepers left. Recently, Sanderson (1999) admitted as much: 'we failed ... to lay the foundation for the rule of law and justice in Cambodia ... we weren't able to realise the expectations they had of this process, because we hadn't established this fundamental rule of law and justice system in that society'.

Gains have been made with regard to the civilian population respecting the law; however, these advances have been undermined by the failure to prosecute those with military and political connections. The *Phnom Penh Post* described impunity as 'the single most important obstacle to establishing the rule of law in Cambodia' (1999b). Impunity is most often applied when government employees and friends or family of the political elite—of both Hun Sen and Ranariddh—are involved in human rights abuses or corruption. Human rights organisations documented 263 cases of people allegedly killed by government forces or civil servants between January 1997 and October 1998;<sup>25</sup> not one of the perpetrators had been brought to justice. One case involved a brothel owner, with connections to high-ranking military, who beat a prostitute to death in front of more than a dozen witnesses. He was detained then released, allegedly for lack of evidence. In a second case, a 16-year-old boy was caught attempting to steal chickens from the compound of a provincial governor, was tied up by the governor's bodyguards, tortured, then shot to pieces by machine-gun. No action was taken against the bodyguards (*Phnom Penh Post* 1999b).

No individuals responsible for the grenade attack and the post-'coup' killings have been brought to justice. The perpetrators are widely believed to be members of, or linked to, political and military elite, and as such are unofficially exempt from prosecution. An investigation into the grenade attack by the US Federal Bureau of Investigations identified those whom it believed responsible, and sketches of the men were published in Phnom Penh, but they were not apprehended. This continuation of the impunity culture had a significant impact on the 1998 election atmosphere, according to Colm:

The fact that no-one has ever been brought to justice leaves Cambodians with the feeling that to be politically active or vocal is to essentially court death; that you could end up hurt, or your family hurt, or even dead, if you speak out or organise in this country. (1998)

The culture—some say institution—of impunity is not unique to the incumbent government, nor its predecessor, according to Marks, who pointed out that those responsible for the deaths of one to two million Cambodians during the Khmer Rouge period had not faced prosecution. He offered two explanations. First, it is not part of the Cambodian culture to feel that justice must be done before moving forward, therefore the people's ardent hope for peace combined with respect for Buddhism allowed them to accept, for the time being at least, their spiritual leaders' saying that peace must prevail over justice. Second, government officials will not instigate or allow investigations, for example, into the grenade attack and the post-'coup' killings, when they know colleagues, friends or family will be implicated; 'so at that high level, impunity is an unacceptable but inevitable aspect of Cambodian politics' (Marks 1998).

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<sup>24</sup> Kao Kim Hourn is Executive Director of the Cambodia Institute for Cooperation and Peace.

<sup>25</sup> Two Cambodian organisations, Adhoc and Licadho, and HRWA.

*The opposition*

Cambodia had never experienced political opposition in a democracy, and it could be argued that without sufficient exposure, SOC/ CPP did not know how to act and react to opposition parties in the 1993 election. Ledgerwood pointed out that SOC/ CPP documents acquired by UNTAC provided evidence that security forces could not recognise legitimate election campaigning. In addition, she said, SOC/ CPP saw opposition parties as the enemy, and reacted as they had for the previous 13 years, by persuading them to defect, using propaganda, or by resorting to violence. Opposition members were treated as common criminals and designated as 'objects of investigation and possible attack or arrest' (Ledgerwood 1996: 117–24).

SOC/ CPP's inability, or unwillingness, to regard FUNCINPEC and BLDP as political opponents rather than military enemies demonstrated its lack of political maturity in terms of democratisation, although SOC/ CPP no doubt regarded their actions as clever in terms of outwitting the 'enemy'. Indeed, FUNCINPEC and BLDP had been part of SOC/ CPP's enemy a year earlier (together with the Khmer Rouge), and it could be argued that it takes more than 1 year for the population to accept such an enemy as a political opponent. Furthermore, perhaps it was a reflection of the strength of SOC/ CPP's 13 years of propaganda against these two groups. However, I maintain that SOC/ CPP's control over the military, police and administration was such that an order from the hierarchy to treat these former enemies as political opponents would have been adhered to, as was the case a few months later when FUNCINPEC and CPP formed a coalition government after the election.

While most SOC/ CPP actions documented by Frieson, Ledgerwood and the UN were criminal or at minimum blatant violations of electoral behaviour, some were not, but were nevertheless misinterpreted by the opposition as such when in fact they were sophisticated, but legitimate, political manoeuvres by a more experienced political opponent. This highlighted two points: the extent of the tension between the two sides who had been conducting a war against each other for the previous 13 years; and the lack of political maturity on the part of the opposition parties (a) who had not long been formed as political parties, (b) who had not contested an election before, and (c) whose experience was limited to military, not political, opposition.

Whatever the explanations for CPP's behaviour prior to the 1993 election, the party's actions leading up to the 1998 poll underscored CPP's continued disregard for a political opposition, and therefore unwillingness to embrace this aspect of political development. The months preceding the vote witnessed scores of violations by administrative and armed forces personnel, assumed to be CPP affiliates, for example, opposition members in the provinces being killed, threatened, intimidated, forced out of their home or having their homes burnt (Human Rights Watch Asia 1998: 7–10). As outlined earlier, these acts violated the code for free and fair elections; furthermore, most were criminal: however, there was no redress, and again impunity prevailed.

CPP's failure to accept opposition, in any form, was also demonstrated in the period between the two elections. For example: in engineering the removal of Sam Rainsy and Sirivudh as political figures; the splitting of both BLDP and Rainsy's original Khmer Nation Party; failing to instigate a 'question time' in parliament and to allow grievances to be aired; failing to convene a people's National Congress (which is required annually under the Constitution); attempting to have the UNCHR office closed; and in delaying by 5 years the establishment of the Constitutional Council and the Supreme Council of the Magistracy. These actions could be seen as clever political manoeuvres, but not when they are so numerous and are carried out with intimidation, threats and violence, and with no rhetoric or action supporting the concept of political opposition. It could also be said that FUNCINPEC should share some of the blame for its involvement in these actions. It is true that

FUNCINPEC leaders have demonstrated little understanding of or commitment to democracy; however, CPP was the dominant partner in the 1993–1998 coalition and, in many cases, FUNCINPEC was held hostage to CPP.

CPP's intolerance of opposition was also demonstrated in 1998 in the 4 months between the election and final formation of the second coalition government, when violence was used against demonstrators in 'Democracy Park', opposition members were banned from leaving the country, and Rainsy had to seek refuge in the UN office to avoid arrest.

Over the past 4 years, CPP's number one political opponent—excluding the Khmer Rouge as a military enemy—has been Rainsy and, subsequently, the political and trade union movements he created. It could be argued that with this second coalition government, there is no place for a parliamentary opposition in Cambodia. Indeed, with only 15 seats in the National Assembly, SRP alone is not able to determine legislation. In the first year of the new government, SRP's ability to bring issues before parliament was singularly unsuccessful, as the Assembly failed to receive any of SRP's submissions, which is in itself a violation of the Constitution. However, outside parliament, Rainsy can influence political agenda, and bring and maintain issues in the public arena through the media and the international community. In the past, he has influenced bodies such as the International Monetary Fund, which suspended loans (when the government failed to be accountable), and the International Committee on the Reconstruction of Cambodia and its successor the Consultative Group, which coordinated bilateral and multilateral funding to Cambodia, and he was instrumental in having the UN declare Cambodia's seat vacant after July 1997. Domestically, Rainsy's most influential vehicles have been his media outlets and the trade union movement he established. In many countries, trade unions have been instrumental in fostering the development and consolidation of democracy and opposing repression.<sup>26</sup> In that sense, SRP can be an effective political, if not parliamentary, opposition.

The reluctance to accept political opposition, rule of law and respect for human rights is predominant among the CPP elite, but not exclusively. Ranarridh, for example, admitted he did not do enough for human rights during his time as Prime Minister,<sup>27</sup> and few FUNCINPEC members have been willing or able to implement democratic principles in the past 6 years.

## Conclusion

The presented outline suggests that the election was not a 'miracle on the Mekong' because it was not free and fair in the widest context. Furthermore, it was prevented from being so by Cambodia's immature political development, characterised by three factors: the incumbent regime's failure to separate state and party, and establish an independent judiciary; its failure to establish rule of law and respect for human rights; and its non-acceptance of a political opposition.

Political reform is possible if the Cambodian leadership exercises political will. As seen on election day, it only requires an order from the top for weapons to disappear, intimidation to be switched off, and coercion to stop; therefore, it could be reasonably assumed that if orders were issued for political development and administrative, and judicial reform, Cambodia would be well on the way to developing a mature political culture. However, to date, this has not happened, and unless it does, the next election cannot be a 'miracle' either.

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<sup>26</sup> United States Agency for International Development (USAID). Democracy program (no date) at < [www.info.usaid.gov/democracy](http://www.info.usaid.gov/democracy) > .

<sup>27</sup> Author interview, Phnom Penh, 3 August 1998



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