

Neutral and Impartial Committee for
Free and Fair Elections
in Cambodia

NICFEC
Cambodian Commune Council
Election Report 2001-02

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Cambodian Commune Council Election Report 2001-02

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I ACRONYMS

CEC	Commune Election Commission
CFF	Cambodian Freedom Fighters
CPP	Cambodia People's Party
EMO	Election Monitoring Organization
FUNCINPEC	Front Uni National pour un Cambodge Independent, Neutre, Pacifique et Cooperatif
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
NEC	National Election Committee
NGO CC	Non-Governmental Organization Coordinating Committee
NICFEC	Neutral and Impartial Committee for Free and Fair Elections in Cambodia
PEC	Provincial/Municipal Election Commission
RGC	Royal Government of Cambodia
SRP	Sam Rainsy Party

II EXECUTIVE SUMMARY

NICFEC

NICFEC, registered on 25th June 1998 at the Ministry of Interior, is a coalition of local Cambodian NGOs, working together on election education and monitoring issues. Its members include: Architect Cultural Association, Cambodian Development Association, Economic Development Community Organization, Fine Arts Association, Khmer Literature Student Association, LICADHO, and the Student Association.

Based on information from its network of volunteer observers and NICFEC's extensive and ongoing monitoring of the pre-election period, election-day, and the post-election period, NICFEC presents its findings and recommendations about the election process of 2002 to the Royal Government of Cambodia, the National Election Committee and the international community.

In the lead-up to the elections NICFEC deployed 3,000 volunteer voter registration observers, trained election observers, and did voter education in all the provinces and cities in Cambodia. Then on 3rd February, 6,400 Cambodian observers and 100 international observers were positioned by NICFEC in all parts of Cambodia, to monitor the events of election day itself.

This report documents and summarizes the offences against democracy and human rights that occurred during the entire process, and offers key recommendations that must be addressed as a matter of urgency before the next elections:

Key Recommendations

REGISTRATION

Organization

- Registration processes must be streamlined and reformed so that it is as easy as possible for every eligible member of the public to register, so that money is saved, and so that the difficulties of repeating registration for each election are avoided.
- The NGO Coordinating Committee should be eliminated before the 2003 elections.

Candidature

- Independent candidates must be allowed to run for office, to broaden the scope of political debate and choice.
- NEC candidate approval procedures must assess candidates on an individual basis.
- Initiatives to provide women candidates with active encouragement and support must be introduced.

PRE-ELECTION AND CAMPAIGN PERIOD

Crime investigation and law enforcement

- Significant improvements must be made to bring to justice perpetrators of murders, violence, threats, intimidation and corruption, in order to limit the damage each

instance does to the potential for a democratic election. This requires reforms in the enforcement of existing laws.

- No case should be presumed non-political until a thorough investigation has been conducted.
- Failure to investigate should result in appropriate disciplinary action or dismissals for the authorities at the locality involved.

Corruption

- The NEC should make a public stand against corrupt practices to promote awareness of what is and is not acceptable political practice.

Education and media

- The NEC must facilitate open debate and equal access to the media for all political groups, as an informed electorate is the key to an active democracy.
- Meanwhile, the media should be allowed to take on an increasingly independent role in providing information to the public.
- Education on the broad benefits of democracy – to everyone, including those currently in power – must be aimed at the politicians as well as the electorate, to help create an understanding of the philosophy of democratic organization, so that rules on the secret ballot and police presence at the polling stations are taken in context and understood.

NEC

- The appointment criteria must be strictly a-political.
- Its overall composition and mandate must be neutral.
- Its education programs must be participatory and democratically progressive.
- The NEC itself must be streamlined, to prevent unnecessary delays in the operation of democracy-promoting programs.
- An electoral jury independent of the NEC must be established to deal with complaints related to the elections.
- The NEC must significantly reduce the costs of the election by rationalizing the procedures, by preserving resources, and by allocating finances responsibly.

ELECTION DAY

Legal and administrative issues

- Bribery and corruption should be properly investigated and punished.
- The Commune Council Election Law must be reformed to ensure non-intimidation in and around the polling station.
- Administrative procedures for counting votes must be standardized, and penalties for tampering with the result should be widely known and implemented.

Education

- NEC must be given sufficient funds to devote to training of polling station officials.
- Practical training on the technicalities of the voting procedure must be provided for the electorate as widely as possible across the country.

POST-ELECTION

- The RGC should provide support to the Commune Councils in the form of technical assistance and financial resources.

- The RGC should install checks and balances to prevent illegal taxes and misuse of commune development money.
- Abuse of power by local chiefs should be checked and punished at the national level.
- The RGC must take measures to ensure that decentralization does not result in the removal of its responsibility for the welfare of its people.

Long-term perspective

All these changes should be implemented in the light of long-term visions for Cambodia as a democracy. A new attitude is required to accompany the reforms that are introduced, to ensure that they operate to promote a democratic way of life. This can be encouraged by NGO and other education programs for the electorate and the politicians, by practical support from the NEC for independent initiatives that promote openness of government and freedom of speech, and by rigorous prohibition and effective punishment of all anti-democratic practices.

The evidence of violence, corruption, intimidation, and an anti-democratic approach to the running of the election requires an urgent agenda of reform from the NEC and the Royal Government of Cambodia if the country is to move towards democracy for the next elections. Work must begin now on preparing for the elections in 2003, to ensure that the same atrocities and misconduct are not repeated again.

III REGISTRATION: Voters and Candidates

Voter Registration

In September 2001 there was a 15-day voter registration period that resulted in the successful registration of 5,109,307 voters out of Cambodia's eligible voting population of 6,251,832. This means that only 83% of potential voters registered – which is a dramatic decrease from the 1998 level, when 98% of the eligible voting population registered. This may be in part because of obstacles such as the following:

- Too-short registration period – This did not allow people time to make the journey to their place of official residence; and some people were simply not able to make the journey involved at that time.

- The registration process became too difficult for busy people – Although people were given a time to go to register, they often had to wait several hours; and sometimes, after waiting for hours, they were told to go away and return to register another day instead. Work is too important for many to have the luxury of days away from work. There was a similar problem on election day:

The NICFEC report from the polling station officer in Ou San Dan commune (in Krakor, Pursat) was that 75% of the fishermen did not vote because they were out at work on the Tonle Sap, and could not get back from work to vote.

- People were temporarily away from their primary residence and unable to register –

There was particular concern for the victims of fires in Phnom Penh, who were not allowed to vote in Tonle Bassac (Chamcar, Phnom Penh) because their registration cards were for their old communes, or because their cards had been destroyed altogether.

People should not have to return to their original residence in order to exercise their right to vote. In addition, Cambodians who are abroad should also be able to register and cast their vote at the Embassy in whichever country they may be.

The repeated registration process at every election is unnecessary and expensive. To save money, an efficient system should be established whereby only new voters need to be registered before an election, as previous voters are retained in the system from last time, and can use the same registration cards as were issued before. That way, there is also less chance of eligible voters missing their opportunity to vote, as they only need to make one trip – to the polling station, not to the registration station also.

The low registration rate for this election may also show that the Royal Government (RGC) did not properly explain the importance of these elections and their relevance to the everyday life of Cambodians.

The concept of democracy must be given its full meaning in Cambodia, and the effects of its existence should be seen not just in the fact of an election, but in every aspect of life. It is a joint responsibility incumbent upon government, NEC, and NGOs alike to ensure that this new reality prevails.

Candidate Registration

In 2001 the electoral law outlined a system where only members of political parties could run for Commune Council. This eliminated the possibility of independent, grassroots candidates running for office, and it eliminates some of the benefits of grassroots, local representation that Commune Councils could provide.

The candidate registration system further required that a party at the commune level had to submit its slate of candidates to the NEC for approval. If the NEC found any problems with one of the candidates it would not approve the entire slate. This created a major problem for the smaller parties that lacked the resources, expertise and the time to recruit extensively. However in November, NICFEC protested this regulation successfully and NEC allowed the other candidates to remain on the slate.

Women Candidates

In 2002 there were 919 women who ran for commune councils around the country and made up 8.16% of the total candidates. In 2001 NGOs had advocated to the Royal Government to set a quota for women candidates and that women's names be placed alternately with men's names on the parties' slates of candidate. The RGC did not agree to a quota system, but the political parties committed themselves to putting 30% of women on the ballot. At the same time some NGOs made extra effort to encourage and train women to run for election. On election day the Cambodian Peoples Party (CPP) had 6.9%, FUNCINPEC Party had 0.86 %, and the Sam Rainsy Party (SRP) had 0.41% of their candidates as women.

The murder of women candidates also caused damage to the confidence of the few women running for office and is sure to have continued negative impact on women in the future who might consider running for elected office. Three women with political aspirations were killed within three days – one in Svay Rieng, and two in Kampot:

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1- Mrs. NGUON Chuon, 53, FUNCINPEC Party member to be village chief if her party was successful: killed on January 03, 2002, in Prey Tonle commune, Banteay Meas district, Kampot province.

2- Mrs. LONG Phorn, 47, FUNCINPEC Party's woman candidate: killed on January 04, 2002, Chhouk 1 commune, Chhouk district, Kampot province.

3- Mrs. TOUCH Sean, 42, SAM RAINSY Party's woman candidate: killed on January 05, 2002, in Daun Leb Village, Kork Pring commune, Svay Chrum district, Svay Rieng province.

NGO Coordinating Committee

The NEC set up the NGO Coordinating Committee (NGO CC) in 2001 with the mandate to coordinate the activities of election observation in the entire country. Before the NGO CC was established NICFEC and others informed the Government that such a body was unnecessary. Although the NGO CC made a good effort its work seemed repetitive to the coordination that the EMOs were already doing between themselves.

In principle, the NGOs should be free to do their work independent of special restrictions introduced by the government to control their independent monitoring of the elections. And in practice, the work of NGOs is likely to suffer from excessive bureaucratic controls. (See "Bureaucracy" under "The NEC" below).

Recommendations:

1. The National Election Committee (NEC) must take responsibility for establishing a transparent system that allows people to register at a time that is possible and convenient for them. A reformed registration system should allow voters easily to transfer their voting location if their residence changes. This is especially important for Cambodia's young and increasingly mobile workforce, and for voters living abroad. One voter registration card should be good for the life of a voter and replacement for lost or destroyed cards should be easily obtained. Such reforms would bring significant democratic – and financial – advantages.
2. For the 2003 national elections and for future Commune Council elections the Royal Government of Cambodia (RGC) should establish a system to allow independent candidates to run for office.
3. For future Commune Council elections the NEC should amend Article 121 of the Law on Commune-Sangkat Council Election so that candidate approval procedures are based on the individual candidate, not a slate of candidates.
4. Over the next year, the Royal Government of Cambodia should work towards a political environment where 30% of candidates for all elections (National and Local) are women. This does not go against any part of the Cambodian Constitution or any United Nations principles. In fact, it is promoting equality between women and men. Efforts must focus on education, training and support for politically active women.
5. The NGO Coordinating Committee should be eliminated before the 2003 elections.

IV PRE-ELECTION AND CAMPAIGN PERIOD

Violence

Deaths

NICFEC is very disturbed by the continued levels of violence that are inflicted on Cambodian citizens who are attempting to engage in grassroots democratic activities.

There have been reports of murders or suspicious deaths of at least 16 party candidates and political activists, which is unacceptable. NICFEC is very concerned that, in addition, the very violent death of one of its own observers in Svay Rieng on 1 Feb. 2002 has not yet even been investigated.

Confirmed political motives for these crimes are few, as thorough investigations are often lacking. However, some instances seem particularly likely to be related to politics, including the following:

- The FUNCINPEC party candidate Orn Chileng of Kampeng Kandal, Kampeng, Prey Kabas, Takeo, was attacked with a knife on 9th December 2001 and fatally wounded.
- An SRP member Ouch Horn was shot several times on 30th June 2001 in Sretroek, Borset, Kompong Speu. After the killing, the villagers signed a report in support of the killing on the ground that he was a black magic sorcerer. The trial concluded in October with convictions of murder for a policeman and a farmer/former military man. However, there is still some local belief that the chief of village was involved in both the killing and the village signing campaign.
- On 3rd January 2002, an SRP member was killed outside his house in Mesar, Teuk Chrov, Dambe, Kompong Cham. A warrant of arrest was issued against a member of the military, who escaped.
- On 14th November, in Veal Khnach village, Sanlop commune, Tbaung Khmum in Kompong Cham, a SRP member was shot. Four unidentified perpetrators came looking for the victim at his house. The victim's wife fetched him from a neighbor's house and he was shot as soon as he met the perpetrators on the way back to his home.
- On the same day, and in the same commune, but in the village of Trapeang Chum, two unidentified people shot the FUNCINPEC commune council candidate. They went to the victim's home at night, shone a flashlight at the victim and shot him three times. Four or five people were seen fleeing.

Because of the lack of investigation, it is impossible to say as fact how closely connected the various violent incidents are, but these last two cases in particular show signs of orchestration, both occurring in Sanlop commune within the space of a couple of hours. The two villages are 5-6 km from each other, with a travel time of no more than 30 minutes. The number of perpetrators in each case was about the same. The same kind of gun seems to have been used for the two killings, and a flashlight was used in both events. It seems likely that these two killings at least might be linked.

A further element of particular concern is the almost universal response of officials to reports of the cases. Consistent factors have been the inadequacy or absence of investigation into the incidents, and the frequent immediate denial of the possibility of political motives behind the violence. This in itself politicizes the violence. Regardless of whether crimes are politically motivated or not, they demand proper investigation and prosecution of offenders.

Physical assault and injury

In addition to these deaths, LICADHO, a member of NICFEC, has investigated six cases of assault – in Kampot, Kompong Cham, Pursat, Svay Rieng, and two in Prey Veng. Of these, five were against SRP members, one against a member of FUNCINPEC, and three involved shootings. The instances tended to occur in clusters: the assaults in Kampot and Kompong Cham occurred within 3 days of each other in January 2002; and the two in Prey Veng and the one in Pursat occurred within a period of 2 ½ weeks in June and July 2001.

The assaults are often accompanied by threats of further violence. There is often no doubt about the political motivations in these cases, as the reason is stated during the violence, and the victim survives to give statements. This evidence of violence being inflicted for political reasons is a reminder that no one should discount the possibility of some of the deaths also being political.

On 6th July 2001, in Thlak, Peang ROUNG, Prey Veng, there was verbal harassment and, a few days later, an argument that resulted in a fight where the victim was seriously beaten. The perpetrator's words as he repeatedly kicked the victim were: "I would kill you, SRP member".

On 29th November 2001, there was a physical assault on the SRP candidate of Koh Russey, Toul Sdey, Chantrea, Svey Rieng. The perpetrator, who was the chief of the police post in Toul Sdey, is reported to have said the following words during the offence: "You are SRP and I want to kill all SRP!"

Although most assaults occurred against SRP or FUNCINPEC members, CPP members were also occasionally targeted.

Intimidation

Threats

Of equal concern are the many threats of violence that have been made against political activists and candidates across the country. These include death threats such as "I shall hire someone for \$500 to shoot So Suphy [SRP activist] to death". This threat was made by the village chief of Rur Meav, Kokithom commune, Kean Svay, Kandal, on 19 August 2001. This particular threat was not followed up, but the effectiveness of the threats alone is great due to the fact that deaths and assaults have actually occurred. Sometimes, the effect is to make the victim withdraw from their activities altogether:

In Ratabak, Battambang, an anonymous letter with a death threat made the victim leave the party. There were no more threats after his withdrawal.
In Pa'av commune, Trapeang Prasat, a SRP activist (and former soldier) had been planning to run in the elections but withdrew his name and said he may withdraw from politics altogether because the climate is not safe. One fear (amongst others) is of being arrested as being a member of the CFF.

Threats of other kinds can be equally effective. In Chamkar Andoung, Chamkar Leu, Kompong Cham, CPP agents threatened villagers that if the CPP did not win the election the victims would not be allowed to live on their homeland any more. Voter cards were collected from the victims who were told that if they were found to belong to SRP or FUNCINPEC, they would be expelled from their work at the rubber plantation.

Thumb-printing

Thumb-printing was first reported in September 2001, and became common practice towards election time. Reports of offences came in particular from Kampot, Prey Veng, Siem Reap, Kompong Thom, and Banteay Meanchey. In general, reports implicated CPP agents and members of local authorities, for requiring pledges from the voters that they would vote for the CPP.

In late January, in Kampot district, Prek Tnot commune (Prek Kreng, Chang Honn, Trapang Ropoev villages) village chiefs and CPP candidates addressed the villagers and asked them to thumb-print as an impeachment to vote for CPP. The CEC was informed of the case, and the CEC invited the CPP to clarify. CPP replied that it only thumb-printed the CPP members.

In Pon, Smoang Cheung, Kamchay Meas, Prey Veng, CPP members gathered around 10 villagers and made them swear to vote for the CPP, saying that if they did not, their whole families would die.

A similar story was reported by a FUNCINPEC activist in Trapeang Prey commune, Anlong Veng district. There, the village chief in Tual Thnal summoned villagers to his home a few at a time, and demanded that they drink oath water. He told them that if they drank it and didn't vote for the CPP, they would die; and if they didn't drink the water, he would seize their land and ostracize them from the village. When some refused to drink, the village chief declared again that after the election the CPP would seize the land of anyone who had not voted for the CPP.

Card Collection

Again in Kampot, there were reports of thumb-printing in Steng Koe commune (Kampong Chen and Trapang Kak villages) for the CPP, and also of collection of electoral cards to note the registered numbers.

The village chief gathered 200 villagers of Village 8 in Chrouy Takeo, Koh Thom, Kandal, to register the number of their election cards, on the pretense that the cards had the wrong registration station on them. He then impressed upon them that they had "to vote for the CPP".

Observers reported instances of card collection as early as September 2001.

Political Signboards

Frequent cases of signboard defacing or removal were reported throughout the country.

On 13th October 2001, in Bou, Chak Kray, Phnom Preuk in Battambang, the victim had asked permission to put up a sign board. Later, soldiers came and arrested the victim at night – supposedly on the ground that he was involved in hiding a gun. While the victim was detained for one night at the police post, the village chief threatened him and said that he could not put up a sign. The arrest appears to serve as an extra intimidation tactic to prevent him from raising the sign.

Disappearances

There are also a few reports of unexplained disappearances.

An SRP member from Lveasar Leu, Lveasar, Lvea Em in Kandal disappeared on 5th August 2001. The suspected perpetrator was ex-Khmer Rouge and a member of the CPP. The motive is suspected to be political and the most recent reports are that the victim is still missing.

LICADHO also has a report of a FUNCINPEC member from Doung Preah, Anhchaem, Tbaung Khmum, Kompong Cham, who went missing on 12th January 2002, when six robbers came to his house, stole some goods, and fired many shots. On 21st January, his wife and family left their home, and intend to sell. There is no report that the victim has reappeared.

Interference

There are also many unconfirmed reports from across Cambodia of various kinds of interference with campaigns and voters by officials or members from other parties. These completed reports from Kampot suggest by the regularity of the type and timing of the occurrences that there might be a carefully formed plan: –

- The 6th CPP candidate in Khan Damnak Chang Oeu, Kep town turned on his microphone loudly during the SRP campaign (26 January 2002);
- On the same day, and the same area, close to the Khan Prey Thom office, Kep town, the CPP turned on a siren loudly during the SRP campaign.
- On 21st January, a member of the military came to the SRP's election campaign in Tropeang Kleang, Chhouk, Kampot, and took the microphone from the 1st candidate, cursing him.
- On 22nd January in several communes in Chum Kiri, Kampot, the district governor and commune chiefs were driving around in groups, which intimidated people not to take part in election campaigns going on in their area.
- Similarly, in Kork, Phnom Thmor village, the village chief joined the FUNCINPEC campaigns without the invitation of FUNCINPEC. This made some of the villagers too afraid to join this campaign.

It is clear that the events of intimidation often have a direct effect on the political freedom and actions of the victims. As described in Chum Kiri and Kork, so also there are reports of disruptive interference in the Angkor Chey district. There, the FUNCINPEC party campaign venues were altered, as the owners of the houses feared for their safety from the CPP. Each incident of intimidation will contribute to counteract the effects of democracy.

Vote-Buying

Vote-buying was found to be widespread across Cambodia, and was documented in all 14 of the provinces monitored, namely: Siem Reap, Kompong Chhnang, Takeo, Svong Reing, Koh Kong, Pursat, Battambang, Kandal, Kompong Speu, Kompong Cham, Kampong Thom, Prey Veng, Kampot, and Odor Meanchey. There was evidence of vote-buying activities by all three of the major parties.

NICFEC observers reported various incidents of money changing hands between CPP representatives in the polling station and outside the polling station, before and on election day. Recipients reported receiving 1,000 riel (about 25 cents) and vitamins and medicines, apparently as gifts or obligation to vote for the CPP, but not with threats.

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Specifically, NICFEC reports 1000 riel per person being given out by CPP representatives in Pursat, at Kandieng, Krakor, Sampo Mea, Bakan and Phnom Kravan, and witnessed evidence that vote-buying may be over the entire province.

There appears to be a strong correlation between the incidents of vote buying across the country, in terms of the type of techniques (e.g. paying for taxis to take voters to the polling stations), the type of gifts (scarves, sarongs and other clothes, rice, vitamins, or money), the amount of the offerings (generally between 500 and 5000 Riel), and the timing of the incidents (mostly occurring on the day and night before the election). This indicates an overall strategy of vote-buying by the parties, in defiance of Article 231 of the Commune Council Election Law, and contrary to each party's declared political commitment to non-corruption.

More often than not, the vote-buying itself was not accompanied by direct threats – although taken in context with the intimidation present in most provinces, this does not necessarily mean that a threat wasn't felt. However, the vote-buying appeared to be more of an appeal to people's natural sense of obligation. NICFEC's report from Pursat indicated that most (but not all) villagers spoken to felt it would be wrong to take the money and not vote for the CPP. The only irregularity that people pointed out was that sometimes the money was not evenly distributed.

However, vote-buying was sometimes coupled also with the dissemination of mis-information that the voters' ballots would not be secret. This created a climate of fear and worry within voters' minds that others would know their choice of party when they voted, which in turn created an implied threat of what would happen next. This mis-information negates the voter education work of NICFEC and the work of the NEC, and frustrates the transition to democracy.

Interestingly, there seems to be a very fine line in the minds of the election observers (and the electorate?) between vote buying and campaign promises. When the politicians promise roads and bridges to be built and repaired if they win the election, observers sometimes note this down as potential vote-buying, when it is part of the campaigner's chosen political mandate. The common factor between these "gifts" however, is perhaps that the offer is made as an alternative to political debate or discussion – it is a one-sided discussion which invites no more response than to accept the offer, and go away quietly to vote as suggested. Vote-buying is not simply bribery and corruption, but another example of the broader problem of a disregard for democratic values amongst leaders.

Media Access and Voter Education

Information about the minority political parties through the media was extremely limited during the campaign period. The decisions by NEC relating to access to media demonstrates bias in favor of CPP, the ruling party which received the vast majority of mention in the media.

In early 2002 NICFEC and NEC had collaborated to produce a Roundtable Discussion between representatives of the political parties for television broadcast. The discussion was on issues of general interest to all voters – from voter education on how to fill out a ballot, to talk of political policies. However, the discussion was never broadcast because the NEC withdrew its permission to broadcast it. This demonstrates a serious lack of understanding by NEC about the concepts of free speech and open political debate.

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The State-run media has an obligation under Article 132 of the Commune Council Election Law to broadcast free of charge all news requested by the NEC for disseminating the progress of the election and managing election education. It is clearly intended therefore that the NEC take a proactive role in making sure the public has the information it requires to vote meaningfully. This is reinforced by Article 75 of the law on election of National Assembly members, which clearly stipulates that the NEC “shall take steps to publicize political messages at the request of a registered political party participating in the elections, based on equal and orderly access to the media”. The fact that this clause is not included directly in the new Commune Council Election Law does not make it redundant, since Article 10 of that more recent law expressly declares the new powers to be “in addition to the ones delegated to the NEC in the law for election of MPs”.

Therefore, freedom of speech issues are entrusted to the NEC who must respond and act as an ambassador for democracy. If this responsibility is taken seriously, it will both improve the understanding of the electorate through greater exposure to the issues at stake; and ensure that the political parties better fulfill their duties to the electorate, by having their ideas tested in public debate.

In addition the media must be allowed to play a prominent and increasingly independent role, to enable it to provide the people with information, in respect for their right to know. The idea that democracy offers the right to choose is meaningless if people are not given the basis upon which to make an informed decision. With the first commune elections has come the opportunity to introduce “democracy” as a broader concept than merely an election procedure – as a way of life.

The NEC

Cooperation and Performance

NEC must support and facilitate the work of NGOs in reaching the public with their education programs.

NICFEC observers noted that sometimes the voters seemed very unknowledgeable about keeping their votes secret after they had finished voting (e.g. in Battambang at Samlot).

It is therefore crucial that the NEC and government pressurize the local authorities to take a more active role in promoting the education of the electorate.

Neutrality

NEC seems to have lost its sense of serving the interests of the voters of Cambodia. Neutral and unbiased decision-making by NEC is necessary to ensure that during election campaigns all voices are heard and that all political parties can present information to voters about their party platforms on mass media television and radio.

The clear political affiliations of most of the appointed members of NEC make it difficult for it to maintain a neutral position and make decisions that are fair to all the political parties and that protect the interests of the voter above all else.

Article 8 of the Law on Commune Council Election expressly provides for an “independent”, “impartial”, and “faithful attitude” by the NEC in exercising its powers. Procedures must be

enforced and followed to ensure this both at the time of selection of members, and throughout the course of the NEC's actions.

When complaints were brought by the public against the NEC for being impartial or for failing to perform duties, there was no independent body to arbitrate: therefore the NEC was both the judge and the accused. A legislative change is required to establish an independent, ad hoc electoral jury to hear, investigate and solve complaints of political parties or individual citizens, related to the election. The jury should have representation from each of the three main political parties (one member each from the National Assembly), a legal expert from the Ministry of Justice, and a Chairman with extensive experience in the electoral process. A jury should be available in each of the provinces, since the majority of the complaints come from there, and require immediate, local, accessible justice.

Bureaucracy

NICFEC's requests to NEC for observer status of the registration process were answered with the setting up of a signature system to issue observer registration cards. This meant that the NEC was not able to issue approval for observers until five days after the registration process began, which resulted in potential observers not being able to monitor the entire registration process.

Finance

Overall, the election process was too expensive. The costs totalled around \$18 million (\$3.7 per voter) – only \$6.3 million of which was paid for by the RGC. Other countries spend much less than this – e.g. Bangladesh: \$0.68 per voter, India \$0.3 per voter. If Cambodia met these targets, the RGC would spend only \$3.4m, and so be able to meet the cost on its own, and still have excess within its budget to pay for training and education of the electorate and officials. Registration should be a once-only cost for each voter, instead of repeating the process every time. Valuable resources and equipment such as computers should be carefully preserved. Volunteers (civil servants, students, etc.) could be used instead of salaried staff as personnel for some of the electoral positions. NEC has a duty to manage its resources responsibly, and to be accountable for its spending decisions.

Recommendations:

1. The NEC and the Royal Government must do thorough investigations into all deaths and violent incidents that were reported to NEC and occurred in the election period.
2. Intimidation is widespread, creative, and effective in disrupting campaigns and frightening people out of voting for change. Government rules on correct electoral behavior must be clear, offences must be well investigated, and the law well enforced. Education on the broad benefits of democracy – to everyone, including those currently in power – must be aimed at the politicians, as well as the electorate.
3. Each case of alleged vote-buying around the country should be thoroughly investigated by the NEC. The government should more accurately determine the definition of "vote-buying", and should strictly enforce Article 231 of the Commune Council Election Law: withhold the offender's registration card/substitute certificate, delete his/her candidacy from the list of candidates by NEC, and fine him/her from 5,000,000 – 25,000,000 Riels.

4. The NEC needs to strengthen and deepen its understanding of political debate, free speech and voter education. The principles of open debate will need to be used also in the newly formed Commune Councils and in other elected bodies. Open debate demonstrates that an elected person can question and criticize and still be loyal to the Royal Government and responsible towards the electorate whom they serve. The formulation of policies to provide equal access to media will provide fairer access to the voting public by all political parties.
5. The Royal Government of Cambodia needs to reform the appointment criteria to NEC. Members of NEC should be independent and neutral members who are not representing the interests of political parties, but rather the interests of the Cambodian electorate.
6. Election legislation must be adapted to establish an independent electoral jury to hear all complaints related to the election, including those brought against the NEC. The jury must have one representative from each of the three main political parties, a legal expert, and an impartial chairman with extensive experience in the electoral process.
7. The NEC should examine its internal procedures to assess where it could reduce bureaucratic bottlenecks between NEC, and Provincial and Commune Election Committees. Since there are about 40,000 observers in the country the NEC needs to find ways to speed up and streamline decision-making and approvals for observers.
8. The financial management of the elections must be improved to avoid unnecessary waste of national resources. Within the election budget, a much greater percentage should be allocated to education and training.

V ELECTION DAY

Technical Implementation

Election day passed peacefully and with minimal difficulties experienced by voters and NICFEC observers. NICFEC observers reported overwhelmingly that polling station officials handled their technical and administrative roles professionally and as efficiently as possible in sometimes not ideal circumstances. However, there were many documented cases of serious malpractice and violations of the Commune Council Election Law:

- Unsealed ballot boxes, in violation of Article 239.

One breach occurred in Kendal, Kien Svay, at Phum Thom Polling Station No. 0168. When it was time to count the ballots, it was noted that the ballot box did not have its seal on it. This was pointed out to the polling officials, none of whom seemed concerned. The Chief of the Polling Station explained that it is CEC policy not to seal the box.

The same facts are reported at another polling station (No. 0167) in the same commune, suggesting that indeed the leaders of the area had decided upon their own CEC policy. Similar instances also occurred in other areas too – such as Boeung Kok 2 in Toul Kok district, where one box was unlocked.

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These cases must be due either to lack of knowledge of, or lack of concern for the law – neither of which is acceptable. The Government and NEC should introduce stringent training programs for all officials, and bolster the legal enforcement mechanisms to ensure that the procedures crucial to an effective democracy are followed.

- Uniformed (and sometimes armed) military/police within the 100 meter perimeter of the polling stations.

The Election Law is not adequate to protect voters from this kind of intimidation. This is a particular problem, as there were repeated reports of the negative effect a military presence has had on voters.

For example, in Bati district, Takeo, armed and unarmed authorities were seen standing in front of the polling stations in several communes. There were also reports of the local chiefs being present. In Kampot district, Trapang Pring commune, Bos Trabek village, the former army force chief of the commune and CPP candidates stood in discussion right in front of the polling station. The Provincial Governor of Kompong Chhnang is reported to have stood with his bodyguards near twenty-one different polling stations in three different communes on election day.

It is very possible that some voters' disbelief that the ballot can be truly secret (understandable due to the practices of collecting ballot papers prior to election, unsealed ballot boxes, and positioning of booths too close to windows etc) coupled with the fear of the power of the local officials (and the threats issued by them in some instances) would influence their choice of candidate at the moment of voting.

Where the policeman or chief is within 15 meters (the "inner perimeter") of the polling station, this is a clear violation of Article 41, which lists the people who are allowed into this area. The village or commune chiefs have no special privileges under this section. The only security officials permitted are those "as might be requested by the Chairman" of the station. There should be an amendment made to the law here to prevent over-use of security for intimidation purposes.

This still would not be enough to solve all the problems, as even without over-use of security, there have been reports of policemen on duty causing intimidation (e.g. at Boeung Kak 2 in Toul Kork, Phnom Penh, where a police officer providing election security strolled around the polling station looking in through the windows). Therefore, the role of the police in the polling area must be properly understood through better training and effective punishment for breach.

The problem still remains though that outside the 15 meter perimeter, it is only *discretionary* for the Chairman of the polling station to decide whether or not to apply the same conditions as for the inner perimeter. This means that it is at his discretion whether or not to provide an intimidation-free environment (guaranteed within the inner perimeter by Article 43), and whether or not to control the presence of intimidatory people who are further than 15 meters from the polling station (by exercising the option provided in Article 43 to apply entry limitations to the outer perimeter too). The Commune Election Law must be reformed to make these discretionary provisions mandatory, in order to reduce the effect of intimidation.

- Police voting in uniform when they should be in civilian dress, since they vote as citizens not as government agents- eg at station 0019, Chamcar, Phnom Penh.

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- Errors on the ballot papers:

In Battambang (commune Anlong Vil in district Sang Ke) there are NICFEC reports of the SRP candidate being omitted from some of the ballot papers, even though they had a candidate there.

- Campaigning by the political parties on election day, contrary to Article 127, which states that all campaign-related activities must have ceased by 24 hours before the election day.

In Russey Keo, Phnom Penh, station 0827, the chief of monks was conducting propaganda for the CPP on a loudspeaker until the NEC stopped him. In Mean Chey district, in Chbar Ampeou I commune, two candidates were seen giving instructions to people in front of and around the polling station.

- Disorder and crowding in the polling stations, causing a disruptive environment, and making secrecy impossible to ensure. This was a frequent occurrence nation-wide. In Station 0001 in Paillin, the chairman of the polling station even suspended the vote for a while because of disorder in the station. Likewise in Kampong Speu, station 0516.

- People standing near the voting booths – a common result of overcrowding. But this was also reported even where the general order was good:

In 0640, commune Prek Pra in district Mean Chey, Phnom Penh, there were about 10 people surrounding the voting booth while one voter voted.

Again, the problem is aggravated when the people surrounding the booth are officials or representatives of a party.

- Missing ballots:

In Leay Bo, (Thbong Khmom, in Kampong Cham), station no. 0612 was short a book of 50 ballot papers, while at 613 there were 50 extra. In Kandal, (Doeum commune in Takmao district), there were at least five missing ballots when they came to count.

- Failure to check fingers for ink

Amongst others, there is a particularly telling report from Kampong Thom:

In Polling station 0242, the chairman of another polling station (Mr. Meas Choun of 0225) went to try to vote, with two of his fingers already stained with the indelible ink. A party agent denied his right to vote there, and the CEC agreed. However, he had evidently managed to vote twice already.

While the officials are deliberately undermining the system, there is a serious problem for the operation of democracy.

Overall, there seems too often to be an unacceptable climate of fear when voting.

An FUNCINPEC agent at polling station 0507 in commune Trapeang Kong, Samroung Tong district, Kampong Speu, found a note in the voting booth an hour before the close of voting, that stated: "Vote for the middle one or we'll kill you".

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There also appears to be lack of trust in the Commune Election Commissions (CEC). Election observers and party agents stated their fear of filing complaints with the CEC because of its close ties with the CPP:

In polling station 0643, commune Prek Pra, Meanchey, Phnom Penh, the NICFEC domestic observer said he was afraid to report the problems he saw to the CEC.

This mistrust might have arisen from previous inaction by the CEC – e.g. when FUNCINPEC candidate Sam Sok complained about vote buying with gifts of clothes and blankets by the district governor in Preykrang Khang Tbong village, Meanreath commune, Dangtung district, Kampot, there was no result from the CEC.

And it might be reinforced on election day by instances such as at station 1207, Chhrey Veng, in Prey Chhor, Kampong Cham, where the CEC did not put enough chairs out so that the observers had to sit outside the polling stations; and at Kok Banteay district in Kampong Cham where the CEC officers made noise by playing songs through a loud speaker which caused a disturbance to the voters.

Voter Turn-Out

More than one million of Cambodia's 6,251,832 eligible voters did not vote on 3 February. The problem of the low voter registration rate was compounded on election day by the turn-out of an estimated 86.25% of registered voters. This compares unfavorably with the higher 1998 turn-out of 93.7% of registered voters. NICFEC hopes that the lower registration and voter turn-out does not indicate voter disillusionment with the electoral representation process.

NICFEC was disappointed to see critical administrative errors on the voters' lists, which appear to have caused legitimate voters to be refused a ballot paper.

One example amongst others was in Phnom Penh, Toul Kork, Boeung Kak 1 and 2, where the numbers of registered voters figures published in the Polling Station lists did not correspond with the lists in front of the polling stations. Also, in station 0373 in Phnom Penh, there was an example of people with registration cards whose names had been left off the list and so who were prohibited from voting.

NICFEC has documented reports of voters being told not to vote by village chiefs. This is a major area of concern and must be properly investigated by the NEC.

Voter Coercion and Payments to Voters

On election day, more instances of vote buying occurred, in the same manner as in the period leading to the election. (See "Vote-Buying", p.13 above).

Counting of Votes

There was a wide-spread problem of inaccurate or inconsistent counting of votes – for example, NICFEC observers saw that the determination of valid and invalid ballots was inconsistent at station 100 in Kratie, Kratie.

A different problem was witnessed in Svay Rieng (commune Kompong Ambil, Romeas Heak district), where more than 200 voters were marked off as having already voted on the list, but the ballot box was nearly empty. The observers' only possible conclusion was that the election process was tainted.

There were also cases of votes being counted off the premises of the polling station, contrary to Articles 36 and 184 of the Election Law. The ballot papers for station 0358 at Boeung Kok (Mean Chey district) were transferred to polling station 0359 in Wat Chroy Thmor; and in Phnom Penh at stations 0624-0628, the officials told NICFEC observers that they planned to count the votes elsewhere.

Recommendations:

1. NEC needs to be given enough resources to continue its training of polling station officials.
2. Articles 40-43 of the Commune Council Election Law should be clarified to ensure the protection of voters from intimidation in the vicinity of the election stations.
3. NEC should investigate cases of voters being told not to go to the polls.
4. NEC must investigate any political party that collected voter cards that are the private property of the holder of the card. The NEC should educate and prevent the political parties from using coercive tactics and pledges to intimidate people to vote for their parties. Continued education is necessary by NEC to reassure the voters that their vote is secret.
5. NEC should investigate evidence of payments to voters around the country.
6. Procedures for deciding validity of ballots must be standardized, and penalties for tampering with the result should be widely known and implemented.

VI POST-ELECTIONS

Re-elections

On election day there were administrative problems with ballot papers in six polling stations in Prey Veng. NEC has quickly responded and will be holding new elections in those polls.

Decentralization

Most Cambodians now understand very little about decentralization and the commune council system. The newly formed councils will also be learning about their roles and responsibilities. This is an opportunity to increase villager involvement in the democratic system on the micro level, which could reflect back to enhance their involvement and understanding at the national level also. The local elections and government could play a crucial part in increasing the practice of free speech and open debate.

Decentralization will bring two major new powers to the commune councils: the power to undertake local development and the power to raise taxes for local use. During the time it will take to formalize these proposed powers, the Government should take the opportunity to install checks and balances with regard to the use of taxes and external development

donations. The local government must be accountable for the money so that villagers can witness a marked distinction between this and the traditional system of semi-official “fees” and bribes.

Monitoring

Careful monitoring and legal control on the power of village chiefs is essential to ensure that where there is a changeover of power, this is smooth and peaceful.

In Kompong Cham, the chief of village 33, Ta Ong commune, Chamkar Leu, was furious when the FUNCINPEC candidate won the election, and barred the villagers' access to the water supply installed by the Rubber Plantation Company of Chamkar Leu.

Abuse of power must be checked and punished so that there is not a precedent of retaliatory events on a change of authority, which might deter voters in other communes from exercising their freedom to vote.

Monitoring for the long-term should also take note of which communes suffer under the new decentralized system. There is a danger that central government officials will see decentralization as a way of abdicating responsibility for some of the rural areas. Also, there is the danger that the communes most in need of development money will not have the ability and resources to assert their needs in a bid for a common pot of money in competition against other communes.

Recommendations:

1. The RGC should provide good support to the Commune Councils in the form of technical assistance and financial resources.
2. Install checks and balances to prevent misuse of commune development money, and illegal taxes.
3. Abuse of power by local chiefs should be checked and punished at the national level.
4. The central government must take measures to ensure that decentralization does not result in the removal of its responsibility for the welfare of its people.

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