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Human Rights Watch World Report 1998

CAMBODIA

Fundamental freedoms in Cambodia suffered a harsh reversal with the July coup d'état by Second Prime Minister Hun Sen of the Cambodian People's Party (CPP) against his coalition partner, First Prime Minister Prince Norodom Ranariddh of the Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif (FUNCINPEC). Once touted as the United Nations' greatest peacekeeping success, the fractious and ill-fated coalition government installed after U.N.-supervised elections in 1993 disintegrated with the eruption of two days of heavy fighting in Phnom Penh and factional battles in the provinces. Before the coup, both factions of the coalition government had taken actions to undermine press freedom and freedom of association, and government officials at all levels enjoyed virtual immunity from prosecution for human rights violations. Afterwards, new problems arose with key members of FUNCINPEC and other parties fleeing to Bangkok, and thousands of refugees fleeing across the northern and western borders into Thailand. Many inside and outside Cambodia raised questions as to whether conditions for free and fair elections could be established by May 1998 when the first post-U.N. ballot was scheduled. The coup also served to stop the momentum that had been building internationally to find ways to bring Pol Pot and other Khmer Rouge leaders to justice for crimes against humanity.

Human Rights Developments

Relations between Ranariddh and Hun Sen had rapidly deteriorated since March 1996. Both factions had spent more than a year building up their own private armies, police forces, and bodyguard units. In February 1997, factional fighting erupted in Battambang province between FUNCINPEC and CPP forces, with human rights workers reporting as many as twenty soldiers killed during the armed clashes.

On March 30, a grenade attack on a peaceful rally in front of the National Assembly led by KNP President Sam Rainsy left at least sixteen dead and more than one hundred wounded. The two prime ministers continued to build up their personal arsenals and private armies, with Hun Sen's security forces numbering at least 1,500 and Ranariddh's approaching 1,000.

Tensions continued to escalate as the two factions competed to recruit defecting Khmer Rouge units, as well as to build new rival political alliances, which led to virtual paralysis of the fragile coalition. The beginning of the National Assembly's planned three-month session, slated originally for April 21, was postponed after divisions broke out within FUNCINPEC, with a renegade faction led by Minister of State Ung Phan and Siem Reap Governor Toan Chay announcing their intention to oust Ranariddh. During the ensuing political stalemate, the National Assembly failed to convene for nearly six months, holding up passage of crucial legislation regulating the upcoming elections, nongovernmental organization (NGO) activity, political parties, and access to broadcasting frequencies.

When military authorities in late May seized a shipment of weapons and ammunition, addressed to Ranariddh and marked "spare parts," the first prime minister said he "did not have any choice" but to procure weapons in order to protect himself from CPP forces. On June 17, fighting broke out in the streets of Phnom Penh for several hours between Ranariddh's personal security unit and troops under CPP loyalist National Police Chief Hok Lundy, in which several people were killed.

The coup followed less than three weeks later. On July 5 and 6, sections of Phnom Penh were pounded by exploding mortars, tank blasts, and automatic weapon fire as forces loyal to Hun Sen seized the airport as well as the headquarters and military bases of FUNCINPEC. The national headquarters of the main opposition party, the Khmer Nation Party (KNP), was ransacked and looted, as were dozens of businesses, factories, and private homes. In Phnom Penh, at least sixty-five people died, and more than 200 were wounded in the two days of fighting.

The forcible ousting of Prince Ranariddh, whose party won a plurality of seats in the 1993 elections, was followed by an apparently systematic campaign of intimidation, torture, and summary executions of at least forty-one FUNCINPEC members by Hun Sen's forces. In addition, more than 500 FUNCINPEC soldiers were temporarily confined in detention centers—with at least thirty tortured in custody—while dozens of other FUNCINPEC officers disappeared and remain unaccounted for. Dozens of opposition members of parliament, political workers, labor union activists, and journalists fled to Thailand, where many regrouped as the Union of Cambodian Democrats. Others made accommodations with the CPP or escaped to FUNCINPEC zones in northwestern Cambodia. In a development that more than anything else symbolized the resumption of civil war, more than 40,000 Cambodians fled to the Thai border to escape factional fighting in northwestern Cambodia that began in July. By the end of the year, approximately 400 Cambodians had applied for asylum with the U.N. High Commissioner for Refugees (UNHCR) in Bangkok.

After the coup, Hun Sen moved to consolidate his power through action in the courts and the rump National Assembly. On August 6, despite the absence of twenty exiled parliamentarians, the National Assembly removed Ranariddh's parliamentary immunity from criminal prosecution and confirmed Hun Sen's choice for a new first prime minister, Foreign Minister Ung Huot, a member of FUNCINPEC. A warrant was subsequently issued for Ranariddh's arrest for allegedly buying and importing illegal weapons in May 1997.

The constitutionality of installing Ung Huot as a prime minister without removing Ranariddh was questionable on several grounds, including the fact that the National Assembly lacked a quorum for its Permanent Committee, which sets the body's agenda, and the National Assembly vice president, who is required to approve the appointment of new prime ministers, was in exile in Bangkok.

In September, the Phnom Penh Municipal Court issued two rulings with possible repercussions for exiled opposition leaders. On September 9, Cambodia's most prominent political prisoner, former KNP security chief Srun Vong Vannak, was sentenced to thirteen years in prison for conspiracy to murder Kov Samuth, deputy chief of the Criminal Department of the Interior Police, who was the brother-in-law of Hun Sen's wife. In violation of the penal code, Vannak was held for almost a month without access to a lawyer and forced to confess under duress by police, according to his defenders. The court's decision could set the stage for the filing of

criminal charges against KNP President Sam Rainsy as a co-conspirator in a bid to bar him from running in the 1998 elections.

In another move to neutralize opposition parties, on September 17 the Municipal Court determined that the Son Sann faction of the Buddhist Liberal Democratic Party (BLDP), which sided with Ranariddh, could no longer use the BLDP party name or logo. Additional measures to block electoral participation by some exiled politicians are contained in a draft electoral law approved by the Council of Ministers and forwarded to the National Assembly in October. The law would require candidates to live in Cambodia for at least a year before the election and bar convicted criminals from running.

To further strengthen his hand, Hun Sen proposed a cabinet reshuffle in September to eliminate ministers loyal to Ranariddh and replace them with pro-CPP figures from FUNCINPEC and BLDP. However, the National Assembly rejected the slate of candidates proposed by Hun Sen in an initial vote conducted on September 16.

In an effort to get beyond international condemnation for atrocities committed during and after the coup and legitimize the new regime, Hun Sen began to focus his public statements on the 1998 elections. As early as July 13, he pledged that the media and human rights organizations could continue to operate. In a public relations gesture in August, he unveiled an "anti-crime" plan to depoliticize the military, root out corruption in the armed forces, and bring an end to kidnapping and extortion. The eight-point plan has largely been used to arrest offenders who are members of FUNCINPEC, now that they have no protection from political patrons.

A climate of fear throughout the country after the coup, along with the exodus of opposition leaders and journalists, seriously undermined prospects for free and fair elections slated for May 1998. Many in and outside Cambodia believed elections should take place only if the government ended its persecution of the opposition, brought human rights abusers to justice - particularly those responsible for executions during and after the coup-lifted restrictions on the press, ensured the safe return of exiled politicians, and established a neutral electoral administration.

The problem of impunity continued to plague Cambodia, with police, army, and government officials often shielded from conviction for criminal offenses or politically motivated crimes through Article 51 of the Civil Service Law, which forbids the prosecution of government employees without prior ministry approval. To date, no instance of political violence since the 1993 elections - aside from the murder of Hun Sen's wife's brother-in-law, which may not have been politically motivated - has resulted in a serious government investigation.

The lack of an independent judiciary also continued to pose a problem. A Supreme Council of Magistracy, mandated by Cambodia's constitution to appoint and discipline judges, was expected to meet for the first time in November, but a Constitutional Council that is to provide independent confirmation of legislative compliance with the constitution had yet to be established.

One of the most high-profile events of the year was the July 25 public denunciation of Khmer Rouge leader Pol Pot by other Khmer Rouge members, not for genocide or crimes against humanity committed during the 1970s but for the execution of Khmer Rouge Defense Minister Son Sen and an attempted purge of other Khmer Rouge leaders in June 1997. While the international press referred to the event as a trial, almost all the elements of a trial were absent. Many observers believe the eighty-minute proceeding, which sentenced Pol Pot to life imprisonment, was a maneuver designed to bestow legitimacy on the rebel faction in its new alliance with FUNCINPEC.

The status of fundamental freedoms of association, expression, and assembly - mandated by the Paris Peace Accords, Cambodia's 1993 constitution, and its signing of international human rights treaties - suffered a huge setback in 1997. Hundreds of Cambodian NGOs, political parties, and labor unions that had sprung up since the U.N. peacekeeping mission were forced to close or operate much more cautiously in the climate of intimidation following the coup, avoiding direct confrontation with authorities. With so many important opposition leaders in exile, the remnants of the parties that remained in Cambodia largely acted as satellites of the CPP. Given the current political climate, it was unclear by year's end whether local rights organizations would be able to conduct more than symbolic election monitoring efforts in 1998, or whether the two main NGO coalitions that have formed - the Committee for Free and Fair Elections (COMFREL) and the Coalition for Free and Fair Elections (COFFEL) - would dissolve or become irrelevant.

An activist trade union movement sprang up in 1997, with the National Assembly passing a new labor law in January 1997 that gave workers the right to form and join independent trade unions, strike, and bargain collectively. The law was criticized on several grounds, including the lack of protections for civil servants, who constitute 85 to 90 percent of salaried workers in Cambodia. Since the enactment of the Labor Law, the government failed not only to implement it in a fair and neutral manner but actively interfered in workers' rights to organize and bargain collectively, favoring CPP-affiliated unions over independent unions or those linked to the KNP. Following the coup, trade union leaders received threats, and many went into hiding or left the country.

Press freedom was also dealt a blow in 1997. The CPP consolidated its hold over the electronic media during the coup, taking control over FUNCINPEC television and radio stations on July 7. Even before the coup, different political parties had complained about unequal access to the airwaves. In March 1997, Ranariddh threatened to call out tanks against the Ministry of Information, charging that government broadcasters gave preferential radio and television coverage to the CPP. The Ministry of Information repeatedly denied applications for broadcasting licenses by opposition parties such as the KNP or the Son Sann faction of the BLDP.

In May 1997, a CPP-affiliated television station in Sihanoukville was attacked by soldiers armed with rocket launchers, killing technician Pich Em and wounding several others. Three days later, the co-prime ministers instructed government radio and television stations not to broadcast political attacks between the prime ministers and their political parties, ostensibly in an effort to de-escalate violence incited by the diatribes aired in the media. The ban was not enforced, and CPP party propaganda continued to dominate the state media.

Print journalists remained largely free to publish what they wanted throughout the year, although that did not mean they operated in an environment conducive to freedom of expression. During 1997, at least three journalists or media workers were killed: two while covering the March 30 demonstration in front of the National Assembly and another in May during the armed attack at the government radio station in Sihanoukville. In addition, several editors and journalists received threats or were physically attacked, including the editor of the pro-FUNCINPEC newspaper *Kummit Koan Khmer* (Thought of Khmer Children), who survived a beating and shooting attack in January by assailants in police uniforms. In February, following a pattern of increasingly vitriolic attacks on King Sihanouk in the press, several pro-CPP reporters were threatened or attacked, according to the League of Cambodian Journalists. In addition, sixteen journalists were injured in the March grenade attack at the National Assembly. In October, Thong Uy Pang, the editor of the pro-CPP newspaper, *Koh Santepheap*, survived a grenade attack on his home, which he attributed to high-ranking CPP officials he had accused of corruption. Since 1993, however, none of the perpetrators of violent attacks or murders of journalists have been brought to justice.

As of July 1997, approximately fifty newspapers and magazines were publishing in Cambodia, representing a wide spectrum of political affiliations. In the week following the coup, all newspapers not affiliated with the CPP suspended publication, and several journalists went into hiding or fled the country. By August, in addition to the pro-government press, a number of non-CPP affiliated newspapers had resumed publication, sometimes carrying pieces highly critical of Hun Sen. The Ministry of Information reported in August that thirty-two newspapers were publishing again in Cambodia, including seven foreign-language publications.

In late August, the Ministry of Information ordered a private printing house to stop publishing the opposition newspaper *Moneakseka Khmer* (Khmer Conscience), ostensibly at the request of the paper's editor, who was in Thailand; the ministry said he had not authorized the paper to resume publication. In September, the Interior Ministry filed court charges and announced the thirty-day suspension of *Prayuth* (The Fight) newspaper under Article 12 of the Press Law for allegedly damaging "national security and political stability" by publishing inflated casualty figures from the military offensive in northwestern Cambodia. In October, the Ministry of Information cancelled a public affairs program on television produced by the Khmer Institute for Democracy (KID), a human rights organization, charging that KID Director Lao Mong Hay had attacked the government as undemocratic. Also in October the Ministry reprimanded the pro-government *Chakroval* (Universe) newspaper for publishing insulting stories about the King, suspended *Andarakhum* (Intervention) newspaper for twenty-five days for publishing a faked photograph implying government troops support for resistance leaders, and shut down the *Banteay Srei News* on the grounds that it lacked a license.

In the first half of the year Cambodians frequently exercised their right to freedom of assembly, albeit in circumstances that were often tense and confrontational. The KNP organized dozens of mass rallies, with hundreds and sometimes thousands of people demonstrating against garment factory owners, the state visit of Burmese leader Than Shwe, the lack of an independent judiciary, and illegal logging. In addition, farmers calling for flood relief or settlement of land disputes and merchants protesting marketplace rent hikes staged more spontaneous rallies in front of the National Assembly or the Royal Palace, and newly formed labor unions not affiliated

with the KNP organized spirited marches, rallies, and demonstrations as well.

Most of the Sam Rainsy-led demonstrations were carried out under the constant threat of violence or provocation by extremely large numbers of police in attendance. In January, police used a water cannon in one instance, and electric shock batons in several other demonstrations, to disperse garment worker marches and rallies. Police forcibly dispersed another rally in January at the Tack Fat garment factory, beating up several protesters and shooting at the tires of Sam Rainsy's car as he attempted to leave the area.

The deadly March 30 grenade attack against an authorized demonstration led by Sam Rainsy was a clear violation of freedom of assembly. An FBI investigation into the grenade attack, conducted because an American was injured, reportedly implicated the bodyguard unit of Hun Sen, although the report itself has not been made public. After the March grenade attack, Ministry of Interior officials said that they would most likely reject all requests for public demonstrations on a case-by-case basis for the time being, although the ministry never issued a written policy to that effect. A significant exception was made to the ministry's unwritten policy on August 3, when Buddhist monks and nuns led more than 1,000 people on a march through the streets of Phnom Penh to call for peace and nonviolent conflict resolution.

Cambodia increasingly served as an illegal transshipment point in 1997 for the smuggling of illicit drugs, timber, and women and children for prostitution, with high-level dealers and mafia-like businessmen operating under the protection of well-placed political patrons. Cambodian business tycoon Teng Boonma, president of the Cambodian Chamber of Commerce, was blacklisted by the United States from obtaining a U.S. visa because of alleged involvement in narcotics trafficking. After the coup, Boonma admitted providing U.S. \$1 million to Hun Sen to abate widespread looting by paying marauding soldiers to return to their barracks. Boonma also told the *Phnom Penh Post* that he had contributed \$50,000 each to three parliamentarians-Ung Phan, Toan Chay, and Doung Khem-who shifted their allegiance from Ranariddh to Hun Sen in April 1997.

Cambodia's co-prime ministers and the armed forces presided over the illegal exploitation of the country's forests, resulting in severe social, ecological, and environmental consequences. Because of their connections to the prime ministers or high-ranking military officials, logging companies frequently carried out their activities with impunity. Protests by local people about illegal logging, as well as efforts by local officials to supervise or control logging in forested areas, frequently met serious intimidation, armed opposition, and even murder by soldiers or security forces attached to logging companies. In April 1997, a Siem Reap provincial forestry official was murdered by soldiers when he tried to stop logging trucks from passing a checkpoint.

Illegal loggers also used landmines to block police, forestry officials, and local people from entering logging areas.

Journalists who covered illegal logging activities risked their personal safety, as reporters had been threatened or murdered in the past for investigating the issue. After the English-language *Cambodia Daily* newspaper published an article in March linking the giant Malaysian logging company, Samling/SL International, to illegal logging, Samling filed a criminal defamation suit against the paper. The Cambodian courts said no criminal defamation was involved and reduced the case to civil status. As of November, no decision had been reached.

The Right to Monitor

In the wake of the March grenade attack and July coup, most of the indigenous human rights organizations scaled back high-profile activities such as monitoring and investigating human rights abuses out of fear of reprisals from the government. After the coup, a number of Cambodian human rights organizations began to consider the need to re-structure their activities out of concern for the safety of their staff and clients. Possible scenarios included dissolving the large human rights organizations and helping to form smaller local NGOs focusing on development work or less controversial issues such as children's rights. Another possibility under consideration by at least one group was to form a new human rights organization located in a neighboring country, monitoring the situation from there. Human rights education and training programs by Cambodian NGOs continued largely unfettered.

With most of the domestic opposition in hiding, exile, or practicing self-censorship, the United Nations Center for Human Rights (UNCHR) in Phnom Penh emerged as the only body that could effectively monitor and deter human rights violations without serious reprisals. In the face of human rights criticism about executions and torture during the coup, Hun Sen demanded an apology from the UNCHR and the replacement of its staff, accusing the UNCHR of falsely reporting executions and convincing dozens of members of the National Assembly to flee unnecessarily. He also announced plans to establish his own human rights committee to monitor abuses.

UNCHR staff encountered official resistance while attempting to carry out investigations after the coup, despite Hun Sen's appointment of a special advisor to maintain contact with the center. Initial UNCHR requests for access to some detention sites in July were denied, and in August an AK47 was fired over the heads of investigators at a grave site. In another instance, UNCHR investigators in the field heard radio traffic from government soldiers debating whether to kill them or not. The U.N.'s decision in September not to fill Cambodia's seat at the General Assembly heightened tensions further between Hun Sen and U.N. agencies in Phnom Penh. Balancing out Hun Sen's animosity towards UNCHR, on August 29 King Sihanouk cited staff from UNCHR and Amnesty International for exceptional service to the country.

Since the coup, international and regional human rights organizations such as Forum Asia, Human Rights Watch, and Amnesty International have sent fact-finding missions to Cambodia and/or Thailand, where many of the self-exiled parliamentarians were initially based.

The Role of

the International Community

Donors from the major industrialized countries and the World Bank poured aid into Cambodia until July, when virtually all international programs were placed under review. Member countries of the Association of Southeast Asian Nations (ASEAN), usually reluctant to criticize their neighbors, took a strong public stance against the coup by postponing admission of Cambodia into ASEAN. Several countries with embassies in Phnom Penh, the U.S. and Australia among them, were criticized for failing to offer meaningful support during and immediately

after the coup to opposition members in danger.

United Nations

U.N. Special Representative for Human Rights in Cambodia Thomas Hammarberg made several visits to Cambodia in 1997. After a visit in March, he raised concerns about the poor functioning of the judicial system and the government's inaction on confidential UNCHR reports about violence against journalists and torture committed by the military. He also addressed the issue of impunity, referring in particular to "crimes against humanity" committed by the Khmer Rouge from 1975 through 1979 and calling for the establishment of a "truth commission" to conduct a full investigation into their activities. In July, Hammarberg was quick to denounce Hun Sen's military takeover as a "violent coup d'tat...which has displaced the lawfully elected government of Cambodia." In September, Hammarberg met with Second Prime Minister Hun Sen to discuss a report prepared by UNCHR on more than forty cases of extrajudicial executions and torture. Hammarberg called for an impartial investigation into violence surrounding the coup and for the government to reveal the location of all detention centers, prisons, and cremation sites.

On September 19, the U.N. Credentials Committee decided not to fill Cambodia's seat at the fifty-second session of the General Assembly.

Europe

On November 7, 1996, the European Commission (EC) signed the first formal agreement with Phnom Penh designed to aid in Cambodia's reconstruction after more than twenty-five years of conflict. The agreement included assistance for refugees, education, rural development, human resources, environment, mine clearance, and human rights. A Joint Declaration annexed to the agreement stipulated that it could be suspended in the event of serious human rights violations.

In January, the EC approved a humanitarian aid package worth ECU 1.5 million to be distributed by the European Community Humanitarian Office (ECHO), which would enable nongovernmental organizations to carry out a six-month program focusing on health and de-mining.

Following the March 30 grenade attack at a KNP rally, the European Parliament adopted a resolution in emergency debate, urging the EC to remind Cambodia of the importance of the human rights clause in the November cooperation agreement. The resolution welcomed the establishment of an independent committee of inquiry and insisted that Cambodian authorities identify those responsible for attacks on political parties and bring them to justice.

At the same time, the Council of Ministers, the decision-making body of the E.U., prepared to formally sign the November agreement. The council's signature would mean that the agreement would then have to be ratified by the European Parliament and the Cambodian National Assembly. In mid-June, the European Parliament Committee on Development and Cooperation adopted a report recommending approval of the cooperation agreement, despite its rejection by the Committee on Foreign Affairs, Security, and Defense Policy because of continuing widespread corruption and deforestation in Cambodia. The development committee argued that the agreement's solid human rights clause might help consolidate democracy. The report was put before the plenary on October 1 and 2 and was returned to the development committee so that fundamental conditions on aid could be drafted in light of the July coup.

With close to two-thirds of Cambodia's national budget of U.S.\$792 million derived from foreign aid, the potential leverage of international donors is considerable. At the Second Consultative Group (CG) meeting of donors in Paris, convened on July 1 and 2, 1997, international donors pledged U.S.\$450 million to Cambodia. But the coup, three days after the CG meeting, led several countries to suspend financial and technical aid. The most unequivocal response came from Germany, which suspended all aid.

United States

The United States suspended all aid for thirty days following the coup, followed in August by suspension of all but humanitarian aid and aid given through nongovernmental groups, cutting its funding by two-thirds. The U.S. embassy in Phnom Penh was criticized, however, for refusing sanctuary and providing minimal assistance to Cambodians facing political persecution during and after the coup. The U.S. also avoided calling the CPP takeover a coup so as not to trigger sanctions that by law must be imposed when a democratically elected government is overthrown. In September, however, the United States played a crucial role in the U.N. Credentials Committee's decision to delay filling the Cambodia seat at the General Assembly.

The position of Cambodian asylum seekers in Bangkok was complicated by international bureaucratic obstructions. The U.S. embassy did not offer emergency visas to Cambodians who feared for their safety, telling them instead to request political asylum from the embassy in Bangkok. An August 2 statement by the State Department announced that the U.S. government would consider cases of Cambodian asylum seekers that the United Nations High Commissioner for Refugees (UNHCR) determined to be refugees in need of third-country resettlement, but because the Thai government refused to acknowledge anyone as a refugee, only allowing the designation "persons of concern to UNHCR," that avenue appeared to be blocked.

Asia

Following the coup, the Association of Southeast Asian Nations (ASEAN) made an unprecedented decision to postpone Cambodia's membership in the body, originally slated to take place in late July, and tried unsuccessfully to mediate the conflict. After an August 11 meeting of ASEAN foreign ministers, the grouping avoided taking a stand on the legitimacy of Ung Huot's appointment as first prime minister by announcing that it "recognized states not governments."

Australia suspended its military aid to Cambodia on July 15 but continued its general humanitarian aid program. Ambassador Tony Kevin was quoted in a leaked cable after the coup as calling Hun Sen a "democrat at heart" and was quietly supportive of Ung Huot, who holds dual Australian-Cambodian citizenship.

Japan, Cambodia's largest aid donor, while not officially suspending or terminating aid, halted its programs temporarily, following the lead of other donors and out of concern for the safety of its aid workers. But on July 26, despite having previously stated four conditions for resuming aid-including assurances of "fundamental human rights and political freedom"-the Japanese Foreign Ministry announced resumption of aid to Cambodia. On October 16, Japanese Foreign Minister Keizo Obuchi reportedly told senior Cambodian officials that Ranariddh should be allowed to return to Cambodia to participate in the 1998 elections. China, on the other hand, gave its full support to Hun Sen.

As of August 4, the Thai embassy in Cambodia-under pressure from Hun Sen-stopped issuing visas for Cambodians to travel to Thailand.

World Bank

On September 23, the World Bank and the International Monetary Fund announced an indefinite suspension of their aid programs to Cambodia. The IMF stated that it was freezing Cambodia's U.S.\$120 million, three-year loan because of concerns about corruption and logging. The World Bank, which has provided approximately U.S.\$85 million to Cambodia since 1994, announced that it would not renew its funding support to Cambodia until the IMF resumed its programs.

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