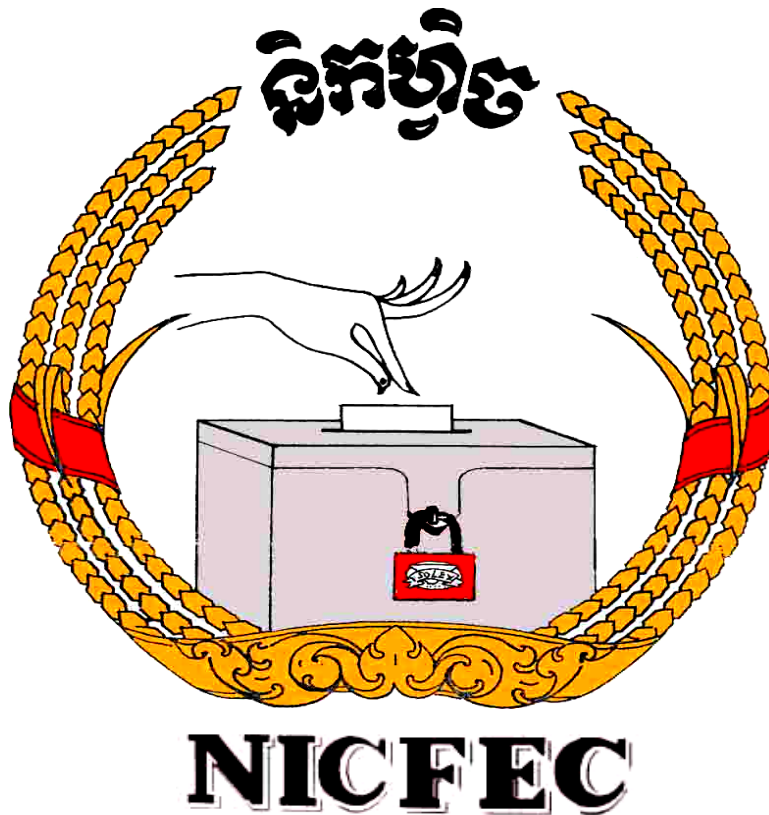


Neutral and Impartial Committee for
Free and Fair Elections
in Cambodia



NICFEC

Cambodian National Assembly
Election Report 2003

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NICFEC

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Acronyms

CEC	Commune Election Commission
COMFREL	Committee for Free and Fair Elections in Cambodia
CPP	Cambodian People's Party
EMO	Election Monitoring Organization
FUNCINPEC/FCP	Front Unit National Pour un Cambodge Independent, Neutre, Pacifique et Cooperatif
LICADHO	Cambodian League for the Promotion and Defence of Human Rights
MOI	Ministry of the Interior
NEC	National Election Committee
NICFEC	Neutral and Impartial Committee for Free and Fair Elections in Cambodia
PEC	Provisional Election Commission
SRP	Sam Rainsy Party
UNDP	United Nations Development Programme

1. Executive Summary

1.1. NICFEC

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

This report is based upon information obtained from its network of volunteer observers working as part of NICFEC's ongoing and wide-ranging monitoring of the pre-election period, Election Day, Counting Day and the post-election period. The information below represents NICFEC's findings and recommendations for the 2003 National Election to the Royal Government of Cambodia, National Election Committee and the International Community.

In the lead up to the 2003 National Elections NICFEC trained 90 provincial coordinators, 370 district volunteers, 142 long term observers. These and 6800 short term volunteers were deployed on polling day in each commune, and every counting centre on counting day in Cambodia's 24 provinces and municipalities.

This report documents and summarizes offences which occurred that endanger democracy and violated human rights during the entire election process. It offers recommendations that must be considered seriously before the next elections take place.

1.2. Key Recommendations

Voter Registration.

- The registration process must be further streamlined to ensure all eligible voters who want to register can do so in the most efficient way possible.
- NEC should provide commune/sangkat officials with more training in the election laws, regulations and procedures and the correct management approach for registration and election processes in order to reduce problems before and during the election.
- NEC and MOI should delegate clear responsibility to the commune council members and provide them with an assured salary so that they can afford to work properly and thoroughly without needing to extort money (in return for authenticating voters' registration, for example.)
- NEC and NGOs need to ensure that voters are well informed and educated in all areas to ensure that people are not disenfranchised as a result of ignorance.

- Improved administration of the voter register to ensure it is accurate and up-to-date.

Crime Investigation and Law Enforcement

- Significant improvements need to be made in order to investigate offences appropriately, and bring to justice perpetrators of killing, violence, threats, intimidation and corruption in order to limit the damage each of these incidents does to the Cambodian democratic system.
- Cases should not be assumed to be non-political until adequate investigation has been carried out.
- Failure to investigate offences against electoral law and procedure should be subject to appropriate disciplinary action.

Election Administration

- Electoral law and the NEC's regulations and procedures need to be clearer and more understandable allowing election officials, party agents and observers to develop a better knowledge of the system.
- Improved training, particularly of election officials at the local level, needs to take place well before the election takes place.
- Clear legislation regarding vote buying must be established. The activity was widespread during the recent election. The current law and regulations seem to have done nothing to discourage it.
- Once a clear definition of 'vote buying' has been established, the electoral authorities should undertake action to ensure that those parties engaging in it are subject to punishment sufficient to deter further vote buying effectively.
- The complaint system should be streamlined and simplified.
- The NEC should ensure that CECs and PECs are effectively trained in handling complaints.
- The NEC should ensure that where reconciliation between parties takes place as a method of resolving complaints, that proper records are kept by the relevant authorities and governing bodies.

Education and Use of the Media

- Improved voter education regarding the registration and voting processes needs to be carried out before future elections.
- Practical training on the rights of voters and the technical procedures for voting and complaints should be provided to people as widely as possible throughout the country.

Unacceptable Political Activity

- More effective action needs to be taken by MOI to ensure that Village and Commune Chiefs do not act in a politically partisan way.

Human Rights issues

- The Government and Local authorities need to ensure that restrictions on freedom of assembly are relaxed in such a way that will ensure people's ability to exercise their constitutional right to express their views through protest.
- All actors within the electoral process need to collaborate in order to ensure that ethnic discrimination and abuse ceases.

2. Summary of Voter Registration Report

NICFEC conducted a review of the voter list and undertook observation of the voter registration period for the 2003 Cambodian Nation Assembly Election. A detailed account of this monitoring work can be found in the NICFEC Voter List Review and Voter Registration Report 2003. There follows a brief summary of some of the central issues raised in that report.

The initial registration period was originally set to last for 35 days between January 15th and February 15th 2003, although it was then extended for an additional 5 days in some areas. The NEC figures for registration indicate that the 2003 voter list contained 93.08% of eligible voters, an improvement on the 2002 commune elections (83%) but less than 1998 (98.32%).

Reports from NICFEC agents were generally very positive in their assessment of the NECs attempts to inform the public of the importance of registering to vote and the deadline for registering. However, some significant concerns were raised by NICFEC in assessing the registration period. Some of the irregularities reported by NICFEC agents included:

- Inconsistent time periods were provided to people to check their names on the register of voters, in some areas (e.g. Kompong Thom, Kompong Cham) registers were not publicly posted for a sufficient period of time, and information concerning the publication of the register was at times unclear;
- In some areas (Stung Treng, Kratie, Koh Kong, Rattanakiri) information encouraging people to register was focused largely in residential areas to the detriment of rural communities;
- NICFEC agents raised concerns that those living in remote areas (e.g. Stung Treng, Rattanakiri, Mondulkiri, Kratie, Prea Vihear) were less likely to register because of a lack of access to information, and because the process of registering would cause a disruption to their livelihoods working in forests and fishing;
- In breach of NEC procedures and regulations, some commune authorities confiscated dissemination materials and equipment from some political parties used to inform people about the registration process.

NICFEC also highlighted the fact that there were some technical problems in the registration process. Many errors appeared to be related to problems associated with a lack of adequate training for commune council members and commune clerks who were given the responsibility to implement the NECs regulations.

- It was reported that in 26 cases, officers and commune clerks closed the registration office early due to a lack of materials, or because they were unable to complete the forms effectively;
- In 21 reported cases disagreements between the commune clerk and commune council members at the start of the voter registration illustrated the lack of understanding as to appropriate roles in the registration process;
- Reports of 38 cases of biased commune/sangkat chiefs and nepotism were received. It would appear that when people who supported the commune/sangkat chief sought to get registered the process worked quickly and smoothly, but for others there was more likely be problems and delays.

3. Pre-election Period: 4th February 2002 – 25th June 2003

3.1. Violence

Since the Commune elections in February 2002, LICADHO's Phnom Penh office and 12 provincial offices have received more than 190 complaints where the victim had some sort of political affiliation. These complaints have ranged from the destruction of party signs through to threats, intimidation, violence and killings. The vast majority of the cases involve complaints from SRP members and officials against CPP members.

3.1.1. Killings

From the date of the first Commune elections in February 2002 to the start of the national election campaign period on 25th June 2003 LICADHO received reports of at least 17 cases involving 19 deaths of party activists, supporters and their family members. The exact number of killings which occurred because of political motivation rather than other reasons, such as theft or revenge, remains uncertain however. The authorities appear to lack the political will to investigate deaths on this basis and have a tendency to dismiss out of hand any claims of political motivation. This in itself politicises the violence. Regardless of whether crimes are politically motivated or not, they demand proper investigation and prosecution of the offenders. At the same time Human Rights NGOs such as LICADHO suffer from a lack of human and material resources and ongoing time constraints that in practice hinder their ability to fill the gap and investigate cases thoroughly themselves.

The highest profile killing to take place in the run up to the 2003 election was that of Om Radsady, a senior member of FUNCINPEC who, at the time of his death, was a key advisor to Prince Norodom Ranariddh. The daytime shooting took place on the 18th February 2003 outside a Phnom Penh restaurant. Two members of a paramilitary unit were arrested for his killing but the authorities have yet to provide a convincing motive for their alleged involvement. Immediately after the killing the authorities stated that the

motive was theft. However, by late March MOI had acknowledged that this motive was doubtful, without offering any other information.

The killing of Om Radsady has raised significant issues regarding the electoral environment. Firstly, there has been a marked cooling effect on the activities of opposition activists and politicians in the aftermath of the killing. That such a high profile advisor be killed in broad daylight on the streets of Phnom Penh illustrates the vulnerability of all opposition members. Secondly, despite the high profile of the victim and the egregious character of the crime, the authorities have ignored its political nature and have failed to investigate it effectively.

Whilst it is clear that the overall figures for politically motivated killings have decreased in the run up to the 2003 elections, it remains difficult to ascertain precisely how many have been killed as a result of political affiliation. Moreover, even where killings are not clearly political in nature, the deaths of political activists still contribute to the atmosphere of fear amongst the general population and are at times used to perpetuate this fear.

7th February 2003 – Kompong Cham province – Voter Registration Period

A commune chief intimidated the potential voter by citing the example of the death of an opposition political party member, saying that police could find neither the perpetrator nor any evidence. He further threatened that he had many friends and could order them to do everything that he wanted.

3.2. Intimidation

3.2.1. Threats

Threats were prevalent throughout the run up to the election period and took a variety of forms:

- Death Threats
- Threats of physical violence
- Threats that the victim would lose their house and/or land
- Threats that the victim would lose their livelihood
- Threats that communities would lose infrastructure and/or development projects

Intimidation of activists has traditionally taken the form of threats of physical violence, including death threats.

2nd June 2003 - Kompong Cham province - schoolteachers who were allegedly involved in the SRP received an anonymous letter containing death threats. The letter warned them to watch out for their lives, since they were SRP supporters, but teaching was CCP's province.

Reports from NICFEC and LICADHO suggest that in the run up to the 2003 election there has been a modification of intimidation tactics: Essentially, a shift away from threats of physical violence to an increase in threats to economic security including suggestions that people could lose their land, houses, and jobs if they engage in “unacceptable” political activity -

4th April 2003 - Kompong Speu province - Military commanders threatened a SRP activist stating that unless he ceased working for SRP, they would leave out the victim’s name for the military unit’s attention, confiscate his land, house and other properties and would not be held responsible for the victim’s life.

Intimidation has occasionally gone beyond individual activists and supporters and has targeted whole communities, even going to the extreme of warning that war might recommence. More commonly, villages have been warned that they might lose infrastructure projects and jeopardise the economic interests of the area by voting for opposition parties. In one case reported to LICADHO vote buying was combined with threats to ensure that villagers were forced not only to vote in a particular way, but also to encourage others to do so too-

March 2003 - Siem Reap province - CPP Parliamentarian Sieng Nam, gave 100,000 Riels each to 380 families if they promised to vote for the CPP. Two months later, after the money had been spent, the villagers were informed that the money was a loan. They were told that they would have to repay it if the CPP did not win the seat. Having no way of paying the money back the families feared what would happen if CPP did not win. In effect they were forced become CPP activists and convince their fellow villagers to vote CPP or be faced with a debt they could not pay. The likely result of default on this debt would have been the seizure of their land.

3.2.2. Card Collection

Long-term observers for NICFEC reported that the confiscation of voter cards was taking place in a number of provinces. However, it appeared that such cases were particularly focused in areas where the village chiefs believed that people would not vote for the CPP. When challenged as to why cards were being collected it was reported that village authorities and party agents justified the action as being needed to check registration in the villages concerned.

NICFEC observers reported 16 cases of voter card confiscation in a number of provinces, although the most serious cases were from Koh Kong and Battambang provinces, mostly involving action by the CPP.

3rd June 2003 – Koh Kong province – a number of villagers had their voter cards collected by the Group Chief (CPP).

19th June 2003 – Battambang province – over 200 villagers had their voter cards taken by the Village Chief (CPP).

3.2.3. Political Signboards

A number of cases were reported to NICFEC and LICADHO of interference and destruction of official signboards by all the main political parties in many provinces. Unidentified persons committed many of these incidents and so little action could be taken against the perpetrators. However some cases were successfully reported to the CEC and resolved at the local level.

24th June 2003 – Kompong Cham province – SRP signboard was pulled down. A complaint was made to the CEC and the matter was reconciled leading to sign being restored.

3.2.4. Oath Swearing

Reports that people were being forced to swear on oath to vote for particular parties were lodged with NICFEC. These cases were generally in places where village authorities and party representatives from the CPP regarded villagers as being unlikely to support the ruling party. Thus villagers were forced to swear an oath and/or drink oath water to confirm that they would vote for the CPP.

Many of the reported cases came from Siem Reap and Kompong Cham provinces and were accompanied by promises of gifts. The alleged victims were often known members or supporters of the SRP or FUNCINPEC.

13th June 2003 – Siem Reap province – 6 members of SRP were intimidated into resigning their membership of the opposition party

Some incidents, however, involved whole villages:

18th June 2003 – Siem Reap province – 700 villagers were forced to drink oath water to vote for the CPP by the District Governor (CPP).

3.3. Vote Buying

Reports of vote buying in the pre-election period were numerous and appeared mostly to involve the CPP. Although many cases involved ordinary party agents there were incidents which were carried out by senior party officials. Observer's recounted incidents of gift giving involving sarongs, t-shirts, shampoo, painkillers and money:

7th June 2003 – Siem Reap province – Sarongs were distributed to people by His Excellency Searng Nam (CPP)

Whilst many cases involved the CPP reports also confirmed that other parties were engaged in the same type of activity.

14th June 2003 – Kompong Cham province – His Excellency You Hokry (FCP) distributed Paracetamol tablets and 3000 Riels per person.

4. Campaign Period: 26th June – 25th July 2003

The month long campaign period saw a rise in the number of election related irregularities being reported by NICFEC observers and human rights cases being lodged with LICADHO by political activists and supporters.

a. Violence

Killings

While violence during the campaign period appeared to be less prevalent than in previous elections it remained a serious concern.

21st July 2003 - Pailin Province - SRP activist was killed with an axe.

In all, five killings of political activists were reported to NICFEC and LICADHO in the month long campaign period. Until investigations are completed it remains uncertain whether the motives for these killings were political. NICFEC was also concerned about the violent killing of one of its observers on 28th June 2003 although it appears to be unrelated to political activities.

Attempted Killings

NICFEC received reports of two attempted killings in Kandal and Kompong Cham provinces. These incidents were accompanied by threats of further violence and are more easily identifiable as being political in nature because the victims survived to recount the political nature of the violence and threats.

9th July 2003 – Kompong Cham province – CPP activist supporter was shot and seriously injured by an unknown person

14th July 2003 – Kandal province – SRP activist was attacked by a CPP activist

Physical Assaults

Physical assaults were relatively common during the campaign period, and were at times serious in nature.

7th July 2003 - Siem Reap Province - a SRP activist refused to join the CPP despite threats from the commune chief. Later that night, a B40 rocket was fired at her house.

Direct acts of violence were often aimed against party activists who were knowledgeable about the law and were prepared to stand up to intimidation in a legal and proper manner.

21st July 2003 – Phnom Penh - a SRP commune council member was subjected to a vicious beating following an argument with a CPP activist. It arose when the SRP member said he would complain to the CEC about the defacement of SRP posters by the CPP activist. The SRP member said he would meet the protagonist at the CEC whereupon the CPP activist abused his SRP counterpart. The same night two unidentified men beat the SRP activist, striking him three times to the head with a heavy wooden bat. One of them held the victim from the back while the other hit the victim on the head repeatedly, causing bleeding and swelling. When the victim fell to the ground they continued to beat his head against a brick-wall and to beat him about the torso.

b. Intimidation

Threats

As the election drew near the level of violent threats made increased. Although threats were reported near universally, political harassment seems to have been focused in certain areas. In Kompong Cham province, for example, LICADHO received seven cases of death threats, threats and physical assaults between 30th June and 11th July. Four of these came from Prey Chhor district and between the 10th and 11th July 2003 a number of SRP activists received anonymous death threats in Chrey Veau commune of Chhor district.

NICFEC long-term observers reported 91 cases of intimidation and threats; the main perpetrators appeared to be village authorities and CPP agents. Similarly, cases reported to LICADHO often involved officials. Such widespread abuse of institutional power clearly damages relations between communities and officials.

There is also concern that it is especially difficult for communities and individuals to withstand pressure from or combat powerful officials. Thus even where officials admitted to engaging in threats and intimidation in relation to opposition party activists, few sanctions were imposed upon them reinforcing a sense of impunity and undermining the election complaint system.

9th July 2003 - Kandal Province - Two farmers with no political affiliation were threatened by their Deputy Village Chief. They were asked who would protect them if they were subject to a land seizure, if they did not register with the CPP? A complaint was made to the CEC and a hearing held on the 14th July 2003. The deputy village chief confessed whereupon the village chief promised to prevent any further wrongdoing. This was enough to satisfy the CEC and the matter was closed.

Interference with campaigning

NICFEC long-term observers reported 15 cases of the interruption of campaign activity in Kompong Cham, Kompong Thom, Battambang, Kandal, Koh Kong, Odor Meanchey, Phnom Penh and Takeo provinces. These incidents included soldiers preventing FCP from putting up the party logo (Odor Meanchey) and the use of loud speakers and microphones to disrupt campaign meetings.

9th July 2003 – Battambang province – FCP members informed the CEC that the CPP had disrupted their campaign. The CEC asked the police to investigate and they found speakers, but no people present at the scene. The CEC ordered the CPP to cease its campaigning activity, as the party did not have its permission.

c. Vote Buying

The campaign period was marked by an upsurge in gift giving, both open and clandestine. These were reported and confirmed by NICFEC and LICADHO as having been particularly widespread in Siem Reap, Kompong Thom and Battambang.

It should be noted that both FUNCINPEC and SRP were also reported to engage in gift giving though not on the scale of the CPP. It is not clear whether this difference reflects a lack of resources or a political position which seeks to distance itself from the practice of vote buying/gift giving.

6th July 2003 – Battambang province – High-ranking FCP official distributed various medicines to villagers

30th June 2003 – Kompong Cham province – Sam Rainsy distributed packets of medicine and 2000 Riels to people at Krouch Chhmar market

The NEC rules for the election state that vote buying is illegal and that sanctions should be imposed on those who offer “material or monetary incentives to buy votes” (Article 124). However, during both the pre-election and campaign periods gift giving was prevalent. The NEC failed to clarify effectively the difference between unlawful vote buying and acceptable gift giving, making it difficult to establish “vote buying” as a breach of electoral law or regulations. Furthermore “gift-giving” was frequently accompanied by threats where communities were told that their choice was to vote for CPP and receive some gifts or vote against the CPP and risk violence, ostracism, uncooperative officials, and restricted access to community assets.

In some cases the roles of supposedly independent election officials became confused with activities on behalf of the CPP. In the following example an NEC member was involved in gift giving that could easily be construed as support for the CPP given his presentations in the CPP office and were followed the next day by others from the ruling party.

5th July 2003 - Kompong Thom Province - Un Neong (NEC official) provided sarongs to schoolteachers in CPP office in Brasadth Sambo district. On July 06 2003 Soy Banhearith, police inspector to Brasadth Sambo, Sem Norm, guardian to Sambo Prey Kub temple and Kong Keam, chief of temple guardians (all CPP supporters) gave out 600 sarongs.

The campaign to buy votes and loyalty appears to have been well co-ordinated and thus suggests a level of centralized support and management. The large numbers of gifts distributed in the provinces by CPP officials, including the 100,000 Riels “loans”, would have taken considerable funds and organization. The similar tactics and methods suggest either a degree of collusion among the various gift givers or that they were following a plan dictated to them from above.

5. Election Day: 27th July 2003

NICFECs long and short-term observers concluded that Election Day passed off peacefully and with few significant disturbances and irregularities. The majority of the international observers trained by NICFEC rated the overall process as being on an average or above average standard. Where irregularities were identified, many observers considered that these were often unintentional and officials appeared to attempt to ensure the integrity of the process as much as possible.

However, some serious cases of malpractice and breaches of the election law were identified.

a. Polling Process

Pre-polling

A number of technical problems and breaches of NEC rules were reported to NICFEC relating to the situation before the polls opened on the morning of the 27th July 2003. These included

- At least 2012 cases of political party campaign materials being found in polling stations or within the 100 meter radius exclusion zone that was to be kept free of such publicity according to the NEC rules
- 1114 cases of essential election materials being unavailable at polling stations
- 205 cases of election officials being absent from the polling station.

It was reported that at least 158 polling stations were not sited in the location designated by the NEC. Although relocation of polling stations is not in itself a fundamental problem it does require adequate notice to be given by election officials to the community and political parties. This does not appear to have happened in all cases and therefore gave rise to problems on polling day.

Before polling stations could be opened for voting the regulations required that empty ballot boxes should be shown to party agent and observers. However in 67 cases reported by NICFEC observers this did not take place before the boxes were closed and sealed.

Environment of Polling Stations

NICFEC observers reported that in 125 cases the polling station failed to open on time. Once stations did open there was a significant incidence of chaos as early morning crowds of voters overwhelmed officials. Observers reported that in many polling stations crowds of impatient voters pushed towards the front of the line. As a result 983 cases of voters not queuing in an orderly fashion were received by NICFEC.

In more serious cases the lack of control of crowds at polling stations may have compromised the secrecy of the voting process particularly when the voting booth was positioned near windows or doors. Generally, 215 reports were made regarding concerns that the arrangements for securing the secrecy of the ballot were inadequate. However, observers also reported that when these concerns were expressed to officials, the usual response was then to move the booth.

Whilst observers were generally positive about the election environment of polling station there were issues of obstruction, fear and intimidation. These resulted in 1732 cases being reported as occurring inside the polling station, 1705 cases around the polling station and 1720 cases on the way to the polling station.

Uniformed/Armed Police and Military

The election law clearly states that uniformed and armed police and military personal should not be present at polling stations. However, NICFEC received a number of reports from observers indicating that this provision had been breached. Some incidents could be explained as being the result of lack of thought on the part of individual officers seeking to vote. However not all incidents were above suspicion.

27th July 2003 - Kompong Cham province – A uniformed police officer was reported to enter the polling station every half hour to count the number of people who voted.

Political party campaigning and presence at polling stations

Political parties are not permitted to campaign on polling day, and such activity runs the risk of breaching Article 72 of the Election Law. However, NICFEC observers reported a number of such incidents. For example, CPP posters were reported to be within 100 meters of, and visible from, polling stations 207 and 208 in Kompong Chnang province.

Party agents from the main political parties were reported to be present in polling stations actively monitoring who was voting and at times talking to voters.

27th July 2003 - Kompong Thom province – An international observer witnessed a party representative in the polling area who was talking with voters and appeared to be attempting to influence their decision.

Overall 605 cases of unauthorised persons being present in the polling station were reported to NICFEC.

Interference by Village/Commune Chiefs

The presence of village and commune chiefs in and around polling stations was a major problem commonly reported during Election Day. Their presence could be construed as interference and potentially intimidating to voters.

27th July 2003 - Olympic Commune, Phnom Penh – An observer reported the presence of commune and village chiefs at the polling station who were talking to people present. Party agents complained that the depute chief gave advice to voters.

Overall, observers noted that the main people causing irregularities during the Election Day were village authorities, as well as CPP agents.

The politically partisan nature of village and commune chiefs has been a concern throughout the election process, as has their role in encouraging, organising and at times intimidating their communities to vote. Their presence at polling stations on Election Day gives rise to similar concerns about abuse of the power.

Vote Buying

Reports of vote buying continued to come in during Election Day from Takeo, Banteay Meanchey, and Kandal provinces.

27th July 2003 - Takeo province - An observer reported that the village chief distributed 3000 Riels to villagers.

Ability of citizens to Vote

NICFEC received reports of 772 cases of people, while ineligible, nevertheless being allowed to vote, and 165 cases in which eligible voters were unable to exercise their right to vote. The reasons for this were various but fell into a number of key categories.

Firstly major discrepancies were identified between the CEC Voter Lists and the NEC Voter Lists in three districts of Battambang province.

15th-27th July 2003 - 9 communes, Thmor Koul district, 10 communes, Mounng Risey district, 4 communes, Ek Phnom District Battambang province – Observers reported more than 27,563 people were to be denied their vote as their names were not included on the voter registration list issued by the NEC, although they were on the CEC list.

Secondly, people were unable to vote because their names were not on the voter list. This seemed to arise from an ignorance or misunderstanding of the registration process. Thus many people arrived at the polling station with ID from the 1998 election. However, because they had not been registered for the 2002 commune election, nor had they participated in the registration process for the 2003 election, they were unable to vote.

Thirdly, some claimed they had registered to vote but could not find their name on the list of voters or because their name was listed differently on their voter card from that on the voter list.

27th July 2003 - Wat Putia Ram, Pursat province – observers reported seeing officials refusing a number of potential voters the right to vote because their names appeared differently on their voter cards from on the list, despite the numbers being identical. However, in other polling stations officials appeared to allow people to vote if the ID numbers were the same.

Fourthly, there were disturbing reports that voters who were labelled by other people as being “Vietnamese” were unable to vote.

27th July 2003 - Kbal Commune, Kandal province – observers reported strong complaints being made by people regarded as being “Vietnamese” who were intimidated by people at the polling stations and were therefore unable to vote despite being eligible and registered to vote.

Fifthly, reports from a number of provinces described cases where registered voters were unable to vote because it appeared that their name or number had already marked off by officials as having voted. This situation could arise either as a result of voter fraud or administrative incompetence. Either way eligible voters were unable to cast their vote through no fault of their own.

27th July 2003 - Chba Ampov district, Phnom Penh – observers reported that several voters arrived at the polling stations to find that they could not vote because their numbers had been used already.

Conversely, some voters appear to have been able to exercise their right to vote at least twice.

27th July 2003 - Chba Ampov district, Phnom Penh – observers reported that complaints were made to them that some voters had returned to the polling station saying they had made a mistake and that they were allowed to vote a second time.

Technical Implementation

NICFEC received a number of reports concerning irregularities in the technical implementation of the election rules and procedures during the polling process. These included

- 199 cases of voters not being processed according to the regulations
- 772 cases of officials not acting in an impartial manner
- 344 cases where the ballots papers did not always remain under the supervision of the polling station chiefs

Practical matters arose in a number of polling stations because of problems with the ballot papers themselves. Thus observers reported ballots being stuck together which led to tearing. This in turn caused confusion amongst polling station officials as to decide whether the papers should be considered spoilt or whether voters could use them.

It would appear that one of the most commonly seen problems witnessed by observers was the failure on the part of election officials to check people's fingers for ink before they were allowed to vote. This may be as a result of a lack of knowledge of, or concern regarding, the election procedures. However, whatever the reason, the failure to check voter's fingers consistently for ink leads to doubts being raised regarding the security of the voting process.

The Closing of Polling Stations

NICFEC observers reported that in 240 cases polling did not close at the correct time. The regulations require that people who are queuing at 3.00 pm to cast their vote should be allowed to do so. However, observers reported that in 1224 cases this did not happen and people were denied the right to vote.

The procedure for closing the voting required ballot boxes and materials to be accounted for and sealed in the presence of observers and party agents. However, in 204 cases the sealing was not done and in 152 cases materials were not reconciled in the presence of observers. In a further 113 cases the ballot boxes and materials were not sealed in the security bags supplied. Although party agents are required to sign polling station forms to confirm their acceptance of the Election Day report, it appears that some agents signed with little or no consideration of the details recorded in the polling station forms nor an

understanding that this would prevent a consideration of complaints regarding those polling stations' activities at a later date. In 212 cases reported to NICFEC, party agents expressed a lack of satisfaction with the Election Day process.

NICFEC received 186 reports in which party agents and observers were not allowed to accompany the ballot boxes to the counting centre. Overnight secure storage of the ballot boxes also caused some problems. Agents and observers were not allowed to stay near the location of the ballot boxes in 179 cases.

Observers and Party Agents

A central part of ensuring the effective operation of the election process is the role of observers and party agents who need to be present and allowed to work unhampered at the polling and counting stations. However NICFEC received reports of 1860 cases in which party agents and 1881 cases in which observers were not allowed to work free from obstruction. NICFEC international observers also reported some concerns regarding intimidation of observers.

27th July 2003 - Phnom Sampov, Battambang province – an observer reported that he and his interpreter “were constantly followed by several individuals.” When questioned as to who they were they refused to answer but were later identified by 2 villagers as being CPP agents.

b. Counting Day

Counting Day appears to have passed off peacefully and observers noted that in general counting centre officials carried out their technical and administrative roles correctly even though some had to work in less than ideal circumstances. However, NICFEC observers also reported technical difficulties which were serious in nature. For example, in 359 cases reported ballot boxes had been disturbed during the night. In all 1023 cases were reported in which the vote-count was interrupted for a variety of reasons including disturbances, violence, suspension and postponement.

Opening of the Counting

In 144 reported cases the ballot counting did not take place at the designated counting station. Organisational factors were a significant cause of delays and problems with the opening of counting. In 203 reported cases the counting did not start on time or shortly after the start time of 7.00 a.m.

Presence of Correct Personnel

Difficulties arose in ensuring that the appropriate personnel observed the counting. 30 reports were made of there not being at least three different party agents present at the counting station and in 125 reported cases non-partisan observers were not allowed to record the vote-count results. It was also reported that in 152 cases unauthorised people were present in the counting stations. NICFEC received reports of 1304 cases in which party agents and 1322 cases in which observers were not allowed to work without obstruction during the counting process.

Technical Implementation

The counting station chief is required by the procedures to announce the number of votes cast before the counting takes place, yet in 119 reported cases this did not happen. In comparing the numbers of votes against the number of people reported to have voted there were 175 cases reported to NICFEC where these numbers did not tally.

In undertaking the count itself 61 cases were reported where the votes were not mixed correctly prior to the count. In some counting stations the officials undertook the count in a way that made it difficult for observers to see what was going on effectively.

28th July 2003 - Takeo province – Observer reported that the chief of the counting station counted the ballots too fast, which led to complaints by party agents.

Observers also noted that in their view 63 cases arose where decisions regarding invalid ballot papers were not made reasonably. Furthermore in 68 cases the ballots for each party were not counted and recorded appropriately.

Once counting is complete, the counting station chief is required to make an accurate vote-count report which should be signed by party agents and observers if they are satisfied with the report. However in 53 reported cases an accurate report was not made and in 94 cases agents and observers did not sign the report. These figures do not quite tally with the 156 reported cases of party agents expressing themselves as not being satisfied with the counting process, but are reasonably close.

Finally it was reported that in 266 cases a copy of the vote-count report was not posted at the counting station for the public to read after the count had been completed.

c. Voter turn-out

Voter turnout at the 2003 national election was 81%, which meant that around 1.1 million people did not vote. This was a lower turnout than in 1998 when 93% of the electorate voted and the 2002 commune elections when 86.25% of voters participated in the first local elections. The worst province appeared to Pailin where voter participation was 64%.

Reasons for the reduced turnout are the subject of debate. As detailed above, there were administrative problems arising from the NEC and its implementation of the registration process. Similarly a number of voters were unable to find their names on the voter lists, some names were incorrectly recorded, and others appeared to be in the wrong location.

At the same time, there is concern that the reduction in voter turnout is a result of people's diminishing enthusiasm for the electoral process in Cambodia. Inadequate voter education, popular focus on personal economic situations and perhaps a growing scepticism that elections can change the lives of people in practice may all have contributed to a lower turnout.

6. Post-Election

Human Rights issues

In the aftermath of polling day, the main concerns relating to electoral matters have been the handling of complaints by the NEC and Constitutional Council and the ultimate resolution to the deadlock between the main political parties. However, beyond these serious political and procedural questions it is clear that some level of intimidation is still taking place on the ground. Violence continues with tragic results.

7th August 2003 - Kompong Cham Province - Khuon Dina, the 16 year old daughter of a SRP activist (Cham Mony) was shot dead. The incident occurred while she was in a rubber plantation with others collecting resin. It was alleged that Nguon Oun, the village chief, shot the victim twice.

Witnesses said that prior to the event, the victim and five others had seen the perpetrator follow them into the rubber plantation. He shouted at them to stop and when they did, he shot two bullets into the group. Earlier in the day it was reported that Nguon Oun had pointed his rifle at two other girls accusing them of stealing rubber and asking them if they were the daughter of Ny (Cham Mony), a SRP member in the village. The girls denied that they were. He was reported to say that if he found her he would kill her.

25th August 2003 – Phnom Penh - Nguon Oun arrested.

28th August 2003 – Kompong Cham Province – a meeting took place in the court at which the parents of the victim accepted US\$3000 civil compensation.

On 16th September 2003 Ngoun Oun was found guilty of the unintentional killing of Khoun Dina and given a two year suspended sentence under a five year probationary period. The court concluded that the victim died as a result of a ricocheting bullet. Human Rights NGOs have criticised the verdict as not being decided in accordance with the law and the sentence as being too lenient.

Threats and intimidation have continued, often against the background of threats made earlier during the election period.

28th July 2003 - Pailin Province - Four FUNCINPEC observers returning home from the vote count were told by a villager that they should not go back to village because the village chief was looking for them. They fled to Phnom Penh seeking help because the village chief had said, during the election campaign, that he would cut the throats and confiscate the land of those who had joined FUNCINPEC.

There have been general reports of a rise in intimidation against SRP and FUNCINPEC activists following the decision of these parties to reject the result of the election and form an opposition alliance. Although this may be true, it may, however, be a symptom

of the fear which has been created in the run up to the election and which arises from activists' experience of previous elections. It does not appear currently that intimidation is as widespread as after the 1998 election. The future nevertheless remains uncertain as the likelihood or potential for further violence and intimidation may be affected by attempts by political leaders to strike a deal resolving the deadlock arising from the election results.

7. Principal Issues

Voter Education

A central concern throughout the pre-election period was whether adequate information and education was provided to ordinary voters. The primary mechanism by which most Cambodians receive information is via the television and radio. Despite new NEC guidelines on access by political parties to the media, the CPP continued to dominate ownership of and coverage through most media outlets. Of concern was the closure of the round-table debate program "Voice of Cambodia" sponsored by NDI and broadcast on Phnom Penh TV3. No adequate reason was provided for its closure which stopped a valuable opportunity for political debate to take place.

As a significant form of voter education NICFEC conducted more than 164 drama performances and 46 video screenings which reached approximately 1,001,674 people in 24 provinces and municipalities. NICFEC also distributed more than 2,586,000 leaflets detailing people's legal rights to register as a voter.

The experience of Election Day suggests that voter education continues to be highly significant. The confusion amongst many citizens regarding registration – with some arriving at polling stations thinking they only needed to show their ID to establish their right to vote – indicates that many are still ignorant of basic election rules.

Human Rights Issues

Freedom of expression

The right to freedom of expression for all political parties and their members appears to have improved. The Media Monitoring Unit of COMFREL has reported an improvement in access to political information through the media. In particular state media was supported in improving fair access to media outlets by a UNDP project providing regular election news. Importantly, however, concerns have been raised by some that the program has lent credence to the idea that political expression should be regulated, both in terms of time and content.

However, serious concerns regarding ordinary voters' freedom of opinion, particularly those who want to support parties other than the CPP, continue. Some people are happy making their party affiliations public by serving as party activists or agents, or by putting party signs up outside their homes. However, many voters still express concerns that their political preferences will result in them being harmed. They remain concerned about

ballot secrecy and other means by which their individual political preferences may become known to their communities or local authorities.

Access to information remains a problem for voters. The candidate debates organized by the National Democratic Institute were a significant step forward, and many attendees appreciated them specifically because it was the first time they had had the opportunity to hear the parties' different opinions.

Freedom of assembly

The right to free assembly is protected by the Cambodian Constitution and the 1991 Law on Demonstrations requires that the authorities should be informed at least three days beforehand, in writing. However, the law also states that demonstrations that are 'detrimental to public tranquillity, order or security, are categorically prohibited'. In the aftermath of the anti-Thai riots in January 2003 the authorities took the opportunity to prevent demonstrations in the run up to the election. Demonstrations appeared to be considered "harmful to the nation", regardless of any actual potential for violence or not. Where non-authorized demonstrations have taken place the police have dealt with participants in an overly aggressive way. A march organised by SRP in May 2003 was dispersed by riot police resulting in injuries to participants.

In the aftermath of the election, the Khmer Front Party applied to the authorities to hold a march but was refused. When the party undertook an unauthorised march on 31st August, numbering at its greatest 50 participants, riot police quickly arrested 20 of the small group.

The insistence on the part of the authorities to regard all opposition marches since the anti-Thai riots as posing a danger to the security of the nation or public order is a clear infringement of the right to assembly protected by the Cambodian Constitution. A healthy democracy requires far more than the action of people voting, it must allow those who oppose the ruling party the right to protest in a peaceful manner, in order to enhance the sharing of information and opinions.

Ethnic discrimination

As with previous elections, both FUNCINPEC and the SRP ran election campaigns which used strong anti-Vietnamese rhetoric. The tone and content of statements by both parties was at times racist and provocative. While there is an unhappy history between the two countries, this does not justify fostering a climate which can easily erupt into the type of behaviour witnessed in Kandal province on polling day. The SRP has undertaken an inquiry into the incident which saw SRP supporters prevent around 100 ethnic Vietnamese from casting their vote. It has concluded that it was not an organised action but stemmed from a "spontaneous initiative at a very local level". Regardless of the organisational level of action it seems clear that one key root of aggressive behaviour towards Vietnamese on Election Day was the language used by opposition parties in their treatment of the Vietnamese "issue".

In addition to this electoral campaign racism, it is also unfortunate that the government tacitly encourages racist sentiment, largely by implying that “Cambodian” and “Khmer” are synonymous. Newspapers and radio stations do not discourage these sentiments. Disturbingly, some local human rights organizations do not appear interested in protecting the rights of ethnic minorities.

a. NEC Election Administration

NICFEC observers generally concluded from their experience that the administration of the election process was undertaken in a positive way. However, it remains clear that many irregularities continued to occur and these were often as a result of a lack of effective training of officials, especially at the local level.

The short timescale provided to the NEC to draft and adopt regulations and procedures resulted in an inadequate dissemination of information regarding election procedures and a training schedule that was too brief to ensure that officials in all areas had a full understanding of electoral administration.

At the same time the complaint system was highly complex with an array of forms being issued by the NEC. These forms themselves were difficult to understand and the regulations required complainants to fill in duplicate copies. The time consuming and complex nature of the process appears to have deterred some from submitting complaints and gave rise to mistakes in the process, missed deadlines for submission of forms and a general confusion as to how to complain. Given the significance of the complaints system for the integrity of the election, the system needs to be simplified.

b. Role of the Village Chief

Reports from NICFEC observers indicate that Village and Commune Chiefs carried out many election violations. This reinforces the ongoing concern about the political role of Village Chiefs following the Commune elections in 2002. Chiefs continued to take a political role despite MOI and NEC issuing a Joint Directive (004 S.N.N. May 27th 2003) which stated that they should not show support or opposition for any political party or candidate.

However, the above report shows clearly that Village Chiefs were involved in irregularities such as intimidation, vote card collection and vote buying. Whilst MOI issued a temporary suspension of three village chiefs in Prey Veng, Kompong Thom and Kratie provinces for having threatened opposition party supporters it is clear that more needs to be done by the authorities before a significant change is brought about in the attitude and behaviour of Chiefs.

8. Conclusion

Despite a welcome improvement in the administration of the election it is hard to argue that the electorate can exercise a real political choice when in reality the choice may seem to be between risking harm to themselves or their family if they do not vote in the 'right' way, or receiving money, household and medicine if they do as they are told.

While the politically motivated violence experienced in the 2003 elections has been less overt, people continue to feel extremely vulnerable. Even in minor cases of threats and intimidation investigated by LICADHO, the victims are in fear of their lives. Recent history has taught them not only that threats can be carried out but also that the perpetrators will never be held accountable.

The culture of impunity continues for those who commit serious offences against political party activists. It has been reinforced during the 2003 election period both by the practice of conciliation, particularly in cases involving public officials, and by statements at the highest levels of authority. This is illustrated by the Ministry of Interior, Office of Central Security, report 001 RBK on Criminal Acts against Political Party Members (01/2003 – 04/2003) published at the beginning of June 2003. The report concludes that in all cases involving political party members which relate to killing, personal conflicts, domestic violence and robbery, not a single one of the reported incidents was related to the political affiliation of the victim. This conclusion is reached by MOI even though some cases do not appear to have been even investigated by the authorities at all.

The flawed electoral complaints process needs to be assessed thoroughly and reformed in light of the 2003 election. Although different groups have offered different sets of numbers, the percentages are comparable: of the complaints that were filed, only about two percent were accepted, and only about one percent of those resulted in any kind of penalty. The NEC's encouragement – tacit or otherwise – to the PECs and CECs to employ "reconciliation" tactics rather than follow the formal complaints process resulted in a situation in which no clear figure on these complaints can be provided. The CECs in particular appear to have failed to keep accurate records of the resolution of such complaints with the result that we will never know how many grievances really existed.

The capacity of individuals and communities to resist threats varies considerably and is hard to gauge. However, unless the following contributing factors are changed, there is no reason to believe that the practice of political intimidation, in all the forms detailed above, will change either.

First, village chiefs must be prevented from acting in a partisan and/or threatening manner. All observer groups commented on the chiefs' pervasive and negative influence. In particular, the current position in which village chiefs are also able to work as party agents, with that party historically being the CPP, has a very negative impact upon the ability of individuals to exercise real political choice.

Second, until security is guaranteed across the board, voters remain highly vulnerable. Security means not only the immediate physical and economic safety for voters, candidates, and demonstrators, but also greater assurances that different electoral outcomes will not result in broader economic insecurity or widespread upheaval. Although only anecdotal, a large number of voters expressed concerns that war could break out again. Rural communities also need to be reassured that security will continue after the election period is over and observers and politicians have long since left.

Third, until people have assurances that access to basic state services or community resources will not be taken away if they support other parties, they remain highly susceptible to political pressure, intimidation and manipulation.