

COMFREL
Assessment Report
on
the Cambodian National Assembly Elections 2003



Contact Persons:

1. Mr. THUN Saray, First Representative, H/P: 016 880 509
2. Mr. PHOUNG Sith, Second Representative, H/P: 012 979 343
3. Mr. KOUL Panha, Executive Director, H/P: 012 942 017

Contact Address:

The Committee for Free and Fair Elections in Cambodia (**COMFREL**),
138, St. 122, Teuk Laak I, Tuol Kork, Phnom Penh, Cambodia,
Tel: +855 23 88 41 50/12 942 017-9, Fax: +855 23 88 37 50
E-mail: COMFREL@online.com.kh or COMFREL@forum.org.kh
Web Site: www.online.com.kh/users/COMFREL or www.COMFREL.org

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ACRONYMS

ADHOC	Cambodian Human Rights and Development Association
ANFREL	Asian Network for Free Elections
CC	Constitutional Council
CCHR	Cambodian Center for Human Rights
CDRI	Cambodian Development Resources Institute
CDP	Cambodian Defenders Project
CEC	Commune Election Commission
CIDA	Canadian International Development Agency
COMFREL	Committee for Free and Fair Elections in Cambodia
COMs	Council of Ministers
COPCEL	Conflict Prevention in the Commune Election
CPP	Cambodian People's Party
CSD	Center for Social Development
DoLA	Department of Local Administration of the MOI
EC	European Community
EMO	Election Monitoring Organization
EU	European Union
FUNCINPEC	United National Front for an Independent, Neutral, Peaceful and Cooperative Cambodia
IRI	International Republican Institute
KYA	Khmer Youth Association
LICADHO	Cambodia League for the Promotion and Defence of Human Rights
MOI	Ministry of Interior
NCSC	National Council to Support Communes
NDI	National Democratic Institute
NEC	National Election Committee of Cambodia
NGO	Non-Governmental Organization
NICFEC	Neutral and Impartial Committee for Free and Fri Elections in Cambodia
PEC	Provincial Election Commission
PEFO CAM-J	People's Forum on Cambodia-Japan
PSO	Polling Station Officer
PVT	Parallel Vote Tabulation
RGC	Royal Government of Cambodia
RSOs	Registration Station Officials
SRP	Sam Rainsy Party
TAF	The Asia Foundation
UNCOHCHR	United Nations Cambodia Office of the High Commission for Human Rights
UNDP	United Nations Development Programme
UNDPA	United Nations Department for Political Affairs
UNEAD	United Nations Electoral Assistance Division
USAID	United States Agency for International Development
WMC	Women's Media Center
YCC	Youth Council of Cambodia

1. Overall Assessment

The Committee for Free and Fair Elections in Cambodia (COMFREL), as an election-monitoring organization, having previously observed the 1998 National Assembly Elections and 2002 Commune Council Elections, has closely observed the 2003 National Assembly Elections from the earliest preparations to the present time. COMFREL has therefore played a leading role on behalf of civil society through advocacy, lobbying, and education activities in order to promote the best standards at all levels in the conduct of the elections. At the end of this election period, COMFREL would wish to give its own assessment as follows:

- COMFREL notes that the 2003 National Assembly Elections did take place as scheduled on time thus marking further confirmation of Cambodia's transition to democracy. Furthermore the pre-election atmosphere for the participation of political parties was better than in 1997-8¹; however the continued low participation of women² and reliance on entirely party-based systems of representation and choice for the voters remain matters of concern.³
- COMFREL carefully conducted an evaluation of the situation regarding irregularities and intimidation in critical periods that demonstrated the standards set by COMFREL and NICFEC were not achieved⁴. These failings must be concluded as affecting the freedom and fairness of the election process. *(Please see attached annex 2: Table of summary of information by each province/town)*
- COMFREL is encouraged by the overall reduction in killings, injuries and very serious election irregularities compared with previous general elections (1993 and 1998)⁵, but is very concerned that such incidents still persist, that requests

and warnings to stop killing from leaders are not heeded, and that inadequate investigation and due process foster a climate of impunity that does not deter killing. Reported killing cases with discernible political factors totalled, 28 in which 31 people died (*See section 2.1 Killing for details*).

- COMFREL notes that serious election-related violations continued to persist and were observed to have escalated after the start of the official campaign period on 26 June. A total 2,569 cases of irregularities were observed mostly in Koh Kong, Preah Sihanouk Ville, Kandal, Battambang, Siem Reap and Kampong Cham followed by Preah Vihear, Mondul Kiri and Prey Veng. *(Refers to annex 3: Table of Irregularities During the Election Campaign Period for the National Assembly Elections (26 Jun - 25 Jul 2003).* The campaign itself was marred by acrimony between leaders - a focus on past history and controversy surrounding the defeat of the Khmer Rouge, events of July 1997 and decisions made during the 1994-7 government, as well as anti-racial rhetoric - instead of concentrating on informing the voter about policies for the future.
- COMFREL is pleased to note the relative improvement in media access in these elections especially towards the main opposition party (the SRP), to the governing coalition partner party (the FUNCINPEC party), and to a varying extent the smaller parties. However, the CPP continues to enjoy a strong advantage in official election related media outputs and general news coverage in both the electronic and printed media.
- COMFREL compliments the National Election Committee (NEC) in 2003 as it did in 2002 for improvements in election arrangements as well as for taking more account of COMFREL's representations and acting in response to some. However the composition of the body (and its Provincial and Commune Election Commissions (PECs and CECs) does not negate it from political bias and its powers of enforcement of laws and codes of conduct remain weak. Similarly the performances of the Provincial and Commune Election Commissions have remained inconsistent in 2003. The various complaints mechanisms and procedures did not work to the satisfaction of all participants - virtually no complaints were up-held or corrective action taken.

¹ After the armed confrontation of July 1997, most parties were unable to rebuild their party machinery until well into 1998.

² Only 11% of candidates were women are on main party lists of CPP, SRP, and FUN including those high enough on the party lists standing a chance.

³ COMFREL has lobbied for the exclusive party based system to be changed to allow independent members, for elected members to have direct responsibility towards the constituents they represent, and for parties to have the discretion to dismiss them for political differences.

⁴ Please see [annex 1](#). COMFREL and NICFEC standards are based on those commonly applied internationally.

⁵ By contrast the number of killing cases in 2003 elections actually increased if compared to the 18 cases for the February 2002 local elections that were conducted nationally in all 1,621 communes.

- Earlier in the year, COMFREL observed the voter registration process and whilst a high turnout appeared encouraging⁶, detailed scrutiny revealed as many as 400,000 potential voters may have missed out on the chance to vote. (See annex 2 – Turnout of registered voters - NEC). Those not registered included poor uneducated people, young people registering for the first time, workers living away from home, students, and monks. The reasons varied from poor organization of registration stations to "difficulties" with officials in obtaining provision of documentation for identity purposes and other "barriers" to participate being placed as in the case of monks. A COMFREL survey shows compelling evidence to suggest a high degree of inaccuracy in electoral registers. "Ghost" voters, as many as 4%, were found on voter lists and 19.8% of voter cards did not match voter lists. Therefore the actual number of registered voters could well be 4% less than official numbers (by around 253,673 voters), so the actual figure of registered voters may have been only around 6,088,160. (Refer to COMFREL's Report on Auditing 2003 Voter Lists. See also section 7.4)
- COMFREL is pleased to note that the voting and counting was generally peaceful but must express concern about the marked lower turnout than in previous elections. According to our findings, almost 87.25% of 6.09 million registered voters (6.34 millions including ghost voters of 4%) cast their ballots across the country and participated in the National Assembly Elections. The 2003 rate of voting was down by more than 6% compared to that of the 1998 elections, when more than 93% of voters voted. COMFREL and other election stakeholders are most concerned about the more than one million eligible voters who did not vote. This figure combined with the one for lower registration could mark a new phenomenon in Cambodia's democracy of "voter apathy" that should

worry politicians. Lower turnout can be caused by natural factors such as the weather, impassable roads, etc. but such factors in Cambodia cannot be differentiated from other more sinister ones. Those include intimidation and accidental or deliberate actions in administration of voter registration and polling.

COMFREL notes that the Polls and the Count were as peaceful as in previous elections. Overall, COMFREL believes the 2003 National Assembly Elections were conducted in an improved manner technically in comparison to previous elections, but with scope for more improvement. This is an opinion that has been shared by several election monitoring organizations. However, COMFREL is disappointed that the NEC and the Constitutional Council did not take clear action and was slow to investigate and satisfactorily solve the political party complaints. These institutions could have functioned in 2003 in a way that would restore their reputation after the 1998 problems. This opportunity was lost. Neither generated more confidence and trust or sufficient confidence and trust in their tasks, as far as the major election stakeholders were concerned, most notably the non-ruling political parties. This was especially so for the NEC, and its PECs and CECs, by virtue of their staff composition and records of performance.

Cambodia's elections in 2003 has the same conclusion as 1998 and 1993. Once again "losing" parties, (FUNCINPEC and SRP in 2003, as in 1998 - CPP in 1993), rejected the election results. In Cambodia's fragile situation, it is a matter of the most serious concern that one or more parties should believe that it has no choice but to refuse the Royal call to convene the new National Assembly **that the people have voted for** according to the deadlines set after the July elections. Article 82 of the Cambodia Constitution specifies *"The National Assembly shall hold its first session no later than sixty days after the election upon notice by the King."*⁷

Cambodia has therefore had three national elections since 1993 in which all three "losing" parties – the CPP in 1993, FUNCINPEC and SRP in 1998 and 2003 - have failed to accept the results, thus demonstrating lack of faith in the democratic process. In all three cases, the government being formed is not based on the verdict of the people, as expressed through the ballot box and their newly elected representatives in the National Assembly, but on protracted negotiations between leaders on how power is shared.

⁶ During the period for voter lists revision and the voter registration from January 15 to February 20, 2003, eligible voters (those not previously registered or those who had moved) who registered for the 2003 National Assembly Elections totaled 1,164,751 or 75% of estimated eligible voters of 1.56 million, (according to the NEC Press Release No. 02.099/03 PIB NEC dated February 22).

⁷ The opposition SRP did not to attend the inaugural session because of their unresolved complaints through recounts in the two provinces of Kampong Thom and Svay Rieng where the margins of victory were very small

This is a shame as there were hopeful signs in 2003. For example COMFREL found one positive new indication of Cambodia's development towards democratisation in 2003, the demonstrable dynamism of political parties, in the main urban centres, to promote their political platforms. Greater restraint characterized the 1993 and 1998 elections and remains a factor 2003 in rural areas where the electorate is less well educated and under more influence of local authorities. This welcome progress in urban areas is all the more marked as it has occurred despite instances of irregularities, political intimidation, vote buying, and widespread violations of the election, as described in this report.

COMFREL, as the oldest and largest domestic election monitoring organisation, restates its undertaking on behalf of the people of Cambodia through its network of 15,000 observers to remain vigilant, professional, impartial, and unwavering in seeking to provide comprehensive and authoritative reports on the full electoral process. COMFREL will now devote its energies and planning for Cambodia's next elections - the 2007 commune elections and the 2008 general election - with essential activities between now and then to encourage, monitor and promote civic education that will advance democratisation processes. This work will go on until we can say that Cambodia has fully free, fair, and credible elections that reflect the people's will whose verdict is accepted and respected by all the political parties.

COMFREL wishes to convey its highest appreciation to His Majesty King Norodom Sihanouk for his role on behalf of Cambodians in the elections and the process of establishing a new government. His presence has been an important force for stability and consensus, his impartial advice to all parties is vital for the electorate as they prepared to cast their ballots, and of course as in previous years he has played a pivotal role as mediator in the negotiation process by which the political parties arrive at establishing the new government.

Finally COMFREL wishes to thank and to pay tribute to its domestic and international observer colleagues especially donors such as USAID through TAF, Forum Syd, NOVIB, DFID, NDI, Trocaire, The Japanese Embassy, and NPA supporting and participating with them in our shared task for democracy in Cambodia.

This report sets out in detail COMFREL's main findings over the entire election period with comment on events up to 1 December 2003. The report analyses the issues and gives our

assessment to show that whilst there are improvements in many aspects of the conduct of the elections, they are still insufficient. Serious doubts do remain about the integrity of the electoral processes and therefore at the end of the day, no one can safely say the final results truly reflect the people's verdict. COMFREL exposes the most pervasive myth of the 2003 elections, the widely reported claim that the CPP won. They did not. They took less than half of all votes cast. They almost won, but without a two-thirds majority, they only earned the largest share of power. This myth is a factor in the post-election stalemate. Finally COMFREL concludes, taking everything into account, that the Cambodian 2003 Elections did not meet the international standard to be described as "Free and Fair".

2. Political Environment

Cambodia in 2003 has continued to endure a political environment that is not conducive to truly free and fair elections. Voters are still subject to pressures that prevent them from making a choice according either to conscience or on the basis of proper information. There is a persistent fear at every level in society of retribution from leaders who can use their powers to affect personal and family lives. Insufficient efforts have been made to eliminate this factor from the Cambodian election scenario.

2.1 Killings

Unfortunately political activists in every party from national to local level remain in danger of their lives for their political convictions. Whilst killing of any human being is wholly unacceptable, when that of the eminent and universally respected figure of HE Om Radsady should take place on February 18, 2003 at a key juncture in the build-up to the 2003 National Elections, the worst possible start to the elections was given. HE Om Radsady was the personal advisor to Prince Ranariddh, leader of the FUNCINPEC. Actual killings may be few but they give real effect when other forms of coercion are used - see [Section 2.2 below](#). Killings have occurred with regularity in 2003 and they escalated around the start of the official campaign in June. They have been noted in 16 of the 24 Provinces and Municipalities of Cambodia, in Phnom Penh, Pursat, Takeo, Prey Veng, Svay Rieng, Kratie, Kampong Thom, Siem Reap, Kep, Banteay Meanchey, Battambang, Kampong Cham, Kampong Chhnang, Kampong Speu, Pailin and Kampot. Therefore killings have taken place in the most populous areas and over most of the country receiving attendant national publicity and having a widespread salutary effect. Members of all three major parties have died.

In most of the 28 cases (31 people were killed: the Cambodian People's Party—CPP 11, the Sam Rainsy Party—SRP 12, and the FUNCINPEC Party 8) of probably politically linked killings, investigations have been slow, suspected perpetrators not apprehended, and there was a tendency on the part of the authorities is to attribute cause to non-political factors. COMFREL is aware of only eight cases where investigations are complete or actively ongoing. *(Please see annex 4: Table of Killing cases)*

COMFREL expresses its sadness that one unresolved death case was that of a spiritual leader Venerable Sam Bunthoeun. Any spiritual leader killed would be a matter for concern – the deaths of the monks in 1998 in the putting down of the post-election demonstrations were a shock factor in helping sense to prevail soon after.

In addition, there were 15 cases of attempted killings and suspected attempts mostly in Kampong Cham, Prey Veng, Siem Reap, Takeo, and Kampong Speu.

2.2 Violence and Intimidation

Cambodia's past conflicts have left a legacy of extreme strong partisanship such that political foes are seen as mortal enemies. Activists of political parties are still prone to fanatic support of their parties or of particular leaders such that they believe threats of killings, actual violence, and other forms of intimidation are legitimate forms of behaviour in the electoral process. COMFREL is resolute in countering such beliefs and tactics.

Whilst COMFREL commends all leaders for their condemnation of intimidation and published statements to this effect ⁸, the fact that some followers continue to indulge in such practices casts serious doubt on the ability of leaders to impose sufficient discipline where it matters or on their sincerity in issuing such statements. Either way an unacceptable climate of impunity characterises elections in Cambodia.

From January 1st to the polling day, 281 cases of political violence and intimidation⁹ were observed in the same provinces as where

⁸ For example Prime Minister Hun Sen on April 7 "Don't commit any violations or arguments - which party wins or loses is not important even if I cannot become the Prime Minister" broadcast on Apsara Radio and reported in the Cambodia Daily 8 April, Page 11.

⁹ This number is an increase over the 2002 commune council elections when just over 100 cases took place during the whole election period.

killings took place. Figure 1 below shows vividly their extent with villages in Kratie and Kep mostly affected by threats/intimidation, as 6 and 8%, followed by Battambang, Kampong Cham, Koh Kong, Pailin, Preah Vihear and Otdar Meanchey where 3 and 5% were affected. The average elsewhere was up to 3%. If the cases are separated into different periods of the election process, Chart 1 shows that the campaign period was the most highly critical period when political intimidation was most rife. For example, during this period, 235 cases were noted. 28 cases were observed during the registration of party and candidates and 18 cases occurred during voter registration *(see figure 2)*.

Figure 1:

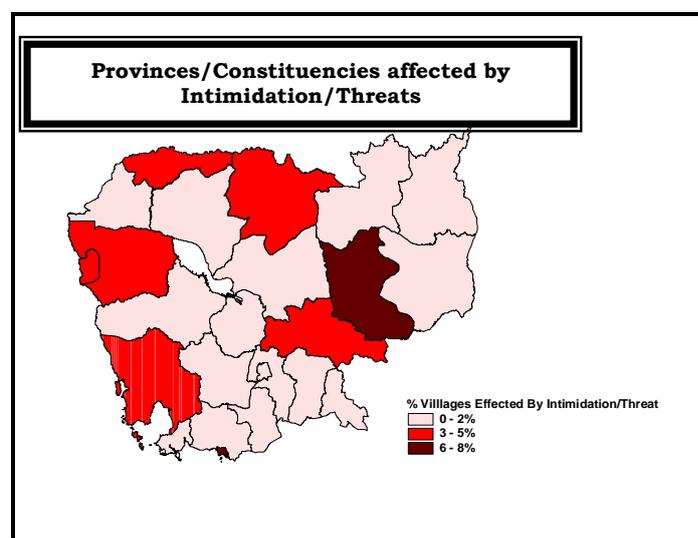
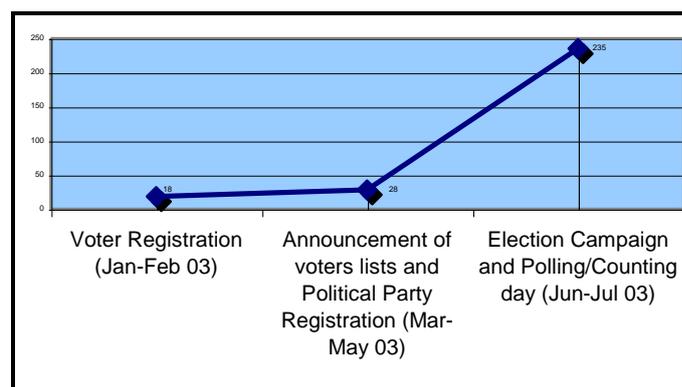


Figure 2: Intimidation/Threats Environment in Different Election Periods



COMFREL, NICFEC and others have compiled reports on grenade explosions, confiscation of voter cards, forced substitution of party T-shirts and caps, vandalising party signs, and orders not to listen to radio stations such Radio Free Asia and Voice of America. The election authorities failed to act on any of these reports.

2.3 Freedom of expression through peaceful demonstration

Preparations for Cambodia's 1993 elections were well underway in January when the country suffered its most traumatic breakdown in public order since the 1998 post-election disputes and the July 1997 confrontation. Phnom Penh endured on 29 January widespread attacks on the Royal Thai Embassy and prominent Thai business interests with wanton damage and losses running into millions of dollars. Although the events may not have been overtly political, as far as any of the three main Cambodian parties were concerned, seemingly serving no obvious interests of any single party, they did lead immediately to much stricter public security measures and employment of rigorous and harsh measures to invoke order. (Such measure were still in force in late 2003 - see example below) Fewer demonstrations of all kinds have been allowed, those that have taken place have been ended more quickly and electric batons and ferocious dogs have been used to disperse crowds. The Police and Military, according to Cambodian Human Rights Organizations such as ADHOC, have been much more unrestrained since in their use of force.

This change in the security atmosphere is bound to have had some effect on the election processes, although there has been only one significant direct election-related political demonstration indicative of the stricter approach. This was the first public demonstration on 31 August against the election results organised by one of the minor parties, the Khmer Front Party, that was ruled "illegal". Other groups have been prevented from exercising their constitutional rights to demonstrate and lawful assembly.¹⁰ For example, 16 representatives from 7 remote villages were barred from entering to Phnom Penh in order to present details of their complaint to human rights organisation, ADHOC. The case was about land conflict. In other cases, arbitrary powers were exercised to deter anyone travelling to Phnom Penh in case they joined demonstrations. The main arterial roads into the city were manned by security forces screening all travellers. In one case, a mother from Chrey Bak commune, Rolea Baear

¹⁰ Article 37 "the right to strike and to non-violent demonstration shall be implemented in the framework of a law", article 41 "Citizen's freedom to travel, far and near, and legal settlement shall be respected" and article 41 "the freedom of expression, press, publication and assembly".

district of Kampong Chhnang province, was arrested and wrongly accused of inciting her dependents to join a demonstration, when in fact they were on legitimate business of seeking employment with the Apsara Bakery.

In another earlier case, a perfectly legitimate democratic right was denied to scores of women and women's organisations through their umbrella organisation (CAMBOW) who sought to persuade the outgoing National Assembly to pass much needed and long-awaited laws to counter domestic violence, a serious and widespread problem in Cambodia. Not only were they refused the right to gather and demonstrate in Phnom Penh, but the opportunity was lost to pass laws that are now delayed until another legislative cycle begins and it is prioritised.¹¹

Cambodia's emerging trade union movement had enjoyed relative freedom in exercising their right to demonstrate in the years from 1999 to 2002, especially those representing garment workers. However, in 2003 such demonstrations were noticeably suppressed, including for example one at the time of writing this report resulting in confrontation and violence. (Won Rex, November 19, 2003). Earlier in the year, unions representing teachers, a key public sector group, were strongly deterred from taking industrial action.¹²

2.4 Other Forms of Irregularity to Secure Votes

Traditional beliefs and leadership duty/follower-dependency patterns that characterise Cambodian Society are being used to garner votes. Indeed there are grounds to believe that these more sophisticated forms of coercion are increasing. International observers are less able to identify them or appreciate their significance. (See below section 2.4.2 on conduct of local authorities)

2.4.1 Vote Buying

The most prevalent method is the offering of gifts that are expressly prohibited by virtue of current article 124 of the Law on Election of Members of the National Assembly (LEMNA) that precludes offers of "incentives in kind or in cash in order to obtain votes".

Incidences this year were far too many to enumerate and all three major parties admitted to resorting to them.¹³ Gifts include money ("to cover travel costs"), food, vitamin tablets, sarongs¹⁴, food flavour enhancers, etc.

¹¹ 21 May 2003, as reported in the Cambodia Daily, 28 May 2003, Page 12.

¹² Cambodian Independent Teachers' Association, 24 June 2003.

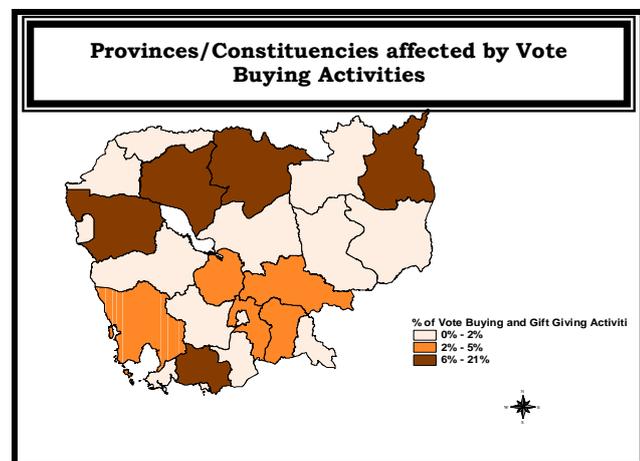
¹³ Please see Phnom Penh Post, Volume 12, Number 15, July 18-31, "Vote-buying everywhere in Battambang, Page 5.

¹⁴ A traditional scarf.

Probably more confusing in the minds of poor Cambodian voters is the handing out of relief provisions of food and other household goods to destitute families – a non-electoral obligation of government and other institutions – they are not clearly disassociated from the party political connections of those handing over the gifts. COMFREL believes that the law covering such practices must be clarified if Cambodia is to create “an even playing surface” for free and fair elections.

There were other more serious forms of inducement including requiring voters to swear allegiance to a party, to imbibe holy water – sometimes with a bullet in the glass¹⁵, intimations of loss of property or imposition of some other hardship in the event of “disloyalty” etc. As vote buying mapping figure, there are 257 cases of above incidents of vote buying during elections campaign. Of these cases, the provinces most affected were Battambang, Siem Reap, Rattanakiri, Kampot, and Preah Vihear. The most serious cases involved the giving of gifts to buy vote buying reported in 6-21% of villages. The incidence was 2-5% in Kampong Cham, Kandal, Koh Kong, Kampong Chhnang and Prey Veng. Elsewhere the rate was up to 2%. (See figure 3: Map of Vote Buying)

Figure 3:



2.4.2 Conduct of Local Authorities

Officials at local level in Cambodia are entrusted with great responsibilities over the lives of the people in their areas. This is partly due to centuries-old tradition and partly to the legacy of colonial and communist rule. The new elected Commune Councils in 2002 were intended to replace previous appointed chiefs at commune level and replace village and sub-village chiefs. In practice the vast majority of

¹⁵ Such acts are highly symbolic and significant for many Cambodians.

local chiefs owe their allegiance to the CPP and this wittingly or unwittingly militates against the other parties. COMFREL noted 714 cases of non-neutral officials during the campaign period occurring mostly in Svay Rieng, Kandal and Prey Veng followed by Banteay Meanchey, Takeo, Kampong Speu, Pursat, and Kampong Thom. There is not the clear separation of roles and responsibilities between public official and party leader as needed for free and fair elections not only at commune level but also with district and deputy district chiefs.¹⁶ This is also true of the local police, military police (Gendarmerie), and other influential members of the community, such as School Directors. (The majority of polling station officials are schoolteachers.) COMFREL and partners have received numerous reports showing that local authorities have not been even in their handling of requests for parties to mount activities in their areas – 207 cases of disagreement or obstruction of opposition activities were observed in the thirty days of the campaign. Also widespread has been use of public assets and facilities for the CPP - 161 cases have been observed.

Whilst the three larger parties do have some means to counter bias of local officials, the same thing cannot be said for smaller emerging parties. This too is a potential threat to pluralism and the participation of new people with new ideas. Local officials in this sense should be pro-active in rendering positive assistance. The truth is they do the opposite, favouring their own party, leaving opposition people insecure and marginalized, effectively denying them their constitutional rights. In some number of instances opposition activists felt forced to abandon their party work and even to relocate away from their homes. For example, in Prey Veng province, a CPP activist confiscated voter cards from FUNCINPEC members and forced them to join the CPP, with the threat that they would be denied access in future to assistance.

Pressures are not just placed on the party workers and candidates but also on potential voters. There are countless examples of local officials indicating that a failure to vote for the ruling party will lead to sanctions such as denial of participation in development projects or hand-outs of aid. Such local pressures, in a population impoverished and still scarred by the trauma of past conflict, are bound to build on the fears raised in one main national theme of the ruling party, its negative campaigning strategy, that should the CPP lose power, there will be a return to war.

Discrimination

Opposition and small political parties in remote areas feel isolated. They do not enjoy full

¹⁶ Cambodia's public administration is divided into 24 provinces or towns, 184 districts, and 1,621 communes.

protection by security personnel and local authorities. Individual members are very vulnerable. For example, in a case in Pailin, a SRP activist was threatened to be shot to death by the son of the Municipal Governor who was standing as a CPP candidate for the National Assembly. The victim was stuck with a gun to his head with the warning that: *"When my father wins the election, I will be able to kill anybody without problem"*. In Tram Kak district of Takeo province, a police chief fired a gun and threw a grenade over a vendor who was a SRP supporter. A village chief in Tboung Khmum district of Kampong Cham province, gunned down a daughter of a known SRP supporter. Similar politically motivated cases included for example Chhouk district of Kampot province, where CPP commune and village chiefs celebrated a party - a FUNCINPEC activist was seriously injured by CPP' supporters.

Sanctions

Village chiefs and local authorities were widely reported as threatening that if villagers do not vote for the party in power they would get no help in the future. For instance, a case in Russey Chroy commune, Thmar Bang district of Koh Kong province, the CPP deputy district governor threatened to confiscate land from the villagers if they refused to join the CPP, whilst they would be allocated more land if they voted for CPP. Similar cases were noted in Elech village, Chranouk commune of Kampong Chhnang, and in Siem Reap and Prey Veng provinces.

Social Exclusion

Officials "black-listed" people involved in certain party activities. For example, in Kratie province, Sambo district, commune and village, the village chief accused some teachers and villagers of having joined the SRP and FUNCINPEC and listed their names.

In remote areas, cases of local authorities threatening party supporters and creating an insecure environment were reported. In some cases SRP and FUNCINPEC supporters were not allowed to stay in their community. For instance in Kampong Leng district of Kampong Chhnang province, a FUNCINPEC activist's life was threatened through an anonymous letter forcing him to move away from the village.

COMFREL does acknowledge that the NEC did eventually attempt to address the problem of non-neutral officials in response to civil society concerns and recommendations. They released on July 17, 2003, a directive on the neutrality of Chiefs of Villages, their deputy and members stating that: *"In order to ensure a climate*

conducive to successful elections, the NEC wants to reiterate the obligations made to the Chiefs of Villages, their Deputy and members to remain neutral and impartial towards their villagers." They also followed this up on July 22 with Directive No. 07-1558/03 NEC, on "Prohibiting Village Chiefs and Subordinates from Acting As Political Parties' Agents". The directive followed the Notification No. 646 dated July 22, 2003 of the Ministry of Interior, which supported the recommendations of the national and international observers ([See Annex 5 for details](#)). COMFREL now calls on such directives to be formally incorporated in the Election Laws with appropriate provisions for enforcement and penalties, as well as the full implementation of the original plans that the new Commune Councils will exercise their powers to newly appoint local officials who command the confidence and support of the villagers they represent.

3. Manipulation and Threat to Free Participation of Elections Monitoring Organizations

3.1 Manipulation of Elections Monitoring Organizations by Ruling Political Parties

COMFREL does acknowledge that the NEC and Government are increasingly recognizing and being more disposed towards NGO involvement in election matters, but we see both positive and negative developments.

Positively, at national level avenues are open and dialogue takes place on a better basis than in previous years although it would be wrong to conclude that Cambodia has reached the stage where true respected partnership relationships have been achieved. Indeed many, probably most representations are not heeded, and this is more so at local level.¹⁷ ([Please see also section 4, Legal Framework below for details of suggestions to the NEC](#)). The NEC did issue 30,793 accreditation cards for local and international observers to monitor the election process. Occasionally though serious problems have been encountered. For example during both the commune elections and for these elections, on the issue of voter education and suitability of materials, COMFREL and partners in April had to work very hard to preserve the constitutional rights of freedom of expression and assembly. Domestic election monitoring organizations make an enormous contribution towards educating the electorate – in this sense they assist the NEC and Government lacking in their own resources to fulfil this role, and as international donor support for elections lessens, such mutual co-operation should increase in importance.

¹⁷ Please see election administration below.

Negatively and most worrying is the improper use of NGOs, as covert organizations to protect and promote the interests of the ruling party. NGOs "non-governmental organisations" by definition and observers' code of conduct should not be closely affiliated with government. In 1998, COMFREL and sister EMOs, as legitimate and respected election observers were in danger of being squeezed out at the polling and counting stations by influxes of new observers of unrecognised and newly formed NGOs who had been accredited by the NEC ahead of those of COMFREL and partners.¹⁸ It was only as a result of pressure from the international donor that was substantially funding those elections, and whose subsequent endorsement of the elections was needed by the Government following its isolation after July 1997, that led to the accreditation of those bogus organizations and observer approvals being withdrawn.

This year 2003 a similar phenomenon appears to have happened but escaped widespread attention until revealed by local media.¹⁹ It has emerged that a collection of 76 pro-CPP local NGOs were registered to monitor elections. This group was divided into four alliances, under the collective name "The Eye of Justice" and they all attended an unpublicised meeting with CPP Prime Minister prior to the election. Other pro-CPP NGOs are known to exist, such as the "Pagoda Boys" whose presence has been seen often at many counter demonstrations supporting the government. Their purpose is to challenge demonstrations by trade unions or political parties and often violence follows. Is this use of "NGOs" the response of leaders with deep suspicion of NGOs resigned to the fact that direct opposition or control of genuine NGOs is no longer possible? These are disturbing signs for Cambodia's democracy and the values that civil society brings.

3.2 Threat to the effective participation of NGOs in the Election process

COMFREL and four other coalition organizations including the Cambodian Human Rights Action Committee (CHRAC), NICEFEC, and Star Kampuchea voiced serious concern about an attempt to cease COMFREL election activities. They issued a joint statement on 17 July in response to the NEC's Secretary General's letter no. 07.1459/03 NEC dated July 15, 2003 to stop COMFREL's activities in monitoring the neutrality of the electoral authority at all levels during their performance,

stating that those activities were affecting the neutrality of electoral authority and violated the election law, regulations and procedures of the NEC and the Code of Conduct of Observers. It was not clear which article that COMFREL's activities violate. COMFREL activities, because of this letter, in some provinces were obstructed by the electoral authorities at provincial and local levels as in Svay Rieng. There the PEC issued a letter no. 07.131/03 PEC Svay Rieng to end COMFREL's activities and confiscated our observers' working papers (checklists) in five communes. On the same issue, the PEC Chairman in Kratie province threatened COMFREL provincial staff and warned them to tear down COMFREL's signboard.

COMFREL restates its view that there is still deep-rooted suspicion and opposition to the legitimate, desirable, and necessary involvement of civil society in elections, and this incident in 2003 all too clearly indicates that the participation of COMFREL and other genuine professional neutral organizations in future elections is by no means guaranteed.

The main point is that civil society participation should be simple and automatic with "permissions" for polling/counting day observers only refused for good reason on an exception basis. The emphasis today is still the other way round – unless express approval is given, organisations and individuals can play no part. COMFREL therefore suggested that accreditation cards for local observers, including photographs, should not need to be passed through provincial level to be endorsed. Such a process is time-consuming and expensive for village-based volunteers. The real solution in future, however, is for reputable organisations like COMFREL, duly registered at the NEC, to be able to accredit their own observers.

4. Legal Framework (Recommendations on the draft regulation and procedures of the NEC)

Cambodia's Election Laws are comparatively new, and whilst international expertise was involved in their framing, inevitably there is a need for clarifications and amendments in the light of practical experience. Some changes are critical, COMFREL would argue, in order to ensure that the primary governing principles of such laws are to apply, namely that citizens have the right to cast their vote²⁰ and to do so freely.

COMFREL and other observers have in fact made numerous suggestions for changes in the laws and clarification of certain points. We recognize that the NEC did invite recommendations from civil society organizations and opened discussions on

¹⁸ Only four observers are allowed in small polling stations.

¹⁹ Phnom Penh Post, Volume 12, Number 16, August 1-14, 2003, Page 6

²⁰ Unless barred for legal reasons such as age, certified mental illness, convicted by a court of serious crimes, etc.

the draft regulations such as Chapter 6, 7, 8, 11 "NEC's Administration, Voter Registration, Electoral Campaign, Vote Counting, Organization of Elections Process and Complaints". However, we regret that some important recommendations and suggested changes were not considered or incorporated into the various final forms, especially the provisions appertaining to transparency of the PECs, CECs, the recruitment of members, and of course the rights and freedoms of the role of NGOs in the conduct of voter education and other election-related programs. We also are dismayed that changes needed to ensure justice in the complaints procedure were not agreed.

4.1 Chapter 6: Voter Registration and the Revision of Voter List

COMFREL and NICFEC with Star Kampuchea, ADHOC, Human Rights Vigilance, CDP, KYA, WMC and others, as a co-ordinated advocacy alliance of NGOs, share the commitment that civil society, ordinary people, political parties and the institutions involved must work together to prevent problems and conflicts arising through deficiencies, imprecision and misinterpretation of the laws. Indeed a number of key recommendations were made when the first drafts were produced based on our considerable past experience and after many consultative meetings. We raised concerns in relation to the NEC's draft for the voter registration procedure such as:

- i) Need clarification of complicate procedures to identify

The rights of voters in determining eligibility to vote on grounds such as:

- A. Cambodian nationality:
Cambodian nationality should be clearly defined specifying what documents or characteristics are to be used.
- B. Factory workers to be able to register more easily:
Given Cambodia's large numbers of workers working away from home, Commune Chiefs should facilitate their eligible to vote by certifying their identity. In case of negligence, penalty has to be imposed.
- C. Disabled people and other disadvantaged groups should be afforded special measures to

facilitate their ability to register and vote.

Arrangements should be provided such as physical ease of access and priority given by officials.

- D. Unconvicted persons in pre-trial detention:

Arrangements should be provided to ensure such people can register and vote given that their eligibility is still not denied by a court conviction.

- E. Rights of Monks to vote:

Regardless of any internal religious directions, the NEC has to make sure that Monks maintain the same constitutional rights as every other citizen with the right to register and vote.

- F. Absent Voters including those living abroad:

The NEC should find ways by which those people are able to register and cast their vote, as provided for in most democracies.

- G. Victims of "force majeure":

The NEC should provide flexibility for victims of flood, fire, or other natural disaster that causes them to have to relocate to a new polling area or whose registration documents are destroyed.

- ii) Tasks and duties of commune clerks²¹

Given the power and importance of the new posts of commune clerks, their obligations should be clearly set out in should be resisted in compliance with the law on commune administration, and sufficient training courses need to be offered.

- iii) The rights and responsibilities of observers

- a. *Observers should have equal rights with political agents in accessing all kinds of documents and querying matters with polling and registration officials,*
- b. *In order to solve problems at source, the right to complain should be granted and added in to the registration and electoral processes. The NEC should clearly state*

²¹ The position of Commune Clerk was created in 2002 for the new 1,621 commune councils as a central government appointee to assist the elected members as their professional civil servant. COMFREL and others expressed concern about the dangers to democracy posed in 2001 if the roles, powers, and checks were not clearly defined.

the grounds in which the commune clerk may exercise the right to refuse working with observers, and the reasons for which the clerks may be permitted to impose their objection.

- iv) Complaints and Resolution Procedures of Registration and the Revision of Voter List.
 - a. *Complaints: The NEC should demonstrate the complaint procedure when there is objection of registration or in case of voting prohibition or collection of voting cards before/after the registration.*
 - b. *Solutions: In the regulations, no article states which authority would deal with the case of voting card collection or of intimidation. This produces the consequence that the citizens do not know where they bring their complaint to, therefore they are disenfranchised.*
 - c. *Penalties for the violations in the voter registration process: Appropriate penalties should be specified for proven violations to act as deterrents, for example,*
 - i. *Voting card collection: we recommend what kind of penalty to be made and how.*
 - ii. *Penalties to those who intimidate or impose obstacles in the voting registration.*

COMFREL wishes to emphasize the crucial point about all these representations is that they were made prior to the elections in good faith in order to enable as many citizens as possible to register and vote and to minimize what were predictable difficulties, that now with hindsight can be seen to have occurred. They were a positive contribution by seasoned local observers to a newly constituted NEC. Each recommendation remains relevant today and for future elections. As long as the election authorities fail to provide an atmosphere where the presumption of the right of the citizen to vote is paramount with procedures to facilitate that right, there will always be a question mark over the validity of any election results. There can be little doubt that many of the factors described above contributed to the lower registration and voting turnout in 2003.

4.2 Chapter 7: Election Campaign

There is one area that has dogged every election in Cambodia since 1993 and this year was no exception. It is in the rights and freedoms of civil society organizations to educate the voter in order that he/she can register to vote without difficulty and cast their ballot. The relevant Chapter 7 adopted was not changed despite COMFREL's positive suggestions.

The original draft chapter appeared to give the NEC absolute power of control over civil society organization's activities relating to voter education and other programs in particular during the period of the electoral campaign. In this sense it was a violation of the freedoms of rights provided in the Cambodian Constitution and a re-run of similar disputes in 1998 and 2002.

The draft law appeared to suggest that NGOs or International Organizations (point 7.12.13) were required to enter into prior consultation on the detail of their programs with the NEC with regard to media access programs, such as debates, roundtable discussions, talk shows, etc. The draft apparently imposed on NGOs and International Organisations (IOs) the need to guarantee equality for political parties. COMFREL and other asserted that, on the contrary, this obligation is firmly placed on the NEC (Article 75, Law on Election of Members of the National Assembly). In addition, point 7.12.13.2 states that "... *the broadcasting of the equal access program shall obtain a letter of approval from the NEC*" - this again is a censorship regulation that had been unduly imposed.

Point 7.12.5 "...*the NEC provides a service of verification/approval...*". This provision took the place of a "visa" system proposed earlier. The NEC stated that it is purely on a "*voluntary basis*", but because of the ambiguity, this could not be construed as the case. It appeared that censorship was still in effect. There is no difference between the "service of verification/approval" and "visa". In practice, media outlets would simply refuse to broadcast any educational materials or spots produced by NGOs because there is no letter of verification/approval from NEC to certify that the said documents were verified and approved by the NEC. We suggested that the provision of "*service of verification/approval*" be deleted and should be replaced by "*service of consultation*", since this provision was used as at point 8.9.3, Chapter VIII of NEC Regulations and Procedures for the Election of Commune Council.

The draft law appeared to suggest that NGOs or International Organizations (points 7.12.13) are required to enter into prior consultation with the NEC on details of programs with regard to media access programs, such as debates, roundtable

discussion, talk show, etc. This would have apparently imposed on the NGOs or IOs to guarantee equality for political parties for any program produced during the election campaign. NGOs and IOs, we argued, should not be burdened to give such a warranty. The NEC should make regulations and procedures in accordance with the Law on Elections of Members of the National Assembly. The law does not impose on the NGOs or IOs to guarantee equality of their programs for all political parties, at any rate; the law requires the NEC to give such a warranty (Article 75). On the contrary, NGOs or IOs organize programs to provide media access to political parties during the election campaign as part of their voter education programs to help the Cambodian electorate to make a more informed choice. Therefore, NGOs or IOs should be allowed to voluntarily invite any political party to participate in their programs.

Paragraph 7.12.14 of the same draft stated "*The NEC has the right to order the correction or removal of parts or all the educational materials that do not comply with the definition above or that is in contravention of Point 7.12.3 and 7.13.8. The concerned organizations shall make the corrections as necessary and as requested by the NEC. In case of serious mistake, the concerned organization shall be subject to penalties as stated in Article 124 (new) and 131 of Electoral Law.*" We carefully reviewed and examined these stated articles and found that the penalties stated in article 124 and article 131 did not apply to NGOs. The NEC appeared to narrowly interpret these articles with the intention to impose sanctions on NGOs. Based on our interpretation, penalties under article 124 and 131 are to be imposed against political parties, candidates, and their supporters only, who may have been found to have committed any prohibited acts.

Imposing penalties of both "civil action (fine) and criminal action (prison term)" created a discouraging atmosphere by which civil society organizations' participation in voter educational activities were to have been limited due to any unforeseen legal consequences that they may face. The clearly stated goals, mission and objectives of reputable non-governmental organizations are to create opportunities to help the Cambodian electorate to make more informed choice about the election issues. Therefore, we requested the deletion of the clause, "***In case of serious mistake, the concerned organization shall be subject to penalties as stated in Article 124 and 131 of Electoral Law.***"

COMFREL has replicated this earlier debate in some detail in this final report because of its significance and the likelihood that once again for elections in 2007 and 2008, such issues will arise given the authoritarian control mentality that still persists despite 10 years of democracy. We do wish to acknowledge that the debates on our representations this year and in past elections did take place with the NEC and government, and some account taken of our views and those of the international community, such that many of our worst fears were not borne out. Nevertheless, if such restrictions remain with the natural inclinations of the authorities, true democratic principles will remain under threat. In addition as international donors phase out support of elections – as they fully intend to do so – the ability of domestic civil society organizations to withstand controls will be reduced.

4.3 Chapter 11: Complaints

In any election process, the filing of complaints, the process of considering complaints and the finding of solutions and/or imposing penalties are important mechanisms to bring about acceptable resolution and justice to all concerned parties.

Cambodia after three elections is yet to obtain a formula that works. Whilst this continues, parties and individuals will remain aggrieved. Some will resort to more demonstrations and other actions that affect public order and there will be a repetition of the violence that has followed all three national elections including this year's.²² There are two fundamental failings in the current legal provisions. Firstly the NEC relies on the normal public authorities for investigation and action in relation to election infractions. Secondly there is no independent court. COMFREL advocates that the best formula is for an independent election court to be established and for that court to have officers to conduct investigations. It is inappropriate for the NEC and its PECs/CECs – lacking in political neutrality and legal competence – to pass fair judgment on their own people and on competing parties. Similarly the Constitutional Court is far too high and important a body to have such matters referred to them – they should only deal with major principles or leading cases, and not act as a court of first or second instance. There is a considerable body of international expertise in election matters and Cambodian judges could be trained in the years between now and the next elections in 2008 (or 2007 for the commune elections.)

COMFREL, as stated earlier, includes eminent legal persons and therefore we are able to give

²² The first post-election demonstration in 2003 on 31 August by the Khmer Front Party resulted in confrontation with security forces, injuries and detentions.

authoritative opinion on legal issues. As well as those detailed above, we offer technical recommendations to ensure justice in the election complaints procedures. For example, insufficient time is prescribed (only two days) for the identity of violators to be established, and what constituted "petty offences" is not clearly spelt out in cases that can be dispensed with by commune councils.

Such provisions in the election laws, when inadequately framed, would soon be subject to examination by an election court, and therefore scope for lasting improvements would be incorporated as well as affording acceptable justice to complainants.

For this, a procedure as perfect as possible, is needed. To take part in this improvement process, COMFREL reviewed and suggested some suggestions as follows:

1) Time of filing complaint:

The paragraph 11.1.1.b lists the necessary information needed in filing a complaint. Among them, COMFREL saw that, the identity of the violator concerned is difficult to find by a complainant in just 2 days.

In this point, the procedure should state "...Identity of the violator concerned, **if any...**"

2) Clarification of CC competence and type of complaint conciliation:

Article 11.1.2.3.2 gives authority to commune councils to conciliate on **petty offences**, but it does not say what petty offences are. Due to separate circumstances or authorities, the definition of offences could be interpreted differently.

Petty offences should be clearly defined in Chapter 11 in order that a common meaning of it is used by Commune Council.

3) Article 11.3.2 is silent on which and when a hearing is used for a certain offence, whilst the types of hearing, already stated, are used by the adjudicating councils at all levels.

The procedure of the use of all 3 hearings type should be included in "**The type and process of NEC's hearing**" of article 11.3.

4) Law enforcement and NEC's power
According to the law on the amendment on legislative election, the NEC has the power

to fine the wrongdoer. This means that the body with wider powers is charged with the task of thorough investigation. So far, in all cases, the NEC has no right to give direct orders to judicial police, therefore, more problems seem to happen respectively without solution. Therefore COMFREL suggest that:

- During the election, the NEC at all levels should have the right to order judicial police to conduct investigations and enforce implementation of NEC decisions.
- Or, during the election, NEC should have judicial police attached under its own direct authority. Then the NEC would be in a position to assure the quality of their investigation work and execution of decisions, and to promote specific training skills to the various groups.

5) Schedule of the Action Taken for Complaint
"After receiving a complaint, the action taken by the NEC is to hold a hearing to rule on the complaint at an appropriate time" is stated in articles 11.1.5.1. This is not a sufficient clarification of the complaint procedure.

The NEC should set out a clear timeframe for the various kinds of hearings to determine and rule on complaints **before** the date is set for the official result of the election to be announced.

6) Rights to Appeal

In article 11.1.2.2, any complaint which does not have a proper legal basis or sufficient necessary information will be rejected by Commune Council Chief, and the rejected complainant is not permitted to appeal. From this viewpoint, it means that the complainant is forfeited a right of appeal and the chance to obtain justice. The right of appeal to the Provincial or Municipal Election Commission should be given.

NEC should add in the regulation the following paragraph:

"In the case of rejection by Commune Council, the complainant can appeal to Provincial/Municipal Election Commission within 2 days after the rejection".

4.4 Chapter 8: Voting, Counting, Organization of Election Process

COMFREL made further representations regarding the ambiguity and potential risks to the integrity of voters in the ballot counting procedure.

The vote counting process is laid down in the transitional provisions for the 2003 elections,

Article 137 of the Law on the Election of Members of the National Assembly (LEMNA), to ensure that the result from individual polling stations can not be known. The clause was added because of the risks attached through only up to 700 voters using each polling station. It would be all too easy to identify how certain communities voted and they would risk reprisals. The idea was that mixing of several polling stations at the count would provide for anonymity. However clause 8.15 of the NEC Regulations and Procedures for the Election of Members of National Assembly 2003, states: *'Each team can be responsible for counting the ballots of one to three Polling stations.'* If only one polling station is counted at a time, the primary intention of Article 137 would be defeated. This would place one more impediment in the way of potential opposition voters.

Eminent lawyer, Director of the Cambodian Defenders' Project, Mr Sok Sam Oeun, a COMFREL Board Director says: *'In the spirit of the counting process, ballots from all ballot boxes must be mixed together at the commune level, before the counting begins. Therefore counting teams can have no way of knowing which ballots came from which ballot box.'*

If the NEC refuses to apply its own regulations on clause 8.15, to eliminate the discretion and selection over the numbers of polling stations to be co-counted (and with it the risk of misuse of such discretion) then COMFREL suggests that a new permanent article 102 of LEMNA should be implemented. A universal provision should be applied such as the counting of the ballots to be arranged at polling station level.

While COMFREL would regret the loss of anonymity for communities on how they voted, such a change would have compensatory advantages by speeding up and simplifying the counting process and removing the need for transport and securing ballot boxes with all the attendant problems.

Recommendation on Draft Regulation of Chapter 8 on "The Organization, Administration and Functioning of the Election"

As the 2003 Election Day approached, COMFREL made recommendations on various points in the draft regulations of Chapter 8 with the aim of reducing irregularities and enhancing the election process.

1. Problem: Location of Party Agents and Observers in Polling Stations.
Concern: Arrangements for where political party agents and national and

international observers were placed could create difficulties in bigger polling stations. They could be too far away for adequate scrutiny.

Paragraph 8.2.2.5 should state that *"Tables and chairs for political parties' agents and national and international observers, if any, have to be placed next to the wall on the left hand side of the desk of Station chairman for a suitable and clear view."*

2. Problem: Excess Ballot Papers for Each Polling Station
Concern: The policy of providing excess numbers of ballot papers should be much tightened in order to eliminate vote-rigging and save money. COMFREL is aware from the past experience, that the numbers of spoiled ballot sheets and incidences of issuing replacement papers are small.

In paragraph 8.7.7.1, the regulation should *set the number of excess ballot papers not to exceed 50 over listed number of voters* in that particular voting station.

3. Problem: Nuisance, Intimidation, Threatening and Menace to Voters
Concern: Various actions causing menace to voters feeling, stated in Paragraph 8.7.23
 - a. Section 8.7.23.7 should be added in the following *"the outward show of weapons, explosives and official uniform/identity"*.
 - b. Add to section 8.7.23.8 the following *"the outward show of any action which could affect the decision of voters, together with the presence of people who are not duly authorised as political parties' agents, are not allowed in front of polling station"*.
e.g. Local authority officials, such a village chiefs, should not be allowed in front of polling stations where their presence could affect voters going to vote.

4. Problem: Potential for vote embezzlement during ballot box transportation or its maintenance in a "safe" location until the count takes place.
Concern: Risk of cheating, the seal key locking the ballot box could be changed during transportation or during its stay in a safe place.

In paragraph 8.8.1 of section 8.8.1.3, the phrase below should be added: *"...and have to pack with the plastic bag or any other safety cloth, marking on the two seals with the signature of polling station Chairman, parties' agents and observers in that station"*.

5. Problem: Administrative obstruction that stops the process of the election.

Concern: There is no precise clarification as to how many days or hours apply when a ballot is delayed for Administrative Obstruction in section 8.9.1.4 that leads to closure or suspension of Polling Station.

Section 8.9.1.4 should clearly affirm that the poll must be held within a prescribed period in case of administrative obstruction that stops the normal process of the election.

6. Problem: The Safety of Ballot Boxes

Concern: Permission should be afforded to party agents and observers to stay overnight within view of the Ballot box or any accesses to its storeroom in order bring more confidence over the safety and integrity of the ballot box and papers. The storeroom must be suitable to maintain the ballot box with ballots inside its waterproof-plastic bag, and other contents including Package 'B' with the record of the election. The agents and observers help observe and guard other remaining election materials. This would eliminate suspicion and prevent conflicts from happening such as those in 1993.

A phrase in section 8.11.5.2 should be added to "*...to rest at night in the close vicinity of the building housing ballot boxes within clear sight at all times of either the ballot boxes or of all forms of entry or exit to the room in which they are placed.*"

7. Problem: (Spoiled Ballot Papers)

Concern: Ballot paper with unclear political parties sign

Paragraph 8.15.16 should be added in section 8.15.16.8 in case of there is unclear Party(ies) sign.

Cambodian National Elections are contested by many parties, 39 in 1998, 23 in 2003, and given the large number of illiterate voters, the party symbol on the ballot paper is the main means of recognition by which they exercise their choice. The regulations should specify criteria to ensure clarity for the voter and to apply when ballot papers do not meet the quality standard needed.

For the future, Cambodia should explore new means by which voters may cast their ballot that would make it easier for all voters with difficulty to be able to vote, Blind people could have Braille ballot papers, physically-

handicapped and people unable to use pens could use inked finger marks etc.

8. Problem: Ambiguity in defining what constitutes a valid mark on Ballot Papers

Concern: As stated earlier, many voters are illiterate and unfamiliar with using a pen to mark paper. Very often they fail to make one clear mark next to the party of their choice. Counting Officials have virtually sole discretion on whether such marks are valid, some may be biased in favour of their own party, and therefore there is scope to deny the right of voters to have their vote included, and ultimately the outcome of the ballot. The law should restate the supremacy of principle of inclusion of all votes, unless the intention is unclear, and that such votes should only be denied after full close inspection by the party agents and election observers present.

9. Problem: Checking Ballot Paper by Observers

Concern: In section 8.15.18.1, Observers and Parties' agents are not allowed to handle the ballot paper. This can lead to unclear verification of the ballot is valid or not, as sometimes very close scrutiny is needed.

In section 8.15.18.1, the phrase "*...but not allowed to handle the ballot paper*" should be removed.

10. Problem: Village Chief or local security officers²³ with no official duties in the parameters of polling stations or acting as party agents.

Concern: The very presence of such people in and around the polling station affects some voters as they enter the station and cast their vote.

The law needs to be much more precise, preventing village chiefs or other officials, especially those with security responsibilities from remaining within 300 meters of the polling station.

11. Problem: Transportation of Ballot Box.

Concern: The safety and integrity of the sealed ballot box is supreme. This can only be guaranteed if both party agents and observers escort election officials with the box throughout the entire process from sealing the box at the close of polls until its opening at the official count. The problem is that these people all have different modes of transport.

The Polling Station and other election officials who are in charge of ballot boxes should be required to agree suitable arrangements with the party agents

²³ Cambodia has a variety of local security services – National Police, Gendarmerie, Defense Forces, and though officially disbanded some former locally appointed militia are still known to exist.

and observers present so as to ensure complete independent supervision of the ballot box from the polling station to the counting station or other appointed place of safety and storage.

More Suggestions

Elections are national events for people. They should not be exclusively for the public sector. The NEC should engage the use of security guards of private institutions, for instance, permanent guard men of factories, or Security guard companies. This would supplement recruitment of government security personnel and help offset criticism of bias towards the parties in power. Furthermore, the NEC should extend their arrangements with the Ministry of Social Affairs and Labor (MOSALVY) giving time off for workers away from home to be able to register and vote to include time off without penalty for all workers on duty on Election Day in order that they can cast their ballots before the closure of the polls. In cases where employers fail to do this and employees wishing to vote are denied their right, then appropriate lawful penalties should apply.

5. Voter Education and Political Debate/ Information

COMFREL's observers assessed the level of voter education activities, provided information to ordinary people, and in general found that:

Residents of provincial and some district towns have access to newspapers, television, radio, but the remote residents of the province have poor access to newspapers, and limited access to television. This access is further decreased for the rural poor who cannot afford radios, televisions, let alone the batteries to run them. The rural poor are also excluded from the information flow by their low levels of education and high levels of illiteracy.

In general people seem reasonably well informed about political party campaign platform and voter knowledge such as voter guides, the date of the election and importance of elections. In provinces the distribution and display of the NEC and NGO posters, leaflets and pamphlets were widespread.

In these elections voter education activities were smoother to organize though not as numerous as in 1998, as there were no serious obstruction of voter education activities. Partial credit for the positive change was given to Interior Ministry Directive on 19 February 2003 to local authorities should facilitate NGO activities of voter education.

NGO voter education efforts were strenuous and innovative with COMFREL, NICFEC, WMC (Women Media Center), ADHOC, CCHR (Cambodian Center for Human Rights), CSD, WFP, etc. Funding for such activities came largely from international donors with minimal state provision through the NEC and other institutions. Activities included voter meetings, seminars, widely ranging from distribution of voter education materials, training, broadcasting of Radio/TV spots to performance of dramas in almost all districts and communes. **(See COMFREL's activities report 2003 and Annex 6: Voter/Civic Education Impacts).** NDI provided a special program on political party debates and CSD produced voter guide to inform voters about political promise and platform. COMFREL wishes to point out that in the event of reducing international support for elections, especially for the local elections in 2007, state provision must increase, as well as other sources of impartial in-country funding encouraged, so that voter registration and turn-out do not suffer.

6. Selection and Performance of Election Authorities

6.1 Selection Process

The representatives of COMFREL and NICFEC were pleased to meet with the leaders of the three main political parties for the 2003 National Assembly Elections. We met H.E. Say Chhum, Chairman of the Central Committee of the CPP (CPP) on July 8, Prince Norodom Ranariddh, President of the FUNCINPEC Party (FUN) on July 11, and H.E. Sam Rainsy, President of the SRP (SRP) on July 31. The purpose of our meetings was to lobby them for election reforms, in particular the NEC (NEC) restructuring as well as procedures for the 2003 elections. As a result, the leaders of the three parties were agreed on the point that the membership of the NEC (NEC) should be reduced. The FUNCINPEC and Sam Rainsy parties still expressed concern over the criteria to ensure that it was a neutral and independent body and the selecting procedures for the NEC's members were sound, whilst the CPP suggested giving this competence to the Ministry of Interior (MOI).

In June 2002, FUNCINPEC legislators tabled a draft amendment law on several articles, in which four points were considered as priorities, 1- *The NEC reform*, 2- *Voter Registration Procedures*, 3- *Equal Access to the Media*, 4- *Limitation on expenses for the electoral campaign*. This bill was supported by the SRP.

On July 26, just two weeks after the order of the Prime Minister, the Council of Ministers approved the 67-article amendments to the National Assembly election law drafted by the MOI. According to the accompanying press release, the

amendment bill focused on the key points as follows:

The composition of the NEC was to be reduced from 11 to 5 members including a Chairman, a Vice-Chairman and three members, under the term of [Khmer Dignitaries]. These five Khmer dignitaries shall be appointed by the MOI, accepted by Council of Ministers, approved by the National Assembly with absolute majority votes and officially promulgated by the Royal Decree. The nomination process was to be ready at least **seven** months prior to the Election Day. *According to the pre-existing election law, the NEC's members shall be nominated by the **Royal Decree** at least **Nine** months prior the election day.*

Based on the press release of the Council of Ministers, it seems the NEC's restructuring was taken into account by the government regarding the NEC's composition of 5 members. There were debates through TV, radio, newspaper, meetings and grass-roots forums organized by Civil Society. Most of the electoral stakeholders, the civil society organisations and the political parties, expressed concern over the amendment that the selection procedures gave sole power to the MOI to propose the NEC's candidates. The amendment stated that the MOI shall submit the names of the proposed NEC composition to the COMs at least nine (9) months prior to the Election Day. FUNCINPEC, the ruling coalition government partner, accepted this procedure, saying that they have no choice because the UNDP suggested them to agree with this procedure, said Nheuk Bunchhay, Deputy Secretary General of the FUNCINPEC in an interview with Radio Free Asia on Tuesday, July 30, 2002 at 5:30 am. The Sam Rainsy still disagreed with the amendment warning that they would consider withdrawing themselves from the 2003 elections, said Kong Koim, Vice President of the SRP. However, the civil society and other concerned stakeholders still insisted there should be fully transparent procedures such as the establishment of an independent selection committee to choose the NEC's candidates.

COMFREL considers that its views and recommendations should still apply and be considered before the next elections, the Commune Elections in 2007 that will be administered by the present NEC. Furthermore it restates the need for the establishment of national institutions such as the NEC to be apolitical and for the definition of what constitutes a Khmer dignitary to be defined. Adoption of these recommendations will do much to instil faith in the credibility of the NEC

and the willingness of the population as voters or party activists to give trust to it.

6.2 Institutional Lack of Neutral Behaviour and Image

Cambodia does not have a professional neutral public service. Officials until the 2002 commune elections were exclusively either CPP or coalition partner FUNCINPEC members.²⁴ Although state institutions such as the NEC and the Constitutional Council specify impartiality, in practice the separation between party and state is not sufficiently transparent nor are checks and balances in place to eliminate bias. The present five members of the NEC were selected by the Ministry of Interior and approved by the National Assembly. They reflect the current balance in the ruling coalition. Similar procedures were adopted for appointments to the Provincial and Commune Election Commissions, and ultimately for the selection of polling and count staff. COMFREL on 23 May made representations about PEC recruitment, drawing attention to the fact that selection was not based on required criteria such as (a) representation of the broad cross section of society, (b) no women in 14 of the 24 PECs, (c) the reduced numbers of applicants considered compared with 1998, and (d) the repeated use of officials who had not discharged their duties correctly. There is no evidence that COMFREL's recommendations were acted upon. ([See Annex 7: Report on the Irregularities of PE C's Recruitment Procedures](#)).

In a country struggling to establish rule of law, "justice must not only be done" but "it must be seen to be done." The lack of transparency and the known associations to ruling parties in selection of election administrators have been major disincentives to opposition parties having recourse to the proper procedures specified to deal with and prevent problems. COMFREL expressed the view early in proceedings that this failure would dog the electoral process and would be the major cause of a repeat of the post-election disputes encountered in 1993 and 1998. Estimates suggest that 70% of officials are associated with CPP, and most of the rest to FUNCINPEC. COMFREL's prediction has been borne out.

COMFREL commended the NEC and the Constitutional Council for their preparedness this year for possible disputes to be resolved in the aftermath of the polling and count. It was very much hoped that neither would need to act, but of course both did. We argued originally that if they did have to act, timely, fair and judicious

²⁴ 12% SRP members held office in commune councils after the election.

disposition of cases would do much to avoid the 1998 post-election problems. In the event, whilst they were better prepared for cases than in 1998, the outcome was the same - almost total rejection of claims. COMFREL was willing, as ever of course, to provide objective reports to assist in resolution of disputes. Given the status of both bodies as the highest authorities to deal with election-related issues in lawful and proper ways, they serve as role-models for the PECs and CECs that still do not command the required respect needed at local level when discharging their responsibilities in this respect. For example, Kampot PEC punished a SRP Senator when he was alleged to have issued insults over the security commission. The PEC affirmed that defendant's attorney admitted that the Senator had done this. They received no direct admission as evidence and in any event legally, there is no article that stipulates punishment for "insulting" someone. The PEC's decision was not based on sound law.

COMFREL does wish to commend the NEC for its efforts to improve the education and training of all its officials at every level, despite obvious limitations on time and resources available, again denoting some improvement on 1998 and 2002. There is in general increasing expertise as officials gain more experience, however as was noted during the registration of voters, this is by no means the norm. Some officials are not familiar with the rules and regulations and some appear to choose to disregard them. Party Political Agents are not always present (they can raise any concerns at the time) and the current legal role of COMFREL representatives is as observers. Therefore unless the law is amended as suggested to expand the role of observers who are often better trained, they are limited in offering any constructive suggestions or advice that could do much to solve problems as they arise at source. Such positive interaction between officials, agents, and observers could prevent disputes from escalating requiring later deliberation at higher levels.

In public image, sometime the NEC showed themselves as defenders for CPP or provided information about SRP/FUNCINPEC irregularities. In many articles of media, the NEC tried to explain and agued to defend CPP. During election campaign, the NEC released only report on 06.212/03 about FUNCINPEC/SRP violation of election campaign regulation. (*See annex 8*).

The arrangements that allow people to take up appointments as election officials require them to detach themselves from previous roles as officials or party workers. The aim is clearly

intended to ensure neutrality. In practice, it is exceedingly hard for people to detach themselves from previous loyalties, especially when they have to return to normal life after the elections. Maybe this helps to explain why the NEC found it easier to find fault with FUNCINPEC and the Opposition than it did with the CPP. For instance the only report issued on election violations (06.212/03) was confined to FUNCINPEC and SRP whereas all other observers were reporting violations by all parties.

It seems incomprehensible that NEC could find no violations with the party with the largest numbers of keen activists.

The rules that require a clear distinction between senior officials and their involvement in election activity were brought in to question on 29-30 August 2003 when public statements were made by the heads of the Police, Gendarmerie, and Armed Forces supporting the candidacy of Samdech Hun Sen as Prime Minister: *"During the process of the coming election of members of the National Assembly on 27 July 2003, all members of the Cambodian Royal Armed Forces and National Police shall adhere to the stance of neutrality and impartially, and shall not show any support for or against any political party candidate"*.²⁵

7. Voter Registration and Revision of Voter Lists

7.1 Registration

Cambodia appears to have a very good reputation in terms of the willingness and ability of its citizens to take part in democratic elections. Certainly many countries would envy its past figures in the order of 90% for registration and voter turnout. However such figures do not tell the full story, and the new voters registration turnout for the 2003 elections according to the NEC would suggest a worrying marked drop-off in enthusiasm if they were correct and if all those who wished to register had been able. COMFREL believes that on the basis of demographic data at least 400,000 citizens may have been deprived of the right to vote and that these could well in marginal constituencies affect the balance of power.²⁶

²⁵ Code of Conduct for Members of Cambodian Royal Armed Forces and National Police during the Election of Members of the National Assembly, point III-Rights and Obligations. Statements were signed by the General Commander of Royal Armed Forces, Ke Kimyan, by the General Commander of Gendarmerie, Soa Sokha, and the General Commissioner of the National Police, Huk Lundy

²⁶ For the 2003 elections, Cambodia's voter lists were revised and new voters registered voter from January 15 to February 20, 2003. Eligible voters (those not previously registered or those who have moved) who registered for the 2003 National

Very many of these potential voters were poor people, students, workers away from home and monks. Procedures were complicated, some registrations stations did not function efficiently due to inadequate education and training or poor selection, some were not open during stated hours, it was difficult for many voters to attend registration stations at the time specified for them, and frequently there were problems of identification with local officials failing to provide confirmations at all or on time. Monks had a particularly difficulty as at least one senior spiritual leader instructed his monks not to take part in elections – a factor that may be disputed in Buddhist teachings and that would contradict their constitutional rights.²⁷

COMFREL must, however, acknowledge the commendable action on the part of the NEC in responding to requests for the period of registration to be extended. Although neither the number of places or the time period were as great as required, the NEC did at least honour and establish the principle of the supremacy of the right of the voter to be able to vote. It is estimated that some 400,000 voters did benefit from these extensions. Similarly the NEC is to be complimented for relaxation in provisions that allowed workers and military personnel to register at their workplace, and for holidays to be granted to those workers needing to go home to register.

COMFREL, on the other hand, wishes to reiterate the fact that registration procedures were not fully conducive to encouraging certain categories of citizens with difficulties from being able to register. Illiterate, disabled and blind people, people in detention (i.e. not yet convicted in law), hospitalized and absent overseas voters continue to be excluded from the electorate. Finally young voters, wishing to register for the first time, often encountered difficulties – given the worldwide tendency of young people not to participate in political and community affairs, COMFREL encourages the authorities to be more “user-friendly” towards these new adults and all other groups with difficulties in exercising their democratic rights.

7.2 Post-registration

There were widespread reports of voters not being issued with their identity cards for a variety of reasons. Many were due to lack of

Assembly Election were 1,164,751 or 75% of estimated eligible voters of 1.56 million, (according to the NEC's press release No. 02.099/03 PIB NEC dated February 22, 2003 on the result of new registered voters as of February 20, 2003.)

²⁷ Venerable Tep Vong.

photographs. As these were not resolved by Polling Day, they may have led to problems at polling stations with the final results being affected and the persons disenfranchised. The majority of people affected were most likely to vote for the opposition and therefore suspicion of CEC bias is bound to have been re-aroused.

Equally important is the right of citizens to check that their names appear on the electoral roll correctly and for them to check the authenticity of other names that appear, i.e., to ensure that ineligible unfamiliar names (ghosts) have not been added. COMFREL is disappointed that as with the commune elections in 2002, the electoral authorities have still not been able to establish common national standards for such an important aspect of the democratic process.

7.3 Voter List

On April 27, 2003 the NEC published the Official Voters List (OVL) for the July 27 National Assembly Elections. Some stakeholders including political parties, parliamentarians, civil society members and some in the international community raised concerns over the list. SRP parliamentarian H.E. Keo Remy emphasized the importance of transparency and called for an independent audit of the OVL. Participants in the 42nd and 43rd Meeting of the Conflict Prevention in the Cambodian Elections (COPCEL) group raised further concerns about the accuracy of the list.

According to the current article 63 of the Law on the Election of Members of the National Assembly (LEMNA), those political parties that have been registered themselves in conformity with the Law on Political Parties shall have rights to request for a copy of the preliminary list of voters by paying a fee. This fee shall not exceed the production cost.

According to current article 69 of the same law, national and foreign NGOs, international organizations and other countries, may send their representatives to observe during the revision of voters list and registration of voters every year and NEC's regulation and procedures for the 2003 National Assembly Elections Chapter 6, article 6.30, clause 6.30.6, Non-Governmental Organizations (NGOs) can ask for a photocopy of the OVL.

Despite the above-mentioned laws and regulations, the NEC refused the request of one political party (SRP) and COMFREL to have a copy of the preliminary list of voters by paying the fee whilst the NEC decided to sell the voter list after publishing official voter list.

After receiving the Voter List in late June, with support of NDI and TAF, COMFREL conducted a

sample survey of 400 names from the voter list, the sample being a one-stage cluster sample and a probability sample for a coverage area including 100 percent of 1,621 polling stations. This method was a List-to-People comparison test involved monitors going to the address listed for each name sampled from the voters list.

Based on the finding, the 2003 official voter lists (OVL) demonstrated some fundamental problems that need to be corrected before the next elections if Cambodia's voter registration procedure is to be credible.

- 2 voters had **not** gone to register but their names were on the 2003 official voter list.
- 17 voters (4.25%) could not be found. This means that those people did not exist or never lived at the address stated on the list. The information was "confirmed" by local authorities (4 names confirmed by commune chief and the others confirmed by village chiefs).
- 9.3% of sampled voters were not living at the address indicated by the OVL:
- 19.8% of sampled voters had voters' cards with information that did not match the OVL.
- 1.4% of the sampled voters were ineligible (age/nationality) and their names should not be included on the OVL.

The results of this sample if representative and typical of the national scene raise serious doubts about the accuracy of the Voter's lists, this may well help to explain why lower turnouts were noted in registration and polling, and in the case of marginal constituencies and vote counts, they could well have affected the actual election results.

When these findings are extrapolated to cover an entire constituency, or the nation as whole, then they do raise serious doubts about whether the polls do genuinely represent the people's choice, especially in marginal counts where a handful of votes either way affects the outcome. If the registration process is brought into such disrepute then individual voters, if not whole local communities will lose faith in the process and turnouts will decline. The greatest disincentive for any voter is the belief that his or her vote does not count!

8. Registration of the Political Parties and Candidates

A sign of any healthy democracy is the ability of people to form new political parties and movements to influence established parties. Although 39 parties stood in the 1998 elections, only the three major parties succeeded. Only 25 parties sought to register for the 2003 elections. The reduction in numbers may be due to natural consolidation or to pragmatic assessments of chances, or it may reflect the fact that barriers to entry including the deposit²⁸ are set too high.

The NEC approved 23 of the 25 refusing two for failures to comply with the procedures.²⁹ 15 parties reported experiencing difficulties in the process most of which were attributed to reluctance on the part of officials to provide the necessary supporting documentation. For example:

- 3 parties reported that Commune Chiefs demanded money to issue certificates for their candidates in Pailin and Phnom Penh.
- 6 parties reported various methods by officials of non-co-operation ("too busy" etc.) in Phnom Penh, Kampong Cham, Kampot, Prey Veng, Svay Rieng, Stung Treng, Mondulkiri, Kampong Speu, Takeo and Battambang.

Administrative barriers were not the only impediments to the minor parties – there was one murder of a party activist during the party and candidate registration period³⁰ and at least 10 cases of intimidation, involving four parties.

COMFREL also wishes to point out that the technical formula³¹ adopted by the NEC for the national elections, as it did for the commune elections, actually favours the larger parties. Please see also "Access to Media" below – another factor to work against the minor parties.

Although the minor parties encountered difficulties in registration, it was the main opposition party, the SRP that reported most incidents. By contrast the CPP and FUNCINPEC reported none.

9. Election Campaign (including period prior to the official start date of 26 June 2003)

When exactly campaigning really started for the 2003 elections is a moot point. It could be argued

²⁸ The figure of 15m riels (\$3,750) was set for the 2003 elections. The figure was 10m riels in 1998.

²⁹ The National Construction Party and the Khmer Improvement Party

³⁰ SRP activist Mot Phea in Pailin.

³¹ The electoral system shall be proportional representation, with provincial/municipal constituencies.

that it started immediately after the 2002 commune elections and some would argue that given Cambodia's electronic and printed media daily coverage of events involving government officials there is continuous campaigning. For certain all major parties were active prior to 26 June with clear efforts during the voter and candidate registration periods. COMFREL considers that such activity should not be allowed. Indeed prolonged exposure to campaigning may have contributed to "voter" fatigue and the lower participation in registration.

COMFREL would further suggest greater clarification in the rules and codes of conduct governing campaigning in order to avoid problems of interpretation and to create a more civilized process that is less likely to incite violence and prejudice. Obtaining that balance, of course, is not easy at any time and especially in the absence of truly impartial supreme bodies. An election campaign is intended to allow aspiring politicians to convey their messages to voters. Democracy involves choice, and voters can choose for positive or negative reasons or a combination. In other words, they can opt for change because they like a better alternative on offer, or because they do not have faith in the incumbent parties. This means that criticism and challenging each other's manifestos and track records are an essential part of the electoral process, but they have to conform to acceptable common standards.

COMFREL noted, as stated earlier, the increase in violence once the campaign started. This may have been due to the increase in rhetoric with the election more imminent and as FUNCINPEC wished to distance itself from its CPP coalition partner. Whatever, the tenor of the campaign raised serious issues for democracy and stability:

1 Recent past history and its different interpretation were used to foster loyalty amongst voters, such as which parties and leaders can claim credit for defeating the Khmer Rouge and who may have been at fault for decisions made in the first coalition government and the events that led to the July 1997 armed confrontation. This rhetoric has been at the expense of informed advice to voters on the present situation and suggested policies. More worrying such rhetoric could generate post-election disputes, resurrect armed conflict or violence and set back the process of

reconciliation that has taken place in recent years.

2 The "anti-race" card was played. "Anti-Vietnam" statements have been used in past elections. This year they have added poignancy following on from the "anti-Thai" riots earlier this year. Cambodia wishes to take its place on the world stage and play a full role in ASEAN. Such tactics are totally unacceptable – the "fair" in "free and fair elections" means fair to all not just to the political parties.

For example:

- TV channels have been broadcasting films such as the "Killing Fields".
- The CPP arranged for the broadcast of its own version of events that led to the armed confrontation of July 1997 and the exile of first Prime Minister Prince Ranariddh.
- FUNCINPEC proceeded with its own ceremonies to mark the anniversary of those events.
- Prime Minister Hun Sen and Prince Ranariddh, the Head of the National Assembly, clashed publicly over responsibilities during their joint stewardship in the first coalition government for controversial decisions such as the awarding of the contract for the refurbishment of the National Olympic Stadium.
- Both FUNCINPEC and SRP made derogatory comments such as the term "Youn" regarding Vietnamese and raising the issue of border disputes to attract pro-Khmer anti-foreigner support.
- Prime Minister Hun Sen (who claimed not to be campaigning) warned audiences of the consequences of not returning the CPP to power – for example at a school inauguration ceremony on April 29 *"Vote people, vote for me, I will continue this work, but if I do not win and schools are needed, you ask new people. We will not continue this work."* The CPP will still be in control of 90% of commune councils even if it loses the national elections.

10. Complaints

A fair and expeditious complaints procedure, as stated above, is an essential feature of the electoral process. In 1998 it was the failure in those procedures that led to the post-election demonstrations, their eventual violent end, and the hiatus of several months before a new government was formed. Also as stated earlier, the composition of key institutions may not assure fairness, and most complaints that have been registered to date have either been dismissed or not resolved satisfactorily. The Government's Central Security Bureau for the elections has generally endorsed assertions by the Police that killings and violence are "not election-related".

The same pattern of impunity appears to occur with the NEC and at PEC and CEC levels in relation to alleged election infractions. Often the intention of the authorities is to broker conciliation for complaints not to proceed rather than to establish the facts and take corrective action.³² COMFREL noted 89 formal complaints registered in the voter registration period (86 SRP, 8 HMMDP, 7 FUNCINPEC, and 2 CPP). During posting of voter registration 94 complaints were made to the NEC about 15,000 ineligible voters.

During the registration of political party and candidates, COMFREL received and observed 22 complaints (9 SRP, 1 CPP and 12 other electoral stakeholders).

Throughout the campaign, COMFREL noted 255 formal complaints (including 226 complaints and 29 objections) from 19 provinces/towns mostly from Banteay Meanchey, Battambang, Kampong Cham, Kampong Speu, Kampong Thom, Phnom Penh, Prey Veng, Pursat and Svay Rieng submitted (124 SRP, 56 FUNCINPEC, 36 CPP and the remaining from other election stakeholders).

COMFREL received and observed through to the conclusion of the polling, counting and post election period, 87 complaints (including 80 complaints and 7 objections) from 11 provinces/towns such as Banteay Meanchey, Battambang, Kampong Cham, Kampong Chhnang, Kampong Thom, Kratie, Phnom Penh, Pursat, Prey Veng, Siem Reap and Svay Rieng. 65 of these complaints were made by the SRP, 8

by FUNCINPEC and 14 by the general public and local authorities.

Most of complaints were "resolved" at the commune and provincial levels through conciliation, i.e., outside of the legal framework. The conciliation should be exercised only for minor cases which are not stated in the election regulation and procedures Chapter 11, clause 11.1.3.3.2. But most of the complaints were about serious violations to be punished according to the election law article 124. The cases included threats/intimidation, vote buying etc. It was inappropriate for them to be addressed through conciliation.³³

The CECs and PECs were prompt to judge or reject the cases. For instance, in Phnom Penh, at least 54 complaints in relation to polling and counting days were submitted to the PEC. All of the complaints were rejected by the Phnom Penh PEC in a two-day hearing that did not conform with expected standards for such proceedings³⁴ and then they reported it to the NEC.

Moreover on Polling Day, 45% of complaints in relation to irregularities lodged by party agents and observers were not considered and solved. Only 3% of complaints on counting day were addressed. Counting day is a sensitive stage. COMFREL noted that some of the counting staff members were careless. (*See annex: 8*)

All of the complaints made by the two parties were on the subject of threats/intimidation or violation of the election regulations and procedures committed by electoral officials. The rest were by the general public related to "money-giving" committed by local officials.

COMFREL found some irregularities during the complaint procedures conducted by the electoral authorities at all levels as follows:

- No clear/proper mechanism and professional conduct in investigating the cases of complaints.
- Lack of commitment and neutrality on the part of officials to resolve complaints.
- No punishment was enforced on perpetrators even though some were fined but so far the penalty has not been applied and there is no article stating the payment procedures.

³² In this sense the electoral authorities are following practices that are established in Cambodia's courts and judicial authorities. Two serious cases were those of SRP activists in April 2003... The house of one was burned down in Mondulhiri and others injured in another incident in Phnom Penh. Rulings were unsatisfactory one as "personal negligence", the other "non-politically related".

³³ There is a common tendency in the Cambodian judicial system for criminal and civilian cases to be disposed of through conciliation between the parties to avoid due process with cash settlements between the parties and "facilitation" commissions collected by officials.

³⁴ The PEC invited the complainants to its office and told them verbally that the complaints were rejected.

- Most of the complaints were rejected stating that there was a lack of documents.
- The remaining complaints were resolved as stated by conciliation despite being serious cases such as threats, intimidation and violence.
- Lack of skills, knowledge related complaint regulation and procedures.

11. Access to Media and Violation of the Media

The overall findings of the media monitored by COMFREL during the 2003 elections, showed an improvement in the availability of information on political parties and their activities on the state controlled media and on some radio stations. Probably the improvement in media access to opposition and smaller parties (necessary but not sufficient) is one clear gain made by the NEC in the 2003 Elections.

However, if we consider those television channels (TV 5, TV 3) and radio stations (FM 103, FM 95) with the greatest reach and audience viewing and listener figures, the situation is still far from satisfactory. The popular media is still dominated by coverage of the government and Prime Minister's activities, with only mentions of one political party, the CPP in the news.

COMFREL also observed that little time on these more popular channels/stations was dedicated to voter education programs. Another cause for concern was the repeated broadcasting of racist and inflammatory language by a few politicians, radio presenters and members of the public, particularly observed on FM 90.5 and on FM 103, which emphasizes the need for improvements in standards of media in this country.

Progress since the 1998 National Assembly Elections and the 2002 Commune Council Elections can be seen through the introduction of the short-term UNDP supported election news block broadcast on the state media which achieved its aim of granting political parties time in the election news block based on predetermined percentages of time, (CPP 44%, FUNCINPEC 27%, SRP 19% and other parties 10%). It should also be noted that across all programs on the state media, the coverage allocated to the three main parties was more or less balanced, with CPP receiving 1% more than FUNCINPEC and the SRP. The radio environment also showed itself to be more open and dynamic with the broadcasting of political

debates, round table discussions, interviews with party leaders and political advertisements on some radio stations, (FM 105, FM 102, FM 90.5, Voice of America and Radio Free Asia).

However, political news on the private television stations has not changed from 2002. Of the two most watched channels nationally, TV 5 and TV 3, the majority of the political news coverage was dedicated to the government and the Prime Minister and the CPP was consistently the only party to be mentioned.

Of the remaining four national television channels, TV Bayon and TV Apsara demonstrated their clear support for the CPP through the broadcasting of politically biased entertainment programs. TV 9 was the only private television station to broadcast any excerpts from political debates.

Of the most listened to radio station (FM 103) no change from 2002 was observed, and coverage of the Prime Minister and government activities still dominated the news. During telephone calls to shows, only callers with pro-CPP messages were invited to speak on air and they were allowed to freely criticize other parties and their leaders. It should be noted that FUNCINPEC's FM 90.5 had a similar call in show that operated in a similar manner, but only inviting pro- FUNCINPEC callers to speak on air.

However, the radio environment appeared to be far more dynamic and open in its election coverage than the television environment, granting a voice to the three main parties inside and outside the news on several stations, through debates, discussions and interviews. Voice of America (third most listened to station in the north east, fifth most popular nationally) covered ten political parties in the news, granting the most coverage on a political party inside and outside the news to the SRP. The second most popular station in Phnom Penh, FM 105, granted 11 parties coverage in the news granting the SRP the most coverage on a political party inside and outside the news. FM 90.5, FUNCINPEC's radio station (no listener figures available) granted nearly 100% coverage to FUNCINPEC both inside and outside the news.

Although a sizeable percentage of their coverage in the news was dedicated to the government and the Prime Minister, of all the radio stations the NGO radio station FM 102 managed by the Women's Media Centre, showed itself to offer the most balanced coverage of the main three political parties inside and outside the news.

We stated in the above section "*an election campaign (9) is intended to allow aspiring politicians to convey their messages to voters.*" In Cambodia the media plays an even more important role than

in most countries. Radio especially is important as it is by far the only one that reaches the majority of the population. Traditional hustings³⁵ and house-to-house visits by party campaign activists are still difficult and dangerous for many parties for the reasons described namely potential violence and conflict with local authorities.

COMFREL notes that there has been a significant improvement in access to media for these elections, but that only qualified credit can be accorded because the overwhelming advantage still rests with the ruling CPP. FUNCINPEC does have the benefit of its own radio unlike in 1998 (two radio channels FM90.5 and FM90). SRP has been unable to obtain approval for its own station but it does receive some coverage from private stations such as radio 93.5, 105, Radio Free Asia and the Voice of America. No other parties have direct control of electronic media. The pro-opposition Beehive Radio has encountered difficulties in relaying programs from Radio Free Asia or the Voice of America and its new imported equipment to expand its geographical coverage has been held up in customs.

Most TV stations are controlled by or affiliated to CPP, including those that belong nominally to national institutions. A similar pattern exists with radio, especially for national coverage, except for the FUNCINPEC, Beehive, and a few others. The printed media tends only to be available in Phnom Penh and urban centres. There is a choice of media supporting the different parties but it is read only by the literate and well-educated.³⁶ The *Rasmei Kampuchea* has the largest circulation and is pro-CPP. It also has more pages and represents better value to buyers than papers that are pro-opposition parties. Internet access is improving but is still largely confined to the urban elite in Phnom Penh. One highly commendable effort was made in time for the elections by the Asia Foundation's establishment of Community Information Centres in the 22 provinces/towns around the country which now allow the public internet access for information.

Analysing media coverage and separating election-related features from "normal" government activities are difficult and probably irrelevant. Both would be construed in most countries to amount to political activity. Wherever and whenever Prime Minister appears, he is automatically associated with

CPP. Often extensive coverage is given to institutions handing out relief provisions to poor and destitute people, and this too in the minds of viewers is associated with the person presiding and giving – in most cases CPP leaders or associates.³⁷

COMFREL's special media monitoring for the 2003 elections mounted a program from the start of the campaign on 26 June. 10 TV and 11 radio stations are monitored. (COMFREL has also been a major advocate for the revised regulations that opened up greater access to the media for all the parties.)

The government appeared to take 50% of all news coverage. Of all the parties, the FUNCINPEC received the most time in the news (21%) followed by the SRP (10%) and the CPP (7%). Following the new "equity" rules³⁸ for election coverage, at least (unlike for commune elections in 2002) other parties did feature regularly. Media access improved due to the UNDP that has initiated a new form of news coverage in Cambodia intended to give more balanced and informed reports, along the lines of those found in more advanced democracies. COMFREL observed that if news items are combined up to 25 July, CPP received 43%, FUNCINPEC 27%, SRP 19% and remaining parties 11%.

Several channels were observed to violate the NEC code of conduct and the Election Law. Editorial/journalistic codes of conduct were also brought into question.

Prior to June 26th, pre-election campaign activities and gift giving by senior CPP officials were broadcast on TV 3 and TV 5. Premature campaign rhetoric by FUNCINPEC was also broadcast on FM 90.5, violating the Election Law.

Pro-CPP and anti-FUNCINPEC and anti-Sam Rainsy comedy sketches were broadcast on TV Bayon and TV Apsara. Presenters from AC Karaoke and entertainers from other programs were also shown wearing CPP T-shirts and hats on TV Apsara, demonstrating clear support for the CPP.

FM 90.5 repeatedly broadcast interviews and speeches including personal attacks against Hun Sen, the government and on one occasion Sam Rainsy, provocative language was used by senior FUNCINPEC officials, to appeal for vote for the FUNCINPEC and excerpts from newspaper articles appeared that criticized the Prime Minister and the government:

³⁵ Hustings – a gathering of people to discuss politics and hear from leaders during election campaigns (UK)

³⁶ 85% of Cambodia's population live in rural areas, over one third are illiterate – National Census data.

³⁷ The Cambodia Red Cross is the most prominent provider, headed by Bun Rany the wife of Prime Minister Hun Sen.

³⁸ Air time has been allocated having regard to the share of seats held in the present National Assembly plus spots being allocated to all parties on special election programmes.

An example of one taken to be most offensive taken from Samleung Youvachun Khmer newspaper (Pro-SRP) was read aloud on June 27: 'The Prime Minister has committed so many wrongful acts against the people that even if he were to perform a mercy ceremony he would not be able to atone for his sins.'

FM 103 presenters were on occasion heard criticizing Prince Norodom Ranariddh and only invited pro-CPP callers to speak on their regular telephone call-in show. Callers were allowed to speak freely often highly praising the CPP, appealing to the public to vote for CPP and harshly criticizing other parties. This behaviour was also observed on FM 90.5 (but in that case anti-CPP and pro-FUNCINPEC).

Finally, given the power of media – including the possibility of inciting anti-social behavior as appeared to be the case in the anti-Thai riots³⁹ and anti-Vietnamese rhetoric⁴⁰ - COMFREL repeats its call earlier for greater clarity in rules and codes of conduct, full adherence to them, and stricter impartial enforcement. The rules must apply consistently to all station managers and politicians including the leaders of parties. The letter and spirit of the Election Code of Conduct Section VI, No 3 have been broken – *“Every political party, candidate and its representative shall not criticize or discriminate, even in any form, due to race, sex, ethics, social status, religion or support any criticism or discrimination against any of the above.”*

12. Polling Day, the Count Period

Overall, COMFREL believes the 2003 National Assembly Elections were conducted in an improved manner technically in comparison to previous elections, an opinion that has been shared by several election monitoring organizations.

Despite instances of irregularities and cases of political intimidation and vote buying, more political parties have demonstrated dynamism in promoting their political platforms in urban areas which is a clear indication of Cambodia's development towards democratization. However widespread violations of the election law were still taking place and need to be analyzed and addressed especially during pre election period.

³⁹ Although the true facts surrounding the anti-Thai riots are shrouded in mystery, one report relayed on radio was purportedly of a Thai actress laying claim to Angkor Wat for Thailand followed by rumours of the Cambodian Embassy in Bangkok under siege.

⁴⁰ During the election campaign, tFuncinpec and SRP included in their platforms illegal immigration in particular by Vietnamese that led to conflicts between Khmer and Vietnamese citizens on polling day in Kien Svay district of Kandal province.

NEC and COMFREL figures on turn out vary. –The NEC stated that 83.54% of 6.34 million voted but COMFREL suggests that 87.25% of 6.088 millions registered voters cast their ballots across the country and participated in the National Assembly Elections. COMFREL and NICFEC are concerned about the quality of voter list more than one million eligible voters who did not vote. Some of them were affected by voter lists, documents required and some were affected by natural catastrophes such as flooding.

COMFREL continues to provide observations on the pre-election, polling/ballot counting and post-electoral period. We have now received all completed observation reports made during polling day and the counting day. Figures collected by COMFREL and NICFEC's observation networks are included in this statement.

12.1 Cooling Day

On the eve of polling day, 26 July 2003, the date set aside to “cool off” after the campaign, various violations were committed. The main violation observed was illegal election campaigning. 44 cases were observed, mostly committed by the ruling party. The campaigns were conducted using two methods of vote buying: indirect (whole communities were given or promised donations and gifts), and direct (individuals were given money for votes). This kind of violation was widespread and carried out quickly at some locations in particular in Phnom Penh, Kandal, Siem Reap, Battambang, Takeo, Kampong Cham, Kampot and Koh Kong.

To a lesser degree, other irregularities were observed. 120 cases were reported, mostly including voting materials being sent late and/or being kept in unsafe conditions and in some instances an insecure natural and political atmosphere being reported in the villages surrounding polling stations. For example, in Battambang, Kampong Cham, Kampong Speu, Preah Vihear and Koh Kong province, there were some unidentified people cajoling villagers to vote for their party. 18 cases of this were reported in Phnom Penh, 17 in Siem Reap, 15 in Mondulhiri, 12 in Takeo, 12 Kampong Chhnang, 9 in Battambang, and 9 in Kampong Cham.

12.2 Media Coverage

The overall findings of the media monitored by COMFREL during the cooling, polling and counting period, show that the electronic media did not commit any violations of the election law. However, most of the print media affiliated to political parties disregarded the NEC's regulations and procedures by publishing campaign stories and political party logos on Cooling and Polling day.

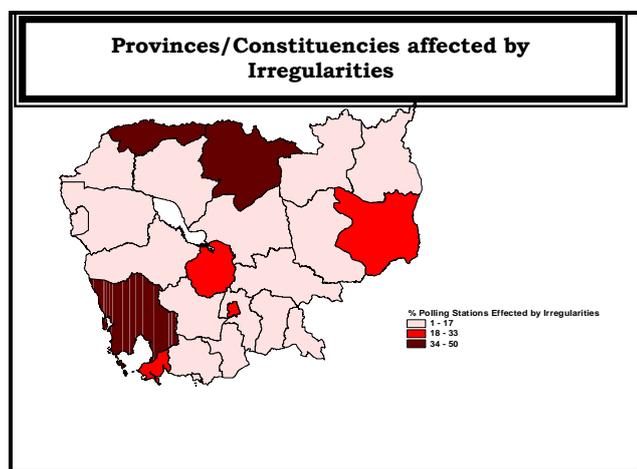
12.3 Polling Day

Polling day was conducted in a favourable climate technically if compared to the last elections, in terms of the few problems reported. A well-administered and relatively peaceful day saw some 65% of registered voters cast their votes without serious incident. There were some logistical problems, but many were successfully resolved at the lower levels.

However, despite the fact the election process generally met with COMFREL and NICFEC own election standards, some cases of irregularities were reported on Polling Day.

The greatest areas of concern were the continuation of patterns of intimidation and illegal campaigning by commune officials established throughout the campaign period. Powerful local leaders and village chiefs were observed hanging around outside polling stations. There was also the illegal presence of government's officials especially village chiefs near polling stations, causing some voters to feel uncomfortable. Although most of these infractions were verbal in nature, it created an insecure and menacing environment for voters and it is highly probable that many voters submitted to this form of oppression. COMFREL found at least 462 village chiefs working around the polling stations.

Figure 4:



The electoral procedures were not completely respected by polling station staff and 3,723 cases of irregularities were reported. No province or constituency was free of irregularities. Figure 3 shows that only 3 provinces (Koh Kong, Otdar Meanchey and Preah Vihear) which though unsatisfactory were within the boundaries set by COMFREL and NICFEC's own election procedure standards. (An unacceptable condition would be 50% of polling stations reporting irregularities – [Referred to annex 1 for details](#)). According to

figure 3, most of these cases occurred in Koh Kong, Preah Vihear, and Otdar Meanchey followed by Phnom Penh, Kampong Chhnang, Mondul Kiri and Preah Sihanouk Ville.

The irregularities are defined as follows:

- 607 cases of not ensuring secrecy of the ballot (in some stations the inside of the secret booth could be viewed from the outside);
- 455 cases of polling staff not checking the voter's fingers for the indelible ink before being given the ballot paper, or the voter's finger not being put in the indelible ink, or voters card was not verified with the lists.
- 153 cases of polling station officials (PSOs) ignoring people who were asking for complaint forms and trying to make a complaint.
- 90 cases of PSOs not writing down the polling station code numbers and not stamping the official label to be stuck on the ballot boxes;
- 67 cases of the late opening of polling stations because of the late arrival of officials or voting equipment and materials;
- 64 cases of electoral equipment not being set up following the NEC's instruction;
- 39 cases of empty ballot boxes not being shown to observers and party agents, prior to the opening the polling station to voters.
- It has been confirmed that there was a mistake in the preparation of ballots that led to the delay of the voting process in a few polling stations in Phnom Penh, Kampong Cham and Kampong Chhnang.

Furthermore, there were 383 cases where the rights of the voters were obstructed. Problems with voter cards were reported and in many other cases the names of the voters could not be found on the voter list on polling day and polling station officials did not help them to find their names.

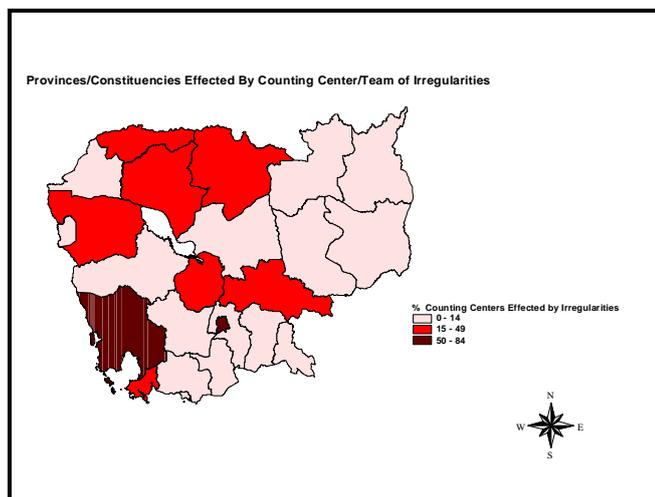
Other infractions, particularly concerning the eligibility of voters, were reasonably common but isolated to some polling stations and communes and were not an indication of a wide-scale pattern of electoral abuse.

12.4 Ballot Counting Process

During the ballot counting process, irregularities occurred in some provinces, particularly in Phnom

Penh and Koh Kong (the rate was between 50 and 84% of counting centres in each constituency affected by irregularities) followed by Battambang, Kampong Cham, Kampong Chhnang, Kampot, Preah Vihear, Siem Reap and Utdor Meanchey (where the rate was between 15 and 49% of counting centres affected by irregularities). The rest were below 15%. Refer to figure 5.

Figure 5:



The following were reported:

- Intimidation by carrying guns or explosive materials, or using threats to disturb the counting process (31 cases) in the ballot counting stations;
- A total of 365 cases of the following irregularities were reported:
 - Dropping ballot papers during counting process;
 - Ballots not being shown to the observers or political party agents;
 - Rejection of the validity of the ballot papers without agreement from party agents and observers;
 - Ballot counting process not finished until late afternoon in some communes in Kompong Cham, Phnom Penh and Banteay Meanchey (82 cases);
 - Rejection of observers and party agents during ballot counting process (15 cases). Most of these cases took place in Phnom Penh, Siem Reap, Koh Kong and Preah Sihanouk Ville.

- 169 cases of vote cheating (frequently miscalling the vote result or incorrectly marking the vote on the board).

Ballot Paper: After counting, COMFREL found imbalances in the totals of ballot papers in packets (Some ballot packets were found to contain less or over by 1-2 ballot papers per packet of ballots – each should have 50 papers exactly). The NEC's own imbalance report shows more than 900 ballot papers, without any clear explanation. The process of printing of ballot papers was not open for regular observation as COMFREL proposed to the NEC to ensure full transparency. COMFREL sent a letter no. 202/03 to the NEC asking for a regular observation in the ballot printing house. The NEC did allow COMFREL to place an observer in response to the letter for only one time, not for throughout the entire process.. (See COMFREL Press Release on Concern over Transparency and Safety of Ballot Printing Process).

13. Aftermath and Post Election Dynamic

13-1 Immediate Announcement of Election Results

- After the elections some political parties complained about the state media broadcasting the CPP's counting results during counting day process – As COMFREL's parallel vote counting information, it is to be noted that during the morning quick count conducted by COMFREL from the areas where hand phone service are available, the results of SRP were leading, but the evening results from remote areas were led by the CPP. (*Please see annex 2: COMFREL's election results*) and separated report on database management for details). Many political parties have rejected election results because of the problems with the voter lists and in their eyes the NEC's manipulation of the election results.
- In remote areas, cases of local authorities threatening party supporters and creating an insecure environment were reported. In some cases SRP and FUNCINPEC supporters were not allowed to stay in their community.
- COMFREL's provincial monitoring networks observed party activists in Battambang, Takeo, Kompong Chhang joined together to form non-ruling political party groups causing some political tension.
- Other complaints:

- We received and followed up 32 complaints from seven provinces about Polling Day. 13 complaints were about vote buying, four complaints of threats and 15 complaints of violations of the NEC regulations committed by electoral officials. Out of these 32 cases only 14 were addressed by the CEC through reconciliation. The remaining 18 were rejected because the complaints were related to money giving and the performance of electoral officials. 12 of these complaints were made by SRP agents, 7 were made by FUNCINPEC and 13 were made by the general public.
- COMFREL received and followed up 55 complaints from eight provinces on the counting day. 13 complaints were made about electoral officials violating the NEC regulations and procedures. 30 complaints solicited a recount of the ballot papers. 11 complaints were related to threats and one was about vote buying. Out of the 55 complaints only 23 were solved by the CEC through reconciliation. 31 complaints were rejected and one was unknown.
- 19 of 31 complaints filed at the PEC level, 5 were accepted, 11 were rejected and 3 are still under investigation.

COMFREL followed up four complaints on Counting Day that were also filed at the NEC level. The complaints demanded re-checking, re-counting and re-voting in some communes of Svay Rieng, Kampong Thom and Siem Reap. After the hearing, the NEC decided to recount in 14 communes (all requested by the SRP) of Svay Rieng, and to recount in only 11 out of 26 communes (requested by the SRP) of Kampong Thom. Meanwhile the other two complaints lodged by the SRP asking for re-checking and re-counting the ballots in three communes and re-voting in two polling stations of Tram Sarsar commune were rejected by the NEC after a two-hour hearing on 5 August.

One prominent case at the NEC level was the SRP's complaint calling for a re-vote in Poipet commune, Banteay Mencheay due to a low turnout of voters about 45.70% of 40,500 voters. However at a public hearing, this complaint was rejected as the NEC did not consider a low turn out of voters a valid reason to call for a re-vote. Obviously such a low turnout, well below the national average, must be a matter of concern and the reasons found. Possible causes included people not being able to find their names on the voter registration lists or at the polling stations. There may also

have been problems for Cambodian laborers working in Thailand who had difficulty returning across the border to vote.

□ Complaints registered at the Constitutional Council:

Only three complaints were submitted to the Constitutional Council (CC). Two complaints lodged by FUNCINPEC were about the failure of the NEC in performing its electoral duties in accordance with the regulations, procedures and codes of conduct of the electoral laws, demanding that the CC set aside the election results. SRP complained about the investigation in to the issue of changing of polling station code and registration numbers and votes, calling for recounting in 39 communes of Kampong Thom and 15 communes in Svay Rieng and for a re-vote in Poi Pet commune of Banteay Meanchey. COMFREL noted that the procedures conducted by the CC for the hearings did not satisfy the plaintiffs to the point that that they and their counsel walked out of the session due to:

- Confusion about procedures and suggested incompetence of the CC members;
- The judgements were not, in their opinion, based on clear reasoning;
- Unequal of treatment of witnesses in the hearing;

1-1 Confusion about procedures and suggested incompetence of the CC members

In the complaint procedures, the competent institution should first examine the acceptability of the submitted case including the complaint subject, the reasons, whether it fell within period of time allowed by the law and whether it came within its authority and competence. The institution should then decide to judge the case as presented or to conduct a full hearing to address the case.

The Constitutional, Council in disposing of the cases raised important and serious issues both about the procedures followed and the judgment.

For instance on August 25, the CC conducted the public hearing to resolve the complaint of the FUNCINPEC party about *"the failure of the NEC in implementing its duties, the NEC's bias, incompetence, careless and irresponsibility that lead to have the election result which contradict to the voters' will"*. During the hearing, the council allowed all adversaries talk to each other; yet at the end, the CC rejected the complaint saying that the case was not within its competence. It could be argued that the CC's decision dose not make sense

according to the Cambodian Constitution, given its supreme powers set out in article 136, 2nd paragraph: *"The Constitutional Council shall have the right to receive and decide on disputes concerning the election of deputies and the election of members of Senate"*. If the Constitutional Council rules that it is not competent to decide such matters, then there is no other state institution for such vital election legal matters.

1-2 The solution was not based on clear reasoning.

On August 27, the CC rejected the SRP's complaint demanding a recount of votes in 15 communes of Svay Rieng and 39 communes of Kampong Thom province. In the case in Svay Rieng province, the CC did find that: "The electoral officials were careless in recording figures in the form no. 1105 without verification to form no. 1103 that made a change in the result of minor parties". However the CC then went on to rule that: "the confusion did not affect the election results". This does not seem logical as the variability found could affect the results because the SRP needed only 146 more votes to win one more seat, at the expense of the CPP.

The SRP requested a full re-vote in Poi Pet commune, Or Chrou district of Banteay Meanchey province, due to the very low turnout. Only 47% of the registered voters went to cast their votes. The CC refused the case stating that there is no law that requiring re-election in the area where the turn out of voters is less than 50%.

Moreover the CC stated that according to the Constitution, the Cambodian people have the right to vote, but that voting is not compulsory. The CC did not consider the reasons why more than 50% of registered voters did not vote? The argument to be considered is whether or not a substantial proportion of the electorate have been denied their constitutional rights to vote, and that cannot be determined without establishing whether so many failed to vote because that was their choice or some other unavoidable factors intervened, or if it was due to intentional or significant maladministration.

During the hearing, the SRP referred to evidence of irregularities that obstructed people from voting such as relocation of polling station, changing the names of villages' in Poipet commune, etc., so that their names could not be found.

The CC did agree that "there were some irregularities such as some voter names not

living in Poi Pet commune" but concurred with the NEC that they were due to technical problems. Whatever the reasons, 554 constituents attesting with thumbprints protested. They stated that they could not find the polling station, they wanted a re-election, and had been denied registration receipts. The CC regarded the issue as carelessness on the part of voters.

The final decision of the CC was on whether there was a sufficiently "serious irregularity", in Poi Pet to require required a re-election. In arriving at that conclusion, the question posed should be "in the absence of those irregularities, would the outcome have been different in all probability? Given that the results were marginal - the SRP needed only 2,000 votes to get one more seat - and 50,000 fewer voters turning out than would normally be expected, it is hard not to conclude that the result could will have been different.

1-3 Unequal treatment of witnesses in the hearing;

In our observation of the public hearing conducted by the CC, COMFREL noted that there was unequal of treatment of witnesses in that those appearing for the plaintiff were required to give sworn testimony whereas those of the defendant were not. This raises doubts about the quality and accuracy of the evidence as well as an important legal procedural inconsistency.

13-2 Post-election Dynamic until mid-November 2003

(Establishment of new National Assembly and Royal Government)

New Nation Assembly member legitimize but not yet its functions

For official opening session, the king request newly elected parliamentarians from Cambodia's political parties to join the ceremony of the open session on Saturday 04 October. In session all parliament members must be sworn be sworn at the Royal Palace in Phnom Penh.

On September 27, only the 73 members of Prime Minister Hun Sen's CPP (CPP) elected to the assembly attended the opening session of the parliament. According to the Constitution, the king must convene the first session of the National Assembly within 60 day after the general election.

All the opposition members, from Prince Norodom Ranariddh's FUNCINPEC and Sam Rainsy's eponymous SRP formed an alliance (the alliance of democrats), boycotted the September 27 session to protest Hun Sen's determination to remain Prime Minister.

The FUNCINPEC and the Sam Rainsy Party leaders have both said they will not join any coalition of three parties in which Hun Sen takes the government position as Prime minister, leaving the National Assembly in limbo even though the members have been sworn.

The CPP won 73 of the 123 seats in parliament, but it fell short of the two-thirds majority required to have the National Assembly's Functions (selection of chairman, vice chairman and other heads of its committees) and form a new government on its own.

The opposition does not have enough members to form a government on its own either. The situation may face political crisis for coming period if FUNCINPEC and SRP keep stand on principle for changing Prime minister Hun Sen whilst CPP still wants Hun Sen to become Prime Minister for new government.

Further Hope,
The king has been asked to play as a mediator for negotiation. If we assume and experience that Cambodian political parties just need power sharing the crisis of the function/work of the new National Assembly and the establishment of new government will be solved. Because of past experience of political power sharing was not smooth. In this time, they may need times and search the new order and agreement.

By mid-October 2003, the FUNCINPEC and the SRP, the alliance of democrats is calling for triparties negotiations chaired by the King Norodom Sihanouk to resolve the differences whilst the King had repeatedly said he would help the negotiation session if the three main parties request but not one or two. On November 05, 2003, there was three parties meeting originally planned for October 20, but was cancelled following the murder of a staff working for a Funcinpec radio station Taprum FM 90.5.

Cambodia parties' leaders agreed to form tripartite coalition government. So far, many Western donors and ambassadors have urged Cambodian parties to negotiate among themselves peacefully and in conformance with the Cambodian Constitution to form a new government.

Civil society has called for the negotiation process to break the political impasse and find possible ways to form the new government. They also make an appeal to the political party leaders to set up a general political agenda for the interest to the country and people at large. *(See annex 10 for details: two statements from civil society)*

Cambodia has endured so far four months of political stalemate since the elections in July 2003, raising uncertainties for peace, stability, development, and social progress, the very thing that a true democratic process is intended to avoid. Although the overall election result may have been affected by the climate of intimidation and other shortcomings that COMFREL has described, for the purpose of comment in this section, the outcome as officially released is used. The CPP gained ground as the leading party but only with a simple majority and the two other parties emerged almost equal in size but still holding more than one third of the seats in the new National Assembly. There are two reasons for the political stalemate.

- 1 The Cambodian Constitution that specifies that a government can only be formed with a two-thirds majority, therefore the CPP cannot rule on its own.
- 2 A failure on the part of the party leaders to reach a consensus on how a government can be formed.

COMFREL, as with most of Cambodian Civil Society, appreciates that the Cambodian Constitution was carefully crafted and borne out of the Paris Peace settlements that have brought lasting peace to Cambodia since the demise of the Khmer Rouge. Therefore it should not be changed at whim. However, there is an argument that at some time the two-thirds majority should be changed to allow a simple majority, as with many countries. This could lead to a stronger more effective opposition and a swift peaceful change of power at elections. It would avoid stalemates as at present. Other very important constitutional changes were made without extensive public consideration when the non-elected second chamber, the Senate, was created after the 1998 elections, and the fact is 10 years have passed with many social changes in Cambodia. COMFREL suggests therefore that within the period of this National Assembly, there should be a major review of the Constitution with a Public or Royal Commission inviting input from the widest cross section of the population through political parties, civil society, and academic institutions.

The main argument against such a change is that the two-thirds rule is an automatic safeguard that imposes an obligation on parties to share power, and therefore prevents a return to armed conflict. Is that still needed? The main change in the past decade has been the disarmament of forces that were led by opposition leaders. In fact, the only effective powers those leaders now have are those provided by democracy. Therefore both the ruling and opposition parties need to adjust to the changed situation. They must, as King Sihanouk has suggested, negotiate in good faith and mutual

respect in order to form a government as soon as possible that will address the country's most pressing problems. The electorate did not vote for non-government or the residual rump of the previous one.

Civil society has argued that it should be represented in negotiations. There is a compelling argument for this. His Majesty the King does not enjoy the best of health, he has many other commitments to undertake as Head of State, and he should not be taxed with the onerous burden of seeking compromise in protracted discussions between the parties or seeing that there is fair play. Civil Society has played an enormous constructive role in the advances made in the electoral process and in many aspects of development, acting as important intermediaries between government and the people. There are skilled and internationally renowned leaders who can play a constructive role, both in public and in private, between the parties helping them to crystallise the issues, and assist at arriving at rational balanced views and consensus.

The key question is whether there should be a coalition government of all three parties, a "government of national unity"? If representation of the parties accords with their share of the vote, if real power is shared proportionately, and an agreed programme is followed, then that would reflect the people's choice and serve the country. The biggest drawback is that there may be little or no effective opposition, no real debates in the National Assembly, no alternative policies on offer, and therefore a vital check and balance of the democratic system may be lost. There could also be the withdrawal problems of parties as they position themselves for gain in the next elections in 2008. Finally the practical question is would it work, would it really reflect the cross-party vision, would it make for good government? The leaders, whoever they are, will need to convince the electorate on these issues over the next four years.

"The great enemy of the truth is very often not the lie—deliberate, contrived and dishonest—but the myth—persistent, persuasive and unrealistic."
 -- John F. Kennedy Former United States President

The most persistent myth of the 2003 National Assembly Elections, widely reported and believed, was that the CPP won. This is not so, at least not in accordance with the rules that applied to all parties when they went in to the election and precisely the same rules that were used for the CPP to retain some power when it "lost" in 1993. It is this myth that has pervaded

the post-election scene. Of course CPP did gain ground, they almost won with 47.35% of the popular vote, but they did not win outright - they fell short of a two thirds majority and so only earned the right to the largest share of power. They came out top of the losers. The other two main parties were bigger losers, but were far from entire losers, still securing a large number of seats and a very high proportion (42.6%) of the votes cast.

The negotiations to form a new government became protracted because of the struggle for power and lack of statesmanship of the leaders. The CPP were in the dominant position but as they did not win outright they had to be just and magnanimous. The other parties, despite their antipathy about the fairness of the election and handling of complaints, had to respect the CPP's higher standing. Several events have led to the delay and stand-off:

- Boycotting the New National Assembly.
- Choice of Prime Minister.
- Whether there should be two or three parties in the coalition government.
- Reactions to events such as the killing of political reporter Chhuor Chetarith.

Both of the first two issues should have been resolved through the democratic process - all parties and duly elected members should have attended the National Assembly, as they were required to do so. The issues should have been debated, proceedings aired before the country, and the members should have cast their votes to decide. The National Assembly is the elected body that is entrusted by the people to decide **not** the leaders in closed chambers. The outcome then as now is probably predictable, Hun Sen would command the highest number of votes to be Prime Minister in the chamber as he did by leading his party in the country, but given the joint determination of SRP and FUNCINPEC to combine - which they are equally entitled to do - CPP has no choice but to accede to a three party government. Finally, as stated elsewhere any killing, whether political or not, is unacceptable. All leaders should agree on that and it should not be a factor in the formation of government.

14. Comparison with 1993, 1998 and 2002 Elections

14.1 Popular participation⁴¹

1993	1998	2002	2003
4,764,430	5,395,595	5,190,307	6,341,834

⁴¹ Official published NEC figures used for this section, though as stated COMFREL has grounds for questioning their accuracy.

The numbers of Cambodians going to the polls has increased each time there has been a poll, and in this sense, it marks both an improvement in and consolidation of democracy. However, caution must be exercised as both the 1993 and 1998 elections were affected by the Khmer Rouge conflict and account must also be taken the general increase in population and the full repatriation of refugees. COMFREL repeats its observations elsewhere that the 2003 popular vote was almost certainly down on what it should have been, and that there are early signs of voter apathy creeping in.

The 2003 elections, as with the 2002 local elections, were the best in terms of geographic coverage and better accessibility for parties and observers. In 1993, due to ongoing conflict, not all provinces were covered, and in 1998 the "Khmer Rouge defections" to the government were still recent in some areas. Also of course the 1997 confrontation meant that opposition parties were only just starting from scratch in their countrywide party machinery.

14.2 Political Participation

Number of political parties

1993	1998	2002	2003
20	39	8	23

The number of parties standing for elections in itself is not a clear indicator of the state of pluralism, but COMFREL is able to make a qualitative judgement to suggest that all is not well. The figure for the 2002 elections gives a clue, as does the fact that only three parties feature in the 1998 and 2003 National Assemblies. Cambodia is still polarised basically between former communists and royalists. Although there are many other parties, few have the potential to enter the scene, given the formidable barriers of entry costs and access to media to convey messages to their potential electorate. None of the figures, we would suggest, are a fair reflection of the wishes of the politically active classes. An important source of fresh ideas as well as choice of individuals who command the confidence of communities is being lost. COMFREL reiterates the need for entry barriers to be reduced and more importantly for elections to be based not on party slates but on an individual named member basis.⁴²

The overall trends and shifts in support for the parties are also an important indicator of the health and status of the political scene. The following figures show that basically that whilst the CPP has gained ground, when the SRP and FUN vote is combined, there is little to suggest any major change taking place. *(Please see the below table on Pattern of voting between parties)*

Another indicator suggesting progress is in the number and quality of party political agents deployed by all the parties. COMFREL commends all parties in this regard, welcomes the increased coverage and level of skills, but urges further efforts in order to apply consistent uniform standards and to remove all indiscipline in what should be a peaceful democratic process.

Number of accredited political party agents deployed

1993	1998	2002	2003
N/A	N/A	76,006	46,311

A final indicator of whether the parties are developing as democratic entities or not is in their platforms, manifestos, and policy statements. What is it they want to do that is different that will appeal to voters, and persuade them to change sides? None of the parties have really established clear new identities, relying on broad claims either for continuity or for change, and relying on past loyalties. However 2003 did show some progress towards more sophisticated issue-driven as opposed to personality-driven campaigns, as explained earlier. SRP are undoubtedly leading in this respect, CPP are responding, and no doubt FUN will follow. This is a good sign for future elections. In the meantime, no doubt the main Government policies will be largely influenced by external factors, regardless of the parties in power, i.e., world economic factors, international donor support, etc.

14.3 Civil Society Participation

COMFREL has given credit to the NEC for its increasing recognition and positive reaction to input from genuine civil society organisations. Certainly a lot of the difficulties in 1998 and 2002 did not recur in 2003. In 1998, genuine trained election observers were almost swamped out by a new corps of observers from unknown NGOs whose credentials and motives were doubtful. In 2002, there were protracted differences with an "NGO Co-ordination Committee" that did not, in our view, serve the interests of civil society or voters.

⁴² Please refer to COMFREL Statement on Election Reforms for 2001 Consultative Group Meeting.

Pattern of voting between parties

Party	1993		1998		2002		2003	
	No	%	No	%	No	%	No	%
CPP	1,530,943	39.63%	2,014,912	41.67%	2,647,849	60.89%	2,445,177	47.35%
FUN	1,821,886	47.16%	1,547,767	32.01%	955,200	21.97%	1,072,136	20.75%
SRP	0	0%	694,169	14.36%	736,454	16.94%	1,137,308	21.87%
Others	510,678	13.22%	578,794	11.97%	9,061	0.21%	514,751	10.03%
Total	3,863,507	100%	4,835,642	100%	4,348,564	100%	5,169,372	100%

Any analysis here can only be qualitative although the figures are impressive - that all 12,826 polling stations were covered and over 15,000 voluntary observers deployed. 2003 was almost certainly the best in terms of the overall quality of the observation. Many observers have accumulated greater proficiency over the years, but of course they do still encounter too many pressures not to be as objective as COMFREL would wish.

2003 was also the best election for inter-NGO co-operation, with a greater unanimity of purpose, less duplication and competition, and with clearer better results in those voter education initiatives that took place.⁴³ Credit here must go to the assistance of partners such as the co-ordination role of the Asia Foundation, as well as the direct support of international donors.

14.4 Killing, Violence, Threats and Intimidation

Killings

1993	1998	2002	2003
380	40	18	28

A truly peaceful democracy is one in which nobody loses their life for their beliefs and active participation in the political process. Cambodia, whilst better than 1993, is far from earning that accolade. The above figures are compiled by reputable Human rights groups with compelling evidence to suggest that cases were politically related. (See Annex 4 for details)

COMFREL's reports of intimidation against party activists and supporters, by contrast, show a marked increase over the years in violence falling short of loss of life, suggesting that Cambodia is not improving in terms of peace and freedom in elections. For this election, there were at least 281 reported cases

⁴³ Reduced resources in 2003 meant the scale of activities declined and hence overall lower impact as explained in 14.6

of serious intimidation such as firing guns, death threats and harassment (100 cases in 2002). Virtually no part of the country was spared, and of course it is inconceivable that people were not deterred from reporting cases. Other coercive activities contrary to the spirit of elections were described in the section on the "Political Environment", including denial of rights of assembly except for some CPP supporters, 257 cases of vote-buying, 714 of lack of neutrality of officials, and 207 of obstruction of opposition activities.

Patterns of similarity between the 1998, 2002 and 2003 elections do exist, namely the fact that there was excessive intimidation during the pre-election phase, as well as increasing resort to more subtle forms of pressure up to and even on election day. During these elections, there were systematic collections of thumbprints most notably by the CPP party. Local authority officials and political party members gave gifts, and more seriously lured and threatened people to vote for their party. Armed forces and local authorities appeared to favour the CPP. They were often present at the polling stations and interfered in the work of polling staff.

The net conclusion is that intimidation, violence, and an increasing array of coercive methods are now characterizing Cambodian elections, with a climate of impunity, undoubtedly affecting voters and the extent of this is not known.

14.5 Technical Proficiency

Exact comparison between elections is not really possible, as many factors change such as the funding, resources, and technical support available. COMFREL wishes to give credit to the country as a whole and to the NEC for its increasing ability to organize its own elections with less external support. The reservation we express is that quality should not be sacrificed in future on the grounds of costs. We will continue to press for better standards to be applied more consistently. The 2003 National Assembly Elections proved to be a definite improvement technically on the 1998 Elections.

Probably the most glaring technical inadequacy was in the way results were collated and announced, and the confusion that arose played some part in sparking protests and the over-zealous suppression by anti-riot police. The timescales prescribed for various stages, especially complaints, as described, also amount to technical errors that require correction as does the recruitment process of election officials.

(a) Voter registration

One area of concern where the greatest economies have been made is in voter registration. COMFREL maintains that in 2003 this was not good enough with some citizens being disenfranchised, and some disqualified people being allowed to vote. This was the first year that the NEC did not have direct control of the entire process. The new Commune Councils - with their responsibilities for births, deaths and marriages - logically were used. Maintaining a continuous electoral roll is an asset and better than having to perform special registrations for every election, but there must be proper safeguards. COMFREL will advocate for these in order to counter manipulation by local officials.

There were in 1998 and 2002 a number of difficulties and technical irregularities in the voter registration process but turnouts were still high at 93% and 83%. The turnout at voter registration in 2003 did increase as lists registered voters in 2002 were simply updated to include unregistered people. Final figures were approximately the same as in 2002, but COMFREL believes as many 4% may have been "ghosts". In general the registration period was peaceful and free of violence. The NEC was quite responsive to representations from COMFREL, for example over the issue of observer accreditation cards and complaints of unauthorized personnel inside the stations.

Overall COMFREL would conclude that both 2002 and 2003 were inferior to 1998 for registration and a concerted effort will be needed in future to reach acceptable levels where the inherent right citizens is respected.

(b) Irregularities during the Campaign, Polling and Ballot Counting Day

A comparative analysis is very difficult to make, especially as assessments change as observers and party agents acquire competence and confidence. It is possible that it is simply that more irregularities are being picked up and becoming the subject of complaints. Mere counting of incidences does not tell a true story

either - the airing on national TV in the campaign period of the "Killing Fields" would count as just one irregularity but its effect was wide, whereas each time the anti-Vietnamese race card was called, they would also count as one each. Setting aside that qualification, COMFREL is aware of 226 complaints in the campaign period, 87 over Polling Counting Day, and COMFREL observers noted 3,723 irregularities in the processes on these two days. Even allowing for natural human error, the incidences are too high for comfort, even if they may be no worse than in previous years.

The problems in the 1998 elections were reported to have been, for the most part, minor offences. There were a few isolated cases of serious electoral irregularities. 10,268 polling stations or 93.1% according to COMFREL's observers were free of electoral irregularities during the polling process in 1998, whereas that figure in 2003 were 11,486 or 86%.

In all elections, certain problems have been common: voters being disorderly, noisy, distractions outside and lack of competency on the part of the polling station staff such as not starting or finishing on time, failing to follow the procedures and voters' fingers not being soaked in indelible ink. Sometimes voters were wrongly included or excluded from lists, there were problems with the lack of essential voting material and cases of interference by unauthorized persons. The most serious problems continue to be ineligible voters being allowed to vote, interference of unauthorized people in or near the entrance of the polling stations, luring the voters to vote for a party, and lack of neutrality on behalf of the polling station staff and violation of secrecy. Fraud was more noticeable in 2002.

14.6 Access to media by the contesting parties and voter education NGOs

In the 1998 elections, the 39 political parties that contested the elections were each provided a five-minute slot of interview time on state TV daily to explain their platform and program. In the 2002 commune council elections, the NEC failed to make a similar provision for the parties that numbered only eight (8) including the CPP. This year 25 political parties had registered with the NEC, two of them were disqualified for failing to provide enough required documents⁴⁴. Thus only 23 parties ran for this general election.

The civil society's voter education campaign of 1998 at the time seemed barely inadequate to counter the overwhelming challenges that faced the

⁴⁴ The two parties are National Supporting Party (NSP) and Khmer Children Party (KCP)

electorate less than twelve months after the 1997 armed confrontation and the flight of some party leaders. However, because of the international support that was its highest that year, and the parlous state of opposition party organizations, it clearly did have considerable impact. The 1998 campaign, with hindsight, was more effective and commanded greater support and resources than either the ones in 2002 and 2003. This could well have been one factor in why many in the electorate in 2002 and 2003 were less interested as evidenced by lower registration and voting turnouts. Whereas civil society is now better organised, more skilled, and generally given better access to communities, by contrast they have fewer

and of course only limited state media coverage is donated to them.

The loss of impact of civil society voter education was offset in part by dynamic electronic and print media activities of all political parties who contested the 2003 general elections. This was clearly visible in Phnom Penh and urban areas. Most of the political parties enjoyed more freedom for conventional campaign activities. They were able to install their signboards at commune level and were able to strengthen their local networks especially the opposition party through the commune council members and the establishment of villagers' groups.

Chart - Comparison of Election Results in 1993-1998-2002 and 2003 (Year by year)

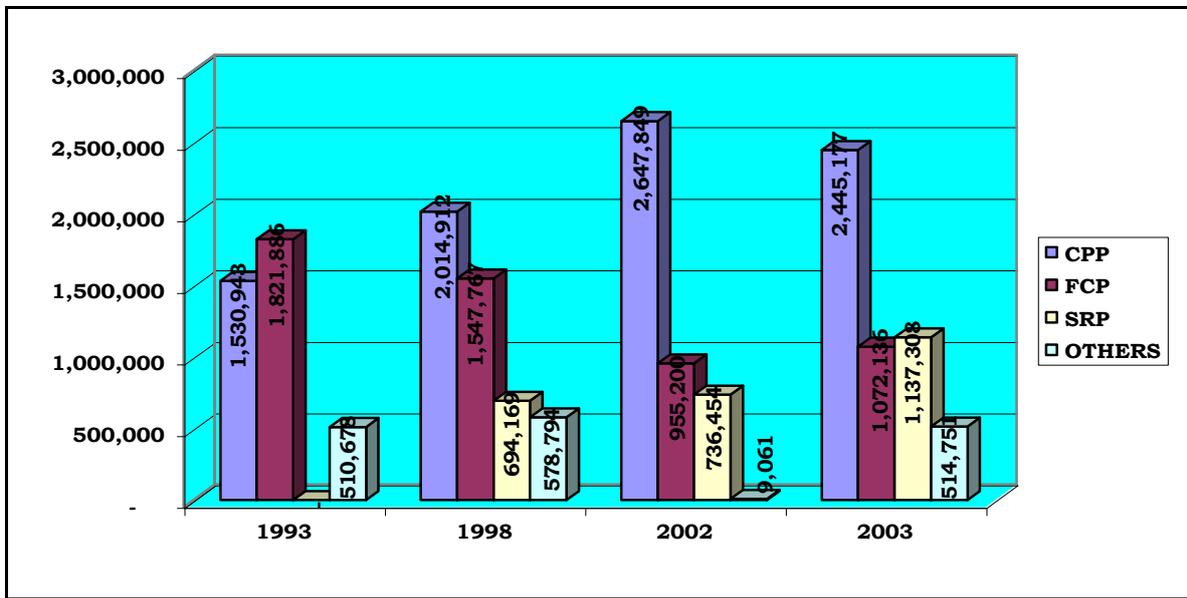
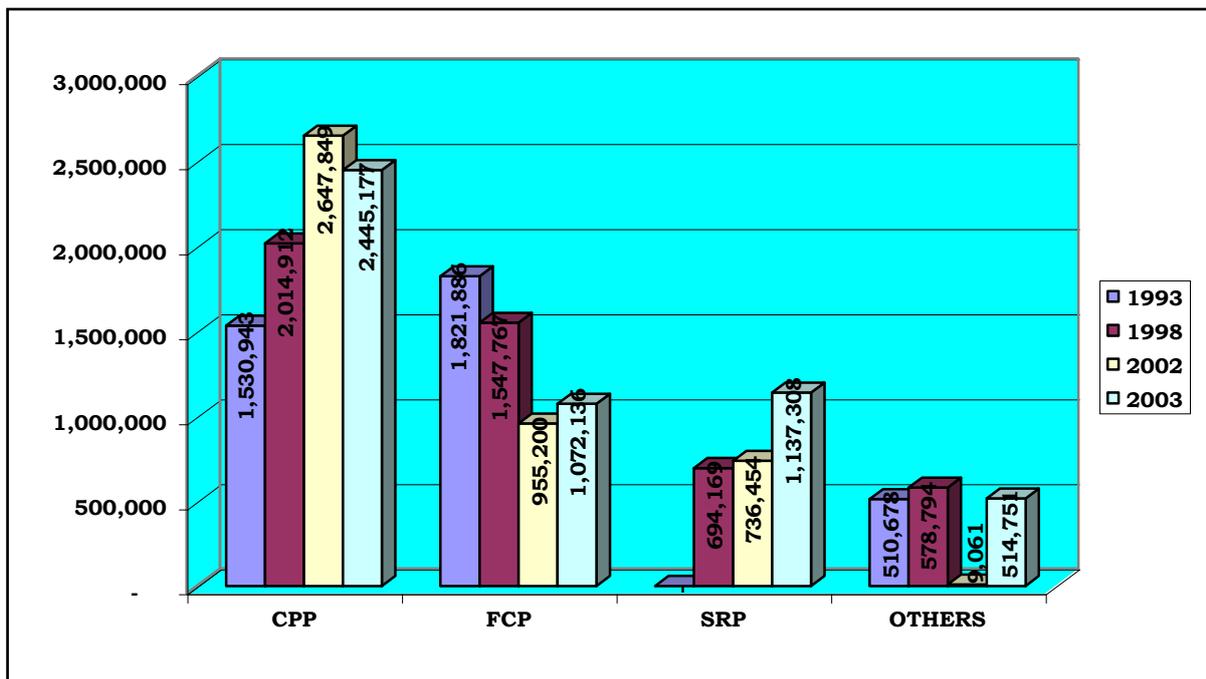


Chart - Comparison of Election Results in 1993-1998 and 2002 (Party by party)



15. COMFREL's activities

The Committee for Free and Fair Elections in Cambodia (COMFREL) is one of two election monitoring associations in Cambodia, the largest and longest-standing. COMFREL took part in the 1998 and 2002 elections. Our committee members and personnel took part in the UNTAC elections of 1993 and have been invited as international monitors to other countries including East-Timor, Indonesia, Kosovo, Pakistan, the Philippines, Sri Lanka, Sweden and Thailand.

COMFREL member NGOs include Cambodian Human Rights and Development Associations (ADHOC), Cambodian Association for the Elderly (CAE), Cambodian Centre for Protection of Children's Rights (CCPCR), Cambodian Defenders Project (CDP), Cambodian Women's Crisis Centre (CWCC), Cham Khmer Islam Minority Human Rights and Development Association (CKIMHRDA), Human Rights Vigilance, Khmer Kampuchea Krom Human Rights Association (KKKHRA), Khmer Youth Association (KYA), Legal Aid of Cambodia (LAC), Socio-Economic Development Organisation of Cambodia (SEDOC), Human Rights Vigilance of Cambodia (VIGILANCE) and Women's Media Centre of Cambodia (WMC).

COMFREL has a well-established network of voluntary observers extending from national through provincial, commune, and district levels reaching all 12,826 polling stations.

For the 2003 National Assembly Elections, COMFREL has fully trained and deployed 1,800 long-term observers operating at commune, district and provincial levels. They cover the full range of electoral activities; voter registration, voter education, political climate at local level, voter education, supervision of polling day/counting, tracking complaints, as well as monitoring the general election climate. They also establish relationships with key partners – other domestic observers, international election missions, party agents and election officials.

An additional 300 observers have been deployed from the start of the election campaign in June until 15 August in order to help collate and co-ordinate reports - regular weekly reports and any special incident reports.

Short-term observers have also been trained and deployed for the Poll and Count. 15,000 COMFREL observers will man virtually every polling station on 27 July. Up to 7,000 of them will go on to watch the ballot boxes from the

close of the polls until the counts are concluded observers.

COMFREL observers will conduct audits of the lists of registered voters in order to verify that genuine voters are presenting themselves, impersonation is not taking place for deceased voters and such practices as "telegraphing" are detected.

COMFREL observers will keep their own tallies of voters attending and the counting of votes by party in order to produce a parallel vote count so that official figures transmitted from counting centres to the CECs and PECs to the NEC are not manipulated.

COMFREL will continue its media monitoring throughout the period, including seeing how the verdict of the electorate is accepted and reported.

Prior to the elections COMFREL conducted extensive voter education activities throughout Cambodia – providing 88,197 sessions to 1,322,957 participants. As with previous elections the 2003 experience and lessons learned will be incorporated in future voter education and observer training.

COMFREL has conducted other innovative activities in line with its mission to promote better knowledge of the electoral process and encourage citizen participation such as radio shows that include listener call-ins for questions and answers, TV spots, a movie play, etc. 800,000 leaflets, 69,160 pamphlets, 69,000 posters, 45,000 Q-A booklets, 15,000 calendar have been produced and 700,000 CSD's voter guides distributed. COMFREL has issued 50 press releases and statements (including joint statements with other civil society association), 600 organizations and individuals are included in our mailing list, and 800 hits are known to have been made on our website.

COMFREL's activities are kindly supported by USAID through The Asia Foundation (TAF), Forum Syd, NOVIB, The Japanese Embassy, Trocaire Fund, DFID, NPA and NDI.

The Asia Foundation and the National Democratic Institute (NDI) shared the organization of regular NGO meetings for election activity coordination and discussion on election concerns. The Asia Foundation provided COMFREL with technical advice generally and special support for its media monitoring project. NDI helped COMFREL with advice for long-term observation and technique.

COMFREL participated in the regular coordination meetings of donors facilitated by the United Nation Development Program (UNDP). COMFREL's regular feedback on the election process was appreciated

and respected by international donors, the NEC, and civil society colleagues.

COMFREL thanks the Media Corps present and with whom we have worked throughout the election period.

16. Conclusion and Recommendations

- Analysis and Conclusions

The key questions that everyone asks of Cambodian elections, is are they free and fair, and are they free and fair enough in the context of an emerging democracy? As in 1998 we have a disparity of views on the 2003 election amongst the experts, our international observer colleagues. Most agree that the election process was not fully fair, there were election irregularities, especially examples of intimidation but then beyond that agreement, opinions diverge. Those from the European Union, Japan and Australia say they were "fair enough", with yet more important positive progress marking a gradual transition towards democracy and an end result that probably does reflect the overall will of the electorate. By contrast those from the United States condemn the process as fundamentally flawed given the climate of intimidation and unfair advantage held by the CPP. This split in international opinion does not help Cambodia.

COMFREL as the longest established and largest domestic election monitoring organization is able to add some credence to the analysis. We have observed all Cambodian elections since 1993, we have been here all the time and in-between elections, we have by far the most observers on the ground. They have been suitably trained, we speak the language and we are the same ordinary Cambodians who have come through so much in recent years.

What is our overall conclusion on whether the 2003 elections were sufficiently free and fair as far as Cambodia is concerned? Before answering that we should explain four salient points that may not be fully appreciated.

- 1 The state of Cambodia's democracy – is it maturing?

There have now been three national elections but all three have been characterised by claims of "foul play" by the losing parties after the results are announced. The CPP challenged the 1993 verdict, FUNCINPEC and Sam Rainsy those of 1998 and 2003. Is there a genuine commitment to the democratic process or is it just a means of holding on to power or securing a share of power regardless of the people's verdict?

After ten years, the Cambodian Democracy should be maturing. We should expect to see "statesman-like" qualities emerging. We should see leaders coming together at moments of crisis and of great national celebration, and at local level we should see people of different persuasions co-operating for the common good. We should see top leaders who show more concern for national interests than party and personal gain, and we should see throughout public service party allegiance as a less important factor than mutual co-operation on what is after all a host of everyday problems and issues where the parties have more in common than they have differences. Nowhere should statesmanlike qualities be more evident than in the response to official election results, when the primary and immediate responsibility of all is to form a new government based on the people's verdict.

- 2 The influence of the international community.

It is almost certain that without the Paris Peace Accords of 1991, the UNTAC operation, and subsequent support of the international community, Cambodia would not have today's democracy. The fact is it is our international friends who have nurtured and cajoled democratic progress (as well as footing a lot of the bills), and there is yet to develop a home-grown sense of pride and willingness to fashion and develop democratic institutions in their own right.

- 3 The power of incumbency in office

Any governing party in any democracy has a natural advantage of incumbency. Governments and ruling parties enjoy the highest public profile. They automatically obtain more media coverage. The question for Cambodia is does the CPP enjoy only a natural advantage of incumbency or is it using its holding of office to create unnatural advantages to guarantee retention of powers? Is there a true commitment to the democratic process or is it a case of holding on to power by all means fair and foul?

The CPP cannot deny they have the following advantages:

- The relic of the former communist apparatus with virtually all local officials at village level.
- Their express or implied association in most cases with emergency relief hand-outs given to destitute people, other public works, and attendant media coverage.
- Their general domination of media outlets most of which are controlled by or sympathetic to the CPP.

- The ability to create and facilitate civil society organizations supportive to their causes and willing to oppose others.⁴⁵

4 The true test of democracy.

No one can assert that any country's democratic transition is complete unless and until there is a peaceful handover of power following defeat at the polls.⁴⁶ As the CPP would not surrender power in 1993, this test has not been met. However the commune election results and this year's National Assembly election results clearly point to greater popularity of the Sam Rainsy Party in the capital Phnom Penh. If the verdict of the electorate is to be fully respected by the CPP, as they demand for the overall results in the country, then they should at least now relinquish control of the Phnom Penh Municipality or cede a substantial share of control.

Taking these four factors into account together with the pre-election and extant atmosphere in which political opposition is routinely deterred through attacks and intimidation, COMFREL must conclude that Cambodia's National Assembly Elections do not qualify for the international standard "free and fair".

Major recommendations:

1 Given that Cambodia has not yet achieved the state where it has the capacity to mount free and fair elections, the international community is requested to maintain its support before, during, and after elections for the Royal Government, the NEC, and civil society organisations.

2 As the single most important electoral institution, further reforms must be made to the structure, processes, and membership of the NEC including the establishment of an independent selection committee consisting of representatives of political parties having seats in the National Assembly, NGOs and legal organizations.

⁴⁵ CPP needs to explain what purpose was intended by the "Eye of Truth" coalition of supportive NGOs that met with Prime Minister Hun Sen before the elections, and what role they may have played in a post-election scenario in which CPP lost. Was this another "spare tyre" the phrase used to describe the infamous CICCON contract in 1998 when an obscure foreign organization was at one time contracted to conduct the Cambodian elections?

⁴⁶ Or redistribution of power in the case of no outright winner.

3 In order to promote justice in respect of electoral infractions, an independent specialist election tribunal should be established within the existing judicial system together with effective means of enforcement *such as strengthening the existing Central Bureau for Security to be more professional and neutral*, and that these new authorities should be able to operate at national, provincial, and commune level as needed.

4 Given the continuing incidences of irregularities, threats, intimidation, violence and other problems in Cambodian elections, an independent investigation by a distinguished panel of Cambodian experts should be appointed by the King to study the problems, conduct public consultations, and formulate changes to ensure a free environment for the voters and political activists in future elections.

5 In order to achieve adequate standards of media access, a strictly regulated neutral "Equitable Election News Program" should be established on state media as a legal requirement during election campaigns for National Assembly Elections in Cambodia. Legally enforceable codes of practice and notes of guidance should be made available to ensure equitable and balanced coverage of political parties during this program.

6 A Broadcast Media Law should be formulated to influence and regulate both state and private media in the areas of licensing, broadcasting codes of conduct, standards of journalism and broadcasting ethics, in order to eliminate bias and delineate a clear separation of party political activity from the state, state institutions, and relief aid organisations. This law should enforce penalties on those media that violate the regulations.

7 In order to promote greater participation by women, minimum quotas of 30% should be adopted for all public institutions and the membership rules of all political parties to be achieved by 2008.

8 A ten-year review of the Cambodian Constitution should take place during the life of this National Assembly, in order to review the working of the present arrangement, inviting input from the widest cross section of the population through political parties, civil society, and academic institutions. This would include detailed scrutiny of the "two thirds majority rule", provisions governing the convening of a newly elected National Assembly and formation of the Royal Government, the need for a second Chamber (Senate) and the system of representation currently through provincial constituencies and party lists only.

[End]

Annex 1:

Condition/Criteria to reject election results in constituency (Province/town)

The condition/criteria to reject election results in a constituency (province/town) is determined by the number of irregularities that can effect the election result in any constituency. The effect is focused on any irregularity committed by any elected party. Thus the number of irregularities is a combination of major issues that causes an unacceptable result. They are as follows:

1. Technical irregularity in polling station (COMFREL's checklist for observers); or
2. Technical irregularity in counting station (COMFREL's checklist for observers); or
3. Vote buying in village (including the election campaign and polling day, report collected by COMFREL's observers) or
4. Conduct of election campaign on cooling day or
5. Threats, intimidation, violence occurring in the village, starting from voter registration until and including counting day (Cambodian election laws);

Below are the details of each irregularity (one irregularity is considered as one case) that can be combined leading up to an unacceptable level:

- 1- Technical irregularities equal to 50% of polling stations (on the polling day)
 - 1-1. The secrecy in the polling station is not guaranteed;
 - 1-2. Vote cheating on polling day;
 - 1-3. Obstructing voters to vote from 2 people to 5% of the eligible electorates in a polling station;
 - 1-4. Observer and/or party agent is not allowed to monitor;
 - 1-5. Wrong performance of procedures from twice in the polling station (including no dyeing forefinger in indelible-ink, a voter can vote twice, lack of polling equipment/materials, the electoral official does not respect working hours, they do not carry out their task according to the manual, etc);
 - 1-6. Number of voters is much more than on the list or more than 700 voters;
 - 1-7. The electoral officials are not neutral or violate the code of conduct;
 - 1-8. Suspending a polling station for a period of time;
 - 1-9. The electoral officials did not receive and solve complaints;
- 2- Technical irregularity cases equal to 50% of counting centres (or counting team)
 - 2-1. The counting process is not transparent;
 - 2-2. Observer and/or party agent is not allowed to monitor;
 - 2-3. The lock of the ballot box is cut or broken;
 - 2-4. Vote count cheating;
 - 2-5. Wrong performance of procedures from two times in the counting centre or team (including the electoral official does not respect working hour, they does not exercise their task following the manual, etc);

- 2-6. The electoral official is not neutral or they violate the code of conduct;
- 2-7. Suspending of counting process for a period of time without an appropriate reason;
- 2-8. The electoral official does not receive and solve complaint;
- 3- Vote Buying (purpose to attract support) in 30% of villages committed by political party supporters or candidate/representative in each village (counting from election campaign until polling day).
 - 3-1. Money giving;
 - 3-2. Gift/materials giving (excluding political party campaign materials that the procedures allow such as shirt, cap with party logo...);
 - 3-3. Political party transportation of voter to the polling station;
 - 3-4. Organize party for villager on cooling day;
- 4- Conduct election campaign on cooling day in 30% of villages including celebration of political party.
- 5- Threat/intimidation cases equal to 30% of villages (including voter registration to counting day), committed by authorities, armed forces or unidentified persons, a political party, supporter or candidate (excluding serious threat/intimidation to death, politically motivated killing cases).
 - 5-1. Direct or indirect words or a piece of writing made in a sense to commit torture or physical abuse and threaten to kill;
 - 5-2. Direct or indirect verbal remarks or a piece of writing containing an attempt to destroy property;
 - 5-3. Display or use of weapons for the purpose of intimidation;
 - 5-4. Shooting with a gun over a person's head or his/her house roof or office or vehicle or at areas around that person;
 - 5-5. Placing an animal corpse or various signs or any equipment in front of a person's house, which can cause the person to fear for his/her life or his/her relative's lives;
 - 5-6. Escorting or confining any person by force or against his/her will;
 - 5-7. Financial threats such as to dismiss a person from his/her job, to take away his/her land or house or other financial benefits.
 - 5-8. Putting pressure, use of threats or coercion to secure a promise or a thumb-print to promise to vote for his/her political party or a political party that he/she desires;
 - 5-9. (Collection or confiscation) recording serial code number of voter cards or identity documents used for voting;
 - 5-10. Tearing down political party's signboard;
 - 5-11. Destruction of sign or office of political party;
 - 5-12. Threatening people not to give freedom of opinion, expression;
- 6- Serious threat, intimidation and politically related killing cases. The mentioned cases need to be discussed and studied separately to define the impact on voters and the election process.

Annex 2: Table of summary of information in each constituency (province/town)

Provinces/ Towns	Total Population	Over 17 Year of Age	Registered Voters	Irregularities during Voter Registration		Irregularities During the period of						Non Neutral Local Authority	Voters		Election Results by COMFREL			Seat Allocation	Political Environment		PEC Component Affiliated with Political Party	
				No. of cases	%	Campaign		Polling		Counting			Turn-Out of Voters	%	Political Parties	No. Votes	% Vote					
						Cases	% (1)	Cases	% (2)	Cases	% (3)											
Bantey Meanchey	643,628	347,803	307,811	4	0.3%	2	0.32%	38/22	3.31%	3/3	1.24%	4	231,975	75.36%				Killing Case	1	CPP	6	
															CPP	106,292	47.66%	4	Intimidation	0-2%	FUN	2
															FUN	43,373	19.45%	1	Vote Buying/Gift Giving	0-2%		
															SRP	51,501	23.09%	1	Voter Card Collection	N/A		
Battambang	891,671	490,482	416,763	47	3.6%	93	12.55%	200/86	9.60%	46/24	7.29%	90	335,395	80.48%				Killing Case	2	CPP	3	
															CPP	158,863	48.67%	5	Intimidation	3-5%	Other	5
															FUN	48,515	14.86%	1	Vote Buying/Gift Giving	8-21%		
															SRP	88,784	27.20%	2	Voter Card Collection	20		
Kampong Cham	1,704,234	927,376	884,476	121	9.4%	51	2.89%	547/ 193	10.39%	73/37	5.45%	73	738,600	83.51%				Killing Case	1	CPP	5	
															CPP	286,109	39.99%	8	Intimidation	3-5%	FUN	3
															FUN	164,060	22.93%	5	Vote Buying/Gift Giving	2-5%		
															SRP	164,223	22.96%	5	Voter Card Collection	3		
Kampong Chhnang	423,046	228,296	222,276	208	16.1%	11	1.97%	206/83	18.08%	36/17	9.71%	35	194,059	87.31%				Killing Case	1	CPP	6	
															CPP	105,768	56.46%	3	Intimidation	0-2%	FUN	
															FUN	34,961	18.66%	1	Vote Buying/Gift Giving	2-5%		
															SRP	2,400	12.81%	0	Voter Card Collection	2		
Kampong Speu	651,921	344,860	339,583	23	1.8%	12	0.89%	66/28	4.39%	1/1	0.41%	2	292,685	86.19%				Killing Case	N/A	CPP	7	
															CPP	149,511	52.70%	4	Intimidation	0-2%	FUN	1
															FUN	63,894	22.52%	1	Vote Buying/Gift Giving	0-2%		
															SRP	38,568	13.59%	1	Voter Card Collection	N/A		

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Provinces/ Towns	Total Population	Over 17 Year of Age	Registered Voters	Irregularities during Voter Registration		Irregularities During the period of						Non Neutral Local Authority	Voters		Election Results by COMFREL			Seat Allocation	Political Environment		PEC Component Affiliated with Political Party		
				No. of cases	%	Campaign		Polling		Counting			Turn-Out of Voters	%	Political Parties	No. Votes	% Vote		Killing Case	Intimidation		Vote Buying/Gift Giving	Voter Card Collection
						Cases	% (1)	Cases	% (2)	Cases	% (3)												
Kampong Thom	607,903	328,919	300,588	14	1.1%	8	1.09%	66/30	4.67%	N/A	0.00%	5	239,771	79.77%					Killing Case	3	N/A		
															CPP	101,080	43.34%	4	Intimidation	0-2%			
															FUN	48,478	20.79%	1	Vote Buying/Gift Giving	0-2%			
															SRP	50,168	21.51%	1	Voter Card Collection	2			
Kampot	559,295	293,585	277,507	50	3.9%	12	2.49%	55/30	5.51%	461/6	2.93%	19	236,222	85.12%					Killing Case	1	CPP 7		
															CPP	109,105	47.59%	3	Intimidation	0-2%	FUN 1		
															FUN	60,578	26.43%	2	Vote Buying/Gift Giving	8-21%			
															SRP	35,612	15.53%	1	Voter Card Collection	N/A			
Kandal	1,144,282	666,567	636,936	38	2.9%	24	2.21%	107/68	5.76%	10/8	1.82%	28	556,009	87.29%					Killing Case	N/A	CPP 8		
															CPP	219,997	39.80%	5	Intimidation	0-2%			
															FUN	133,403	24.13%	3	Vote Buying/Gift Giving	2-5%			
															SRP	144,044	26.06%	3	Voter Card Collection	7			
Koh Kong	128,459	70,414	63,777	172	13.3%	33	24.81%	256/74	50.34%	57/20	33.33%	68	45,461	71.28%					Killing Case	N/A	CPP 6		
															CPP	24,265	55.03%	1	Intimidation	3-5%	FUN 2		
															FUN	6,667	15.12%	0	Vote Buying/Gift Giving	2-5%			
															SRP	9,081	20.60%	0	Voter Card Collection	N/A			
Kratie	276,859	156,771	134,491	7	0.5%	18	7.20%	81/30	10.27%	8/5	4.42%	24	111,195	82.68%					Killing Case	2	CPP 7		
															CPP	51,638	46.80%	2	Intimidation	6-8%	FUN 1		
															FUN	29,471	26.71%	1	Vote Buying/Gift Giving	0-2%			
															SRP	20,722	18.78%	0	Voter Card Collection	2			

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Provinces/ Towns	Total Population	Over 17 Year of Age	Registered Voters	Irregularities during Voter Registration		Irregularities During the period of						Non Neutral Local Authority	Voters		Election Results by COMFREL			Seat Allocation	Political Environment		PEC Component Affiliated with Political Party	
				No. of cases	%	Campaign		Polling		Counting			Turn- Out of Voters	%	Political Parties	No. Votes	% Vote					
						Cases	% (1)	Cases	% (2)	Cases	% (3)											
Kep	31,568	16,044	16,926	1	0.1%	1	0.1%	9/3	9.09%	N/A	0.00%	2	14,499	85.66%					Killing Case	1	CPP	2
															CPP	7,834	54.97%	1	Intimidation	6-8%	Other	6
															FUN	4,351	30.53%	0	Vote Buying/Gift Giving	0-2%		
															SRP	991	6.95%	0	Voter Card Collection	N/A		
Pailin	46,015	22,375	22,934	1	0.1%	15	18.99%	5/5	11.63%	N/A	0.00%	6	15,944	69.52%					Killing Case	N/A	CPP	8
															CPP	8,239	53.25%	1	Intimidation	3-5%		
															FUN	1,670	10.79%	0	Vote Buying/Gift Giving	0-2%		
															SRP	4,617	29.84%	0	Voter Card Collection	N/A		
Sihanouk Ville	157,046	89,158	80,499	62	4.8%	6	6.38%	102/36	22.09%	27/10	16.39%	4	63,443	78.81%					Killing Case	N/A	CPP	6
															CPP	27,657	44.72%	1	Intimidation	0-2%	FUN	2
															FUN	11,127	17.99%	0	Vote Buying/Gift Giving	0-2%		
															SRP	18,510	29.93%	0	Voter Card Collection	N/A		
Mondul Kiri	42,148	21,362	18,642	14	1.1%	7	7.69%	37/15	26.32%	2/2	7.41%	69	13,526	72.56%					Killing Case	N/A	CPP	5
															CPP	8,875	68.66%	1	Intimidation	0-2%	FUN	3
															FUN	1,733	13.41%	0	Vote Buying/Gift Giving	0-2%		
															SRP	1,151	8.90%	0	Voter Card Collection	1		
Otdar Meanchey	126,839	62,346	57,430	13	1.0%	11	4.85%	160/50	35.21%	23/6	10.53%	50	44,552	77.58%					Killing Case	N/A	CPP	5
															CPP	23,873	56.49%	1	Intimidation	3-5%	FUN	3
															FUN	7,537	17.83%	0	Vote Buying/Gift Giving	0-2%		
															SRP	6,506	15.39%	0	Voter Card Collection	2		

COMFREL's Assessment Report on the 2003 National Assembly Elections

Provinces/ Towns	Total Population	Over 17 Year of Age	Registered Voters	Irregularities during Voter Registration		Irregularities During the period of						Non Neutral Local Authority	Voters		Election Results by COMFREL			Seat Allocation	Political Environment		PEC Component Affiliated with Political Party	
				No. of cases	%	Campaign		Polling		Counting			Turn-Out of Voters	%	Political Parties	No. Votes	% Vote					
						Cases	% (1)	Cases	% (2)	Cases	% (3)											
Phnom Penh	989,394	594,651	579,205	258	19.9%	7	1.02%	1422/ 317	32.22%	318/ 64	18.18%	1	470,372	81.21%				Killing Case	3	CPP	5	
															CPP	151,266	32.58%	4	Intimidation	0-2%	Other	3
															FUN	65,632	14.14%	2	Vote Buying/Gift Giving	0-2%		
															SRP	220,008	47.39%	6	Voter Card Collection	2		
Pursat	371,624	191,281	185,759	25	1.9%	9	1.80%	70/25	6.39%	7/5	3.40%	8	154,991	83.44%				Killing Case	2	CPP	6	
															CPP	88,701	58.20%	3	Intimidation	0-2%	FUN	2
															FUN	34,148	22.41%	1	Vote Buying/Gift Giving	0-2%		
															SRP	18,963	12.44%	0	Voter Card Collection	1		
Preah Vihear	131,123	65,754	65,115	57	4.4%	31	14.90%	227/50	35.46%	40/ 14	23.33%	71	52,304	80.33%				Killing Case	N/A	CPP	7	
															CPP	29,528	60.13%	1	Intimidation	3-5%	FUN	1
															FUN	5,890	11.99%	0	Vote Buying/Gift Giving	8-21%		
															SRP	7,103	14.46%	0	Voter Card Collection	3		
Prey Veng	1,033,703	601,489	548,480	74	5.7%	39	3.42%	67/43	3.82%	519/ 12	2.88%	12	470,974	85.87%				Killing Case	1	CPP	6	
															CPP	220,944	47.72%	6	Intimidation	0-2%	FUN	1
															FUN	119,841	25.88%	3	Vote Buying/Gift Giving	2-5%	Other	1
															SRP	67,709	14.62%	2	Voter Card Collection	3		
Rattanakiri	108,275	54,650	51,969	31	2.4%	26	10.83%	32/7	5.98%	28/4	7.14%	15	37,273	71.72%				Killing Case	N/A	CPP	3	
															CPP	23,020	63.69%	1	Intimidation	0-2%	FUN	1
															FUN	4,730	13.09%	0	Vote Buying/Gift Giving	8-21%	Other	4
															SRP	3,816	10.56%	0	Voter Card Collection	20		

COMFREL's Assessment Report on the 2003 National Assembly Elections

Provinces/ Towns	Total Population	Over 17 Year of Age	Registered Voters	Irregularities during Voter Registration		Irregularities During the period of						Non Neutral Local Authority	Voters		Election Results by COMFREL			Seat Allocation	Political Environment		PEC Component Affiliated with Political Party	
						Campaign		Polling		Counting			Turn- Out of Voters	%	Political Parties	No. Votes	% Vote					
				No. of cases	%	Cases	% (1)	Cases	% (2)	Cases	% (3)											
Siem Reap	737,891	388,332	349,697	15	1.2%	62	6.84%	195/70	9.56%	32/17	6.12%	109	295,778	84.58%					Killing Case	2	CPP	8
															CPP	169,530	59.26%	4	Intimidation	0-2%		
															FUN	38,389	13.42%	1	Vote Buying/Gift Giving	8-21%		
															SRP	52,682	18.42%	1	Voter Card Collection	20		
Stung Treng	88,226	45,064	43,285	24	1.9%	4	3.13%	23/13	13.00%	1/1	2.22%	16	35,078	81.04%					Killing Case	N/A	CPP	7
															CPP	18,282	54.09%	1	Intimidation	0-2%	FUN	1
															FUN	6,885	20.37%	0	Vote Buying/Gift Giving	0-2%		
															SRP	5,473	16.19%	0	Voter Card Collection	N/A		
Svay Rieng	522,158	289,347	278,808	20	1.5%	9	1.30%	14/6	1.05%	5/3	1.38%	0	238,707	85.62%					Killing Case	2	CPP	5
															CPP	142,447	61.52%	4	Intimidation	0-2%	Other	3
															FUN	36,498	15.76%	1	Vote Buying/Gift Giving	0-2%		
															SRP	35,400	15.29%	0	Voter Card Collection	N/A		
Takeo	833,790	452,950	458,877	15	1.2%	3	0.27%	183/56	6.19%	14/14	4.23%	3	409,427	89.22%					Killing Case	2	CPP	5
															CPP	212,353	52.99%	5	Intimidation	0-2%	FUN	3
															FUN	100,305	25.03%	2	Vote Buying/Gift Giving	0-2%		
															SRP	67,676	16.89%	1	Voter Card Collection	N/A		
Total	12,251,098	6,749,876	6,341,834	1,294	100%	494	3.56%	4,168/273	10.45%	1711/273	5.69%	714	5,298,240	83.54%		5,169,372	100%	123				

Remarks: Based on COMFREL's own condition to reject election results in constituency,

(1): Number of cases occurred at village levels/total number of villages in each province/town

(2): Number of cases occurred at polling stations/total number of polling stations in each province/town

(3): Number of cases occurred at counting centers/total number of counting centers in each province/town

* Killing case/Voter card collection is number of cases which took place in any place but some case could affected the whole village/commune/district/province or sometime affected the whole country...

** % of Vote Buying: number of cases occurred at village levels/total villages in each province/town

- It is to be noted that 1 case taken place is considered as 1 village/polling station/counting center effected in that province/town.

Annex 3: Table of Irregularities During Election Campaign Period for the National Assembly Elections (26 Jun -25 Jul 2003)

Provinces/Towns	Place and Security		Public Officer		Dispute and Obstruction		Intimidation		Vote Buying		Deny Rights to Vote		Serious Cases		Total Cases	Total Intimidation
	Case	Complaint	Case	Complaint	Case	Complaint	Case	Complaint	Case	Complaint	Case	Complaint	Case	Complaint		
Banteay Meanchey	0	0	4	0	0	0	2	0	0	0	0	0	0	0	6	2
Battambang	0	0	90	0	39	1	52	5	53	3	6	0	2	1	242	93
Kampong Cham	4	0	73	0	28	1	21	2	13	3	73	0	2	0	214	51
Kampong Chhnang	0	0	35	0	3	0	8	0	9	1	0	0	0	0	55	11
Kampong Speu	0	0	2	0	5	0	6	1	1	0	0	0	1	0	15	12
Kampong Thom	0	0	5	0	4	0	3	2	5	0	1	0	1	0	19	8
Kampot	0	0	19	1	10	6	2	0	28	0	34	0	0	0	93	12
Kandal	9	0	28	0	14	1	9	5	11	2	201	0	1	0	273	24
Koh Kong	1	0	68	0	18	0	15	0	11	0	316	0	0	0	429	33
Kratie	0	0	24	0	12	2	5	1	6	0	1	0	1	1	49	18
Mondul Kiri	0	0	69	0	2	0	3	1	1	0	43	0	2	0	120	7
Phnom Penh	4	2	1	0	4	1	3	1	4	0	2	0	0	0	18	7
Preah Vihear	5	1	71	0	10	1	21	1	21	0	7	0	0	0	135	31
Prey Veng	2	0	12	0	14	3	23	0	9	0	49	5	2	0	111	39
Pursat	0	0	8	0	7	2	2	2	1	1	0	0	0	0	18	9
Rattanakiri	4	0	15	0	9	0	10	2	30	8	2	0	7	0	77	26
Siem Reap	3	0	109	0	14	0	44	3	41	2	10	4	4	0	225	62
Sihanouk Ville	0	0	4	1	5	4	1	1	3	1	318	0	0	0	331	6
Stung Treng	0	0	16	0	3	1	1	0	1	0	9	0	0	0	30	4
Svay Rieng	0	0	0	0	5	2	4	0	1	0	0	0	0	0	10	9
Takeo	0	0	3	0	2	0	1	0	0	0	0	0	0	0	6	3
Utdor Meanchey	0	0	50	2	2	0	8	0	4	0	1	0	1	0	66	11
Kep	0	0	2	0	0	0	0	0	0	0	0	0	0	0	2	0
Pailin	0	0	6	0	3	0	10	2	4	0	0	0	2	0	25	15
Total	32	3	714	4	213	25	254	29	257	21	1073	9	26	2	2569	493

Annex 4: Table of Killing Cases

From January 1st to July 22nd, 2003, at least 28 cases party members, activists and supporters were killed (31 people were killed: the Cambodian People's Party—CPP 11, the Sam Rainsy Party—SRP 12, and the FUNCINPEC Party 8), but authorities have found convictions in only six cases. Five of them are women who were killed. It is to be noted that among them, there are two cases which their couples killed each other due to different parties supporting. The killings included the following:

N.	Date/Time	Victim(s)	Sex	Party	Location	Description	Culprits	Remarks
1	Jan11, 03	Luy Koeun SRP activist	M	SRP	Ampil village meanchey commune Samlaut district Pailin	He was shot to dead	Unidentified	
2	Jan 14, 03	Sok chann Fun activist	F	Fun	Samrong village, Kroch commune, Prey Chhor district, Kampong Cham	She was shot once after running out of his house to extinguish a fire that had been set underneath. Her husband and daughter had been killed in an identical manner five months earlier.	Unidentified	Probably politically linked killing.
3	Feb 17, 03	Mr. Lach Thorn , 57, a commune council member (reportedly the chief of Tapinh village)	M	CPP	Khnorng Phnom commune, Svay Leu district, Siem Reap	He was beaten to dead by two assailants (in case of property robbery).	Unidentified	
4	Feb 18, 03 12:30	H.E. Om Radsady , 51, who was the senior advisor to Prince Norodom Ranariddh, the president of the National Assembly and FUNCINPEC Party and he also used to be the former FUNCINPEC party's parliamentarian in the first mandate.	M	FUNCINPEC	Chamkar Morn district, Phnom Penh.	He was gunned down.	Two unidentified gunmen	Perpetrators were arrested. Probably politically linked killing.
5	Feb 19, 03 21:00	Mr. Kim Chhunly , 31, village chief and a party's supporter	M	FUNCINPEC	Prey Leu village, Banteay Meas Lech commune, Kampot	He was shot to dead.	Unknown gunman	

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6	Mar 11, 03	Ngét Phon party's activist	M	SRP	Chamka3 commune sangkat pongteuk damnak chang eur	He was fought to dead and his house and properties were fired	Four Unidentified men	
7	Ma 22, 03	Ham Saom party's activist	M	CPP	Kalmech village tbuang Kroupeu Steung Sen district Kampong Thom	He was shot to dead and his wife was seriously injured.	Unidentified gunman	
8	Jun 04, 03	Poi vin ,20 Party's activist	M	SRP	Ampil Tapok commune Oraing ouv district Kampongcham province	He was axed to dead	Unidentified man	
9	Jun 06, 03	Sam Sararn party's activist	M	SRP	Popun village Svaychek commune Rumdaul district Svay Rieng	He was shot to dead	Unidentified	
10	Jun 16, 03	Mom Pisith , 35 Party's activist	M	CPP	Rolaus village sangkat dangkor Khan dangkor Phnom Penh	He was shot to dead	Two Unidentified men	
11	Jun 20, 03	Veun vong , 48 party's activist	M	SRP	Pearong commune Preyveng district Preyveng Province	He was shot to dead when he is drinking wine with his friends	Unidentified gunman	Probably politically linked killing.
12	Jun 21, 03	Em Phalla , 30 party's activist	M	CPP	Khna kroupeu Anglong thnaot Krokor district Porsat Province	He was shot to dead	Unidentified gunman	
13	Jun 25, 03	Touch Rin party's activist	M	CPP	Chrouy Snéng Krobey village Kampongkor commune Prek brosobb Kratie province	He was stabbed to dead after argued in his family.	His wife	
14	Jun 25, 03	Té Dom party's activist	M	SRP	Thnal kéng village Pearong commune Preyveng district Preyveng province	He was shot to dead on his house	Unidentified gunman	Probably politically linked killing.
15	Jun 26, 03	Pring Norn ,50 party's activist	M	Fun	South kroyear village Kroyea commune Brasat Balaing Kampong Thom	He was shot to dead on his house	Unidentified gunman	
16	Jun 26, 03	Kum Ngim , 47 Village deputy	M	CPP	Rolaus village Kampong- por commune Krokor district Porsat province	He was axed third, purred gas on his body and fired to dead.	Koy Hy (Rolaus village chief)	Probably politically linked killing.
17	Jun 28, 03	Neang Sam art , 35 Neang Samang , 25	M M	SRP	Tumnop phlov lok village Tropaing	They were shot to dead near their house	Unidentified gunmen	Probably politically linked

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		party's activist			Kro ngoung commune Tramkok district Takeo province			killling.
18	Jun 30, 03	Long man party's supporter	F	CPP	Thom village Thnaot commune Kampongro district Svay Rieng	She was stabbed once to dead	Unidentified man	
19	Jun 30, 03	Val Savy party's supporter	F	SRP	Keo chamroeun village Taingyab commune Prey kabas district Takeo province	She was chopped on her neck to dead.	Kao Laut (victim's husband)	
20	Jun 30, 03	Rin Mao party's activist	M	CPP	Roveang village Sréchis commune Sambo district Kratie province	He was shot once on his head to dead	Unidentified gunman	Probably politically linked killing.
21	Jul 09, 03	Eang Mab party's supporter	F	CPP	Phtach Preatt village Bovel commune Bovel district Battambang	He was bombed to dead, her husband and son were injured	Unidentified gunman	
22	Jul 10, 03	Vat Kém party's activist	M	Fun	Kork Snaul village Korkduong commune Angkorchhum Siem Reap	He was axed twice on his head to dead	Unidentified man	
23	Jul 10, 03	Thorn Bunthoeun 28, party's activist	M	SRP	Sangkatboengkokl Khan toulkork Phnom penh	He was shot to dead	Laung Vanna (he is PM)	
24	Jul 10, 03	Saun Sok , 45 party's supporter	M	SRP	Chambok raun village Pormreal commune Borset district Kompong speu	He was axed to dead	Saun sok yi (victim's son)	
25	Jul 13, 03	Meas Sovann party's supporter	M	CPP	Boeng Lvea chas village Lvea chas commune Santuk district Kampong Thom	He was axed to dead	Unidentified	
26	Jul 14, 03	Svay chok party's supporter	M	CPP	Soriya village Nimit commune Ochrov district Banteay meanchey	He was shot to dead after he had argued with someone	Sor Tuon	
27	Jul 21, 03	Thet Vibol , 25 party's activist	M	SRP	Phnom Putrea village Toul Lvea commune Khan Pailin Pailin city	He was axed to dead at Putrea hill.	Unidentified man	
28	Jul 22, 03	1-Ray Mongly 2-Mén yeng 3-Ray Kuch party's activist	M M M	Fun	Por village Por commune Kampong leng district Kampong chhnang	They were axed to dead in their house.	1-Meas Nhoeun 2-Meas Nhong 3-Meas Sre	Probably politically linked killing.

Annex 5:

Recommendation to the NEC

International and Local Observers Recommend that the NEC and the Ministry of Interior Prohibit Village Chiefs and Deputy Chiefs from Being Political Party Agents in the Polling Stations and Counting Centers During the National Elections

Phnom Penh, 18 July 2003

Neutral observers, local people and party agents have suggested that many village chiefs have attempted to subvert the election process at the local level. They are now concerned that if village chiefs and deputy chiefs are allowed to act as party agents in polling stations on election day, their presence may intimidate or influence some voters. The NEC has issued a directive that civil servants of the jurisdiction of provinces/municipalities/Commune/Sangkat council members and village chiefs must remain neutral in the performance of their duties, but it now appears that some village chiefs and deputy chiefs are attempting to circumvent this directive.

It is the opinion of the undersigned that village chiefs should indeed stay impartial and use their respected position in the communities to facilitate a free and democratic election process on a village level. They need to maintain this credibility regardless of their political preferences. In order to seek a satisfactory solution to this problem, urgent action by the National Election Commission (NEC) and the Ministry of Interior (MoI) is required.

We, international and Cambodian observers, are asking the NEC and MoI to take action to ensure that its directive prohibiting partisan activities by local officials is respected in the sense in which it was intended, and to issue a further directive that clarifies that all village chiefs and deputies are prohibited from working as party agents in the polling stations and counting centers.

The pro-active commitment of the NEC to solve these problems would be welcomed by both the international community, and the people of Cambodia.

[End]

Asian Network for Free and Fair Elections (ANFREL)
Committee for Free and Fair Election in Cambodia (COMFREL)
Neutral and Impartial Committee for Free and Fair Elections (NICFEC)
Transnational Radical Party Members of the European Parliament (TRP)
Cambodian Human Rights Action Committee (CHRAC)
Youth Council of Cambodia (YCC)

**DIRECTIVE ON THE NEUTRALITY OF
CHIEFS OF VILLAGES, THEIR DEPUTY AND MEMBERS**

The NEC is very much concerned that a number of Chief of Villages, their deputy and members are not complying with the joint directive No. 004 S.N.N issued jointly by the Ministry of Interior and the NEC instructing them to remain neutral and impartial and refrain from showing any preference for or against any political party or candidate.

In order to ensure a climate conducive to successful elections, the NEC want to reiterate the obligations made to the Chiefs of Villages, their Deputy and members to remain neutral and impartial towards their villagers.

The Chiefs of Villages, their Deputy and members are particularly forbidden from doing the following actions:

1. Use their position to influence the freedom of choice of voters in the election.
2. Confiscate the voter card or substitute voter card or any ID document from citizens under any circumstance.
3. Question voters for the purpose of influencing or wanting to know the confidential polling choice of the voters.
4. Interfere the right of voters in making free decision, joining public discussion, participating in political activities or receiving full information about political affairs.
5. Act in a way, even if it is directly or indirectly, that intimidate or threaten voters.

Any Chief of Village, their Deputy and members that do not act according to this Directive could be found in breach of the Electoral Law and be sanctioned both by the NEC and/or the Ministry of Interior.

Consequently, the NEC formally enjoins the Chiefs of Villages, their Deputy and members to respect the instruction of the Ministry of Interior and the NEC as mentioned above.

All Commune/Sangkat Council as well as the members of the CEC and PEC must disseminate and cooperate in the implementation of the above directive to all Chiefs of Villages, their Deputy and members.

Phnom Penh, 17 July 2003
For. the NEC Chairman

Signature and seal:
Im Suosdey

N. 07- 1558/03 NEC

Kingdom of Cambodia
Nation Religion King

Royal Government of Cambodia
Ministry of Interior
No. 646 SPN

Phnom Penh, 22 July 2003

Co-Ministers of Interior

Addresses to:

His Excellency the Chairman of the NEC

Subject: Regarding the recommendations of national and international observers on prohibiting village chiefs, their deputy chiefs and members from being agents of political parties at polling and counting stations during national election.

Referring to: Recommendations of national and international observers dated 18 July 2003

As stated in the above subject and reference, I would like to inform Your Excellency that the Ministry of Interior agrees and supports the recommendations of national and international guests who have recommended that all village chiefs, their deputy chiefs and members should not be allowed to resign temporarily from their positions to be party agents at polling and counting stations.

Therefore, please Your Excellency the Chairman of the NEC kindly be informed and act in accordance with the law, regulations and procedures for election.

Please accept, Your Excellency, the assurance of my highest regards.

For. Co- Ministers of Interior
Secretary of State

Signature and seal:
Prum Sokha

CC:

- Cabinet of Ministers
- Secretariat of Constitutional Council
- Cabinet of Prime Minister
- Anfrel
- COMFREL
- Niffec
- TRP
- YCC
- CHRAC

"For information"

- All provincial/municipal governors
- Files and archives

Directive On Prohibiting Villages' Chiefs And Subordinates from Acting As Political Parties' Agents

Reference: - Regulations and procedures on Chapter 12 point 12.1.4

- The notification N. 646 dated July 22, 2003 of the Ministry of Interior, which supports the recommendations of the national and international observers on prohibiting village chiefs and subordinates from acting as agents of political parties.

The NEC set the directive principle as follows:

1. Village chiefs, deputy chiefs and subordinates are not allowed to be assigned as political parties' agents for observing at polling stations and ballot counting stations.
2. The concerned political parties must find replacements for their agents who are village chiefs and subordinates.
3. The replacement of these assigned parties' agents shall be done before Saturday, July 26, 2003. -5:30 P.M.
4. New political parties' agents are required to fill in forms as stipulated in point 12.1.4 of the NEC regulations and procedures.

The PEC' chiefs, after receiving the directive, must inform and instruct every political party and CECs to abide by and effectively implement it.

Phnom Penh, July 22, 2003
For. The NEC

Im Suosdey

Annex 6: Voter/Civic Education Impacts

Nº	Area of Voter Knowledge and awareness	1998	1999	2002	2003	Remarks
1	"Yes" perception of danger in elections	14.9%	29.3%	14%		"Don't know" responses declined from 50.2% to 1.1%
2	Fearful about voting	20%	7%			Shows increased voter confidence
3	Felt safer because of monitors	46%	N/A			Monitors "irrelevant to me" 43%
4	Noticed authorities in proximity of polling station	59.9%	N/A			Also 44.7% noticed armed persons nearby
5	"Yes" perception of secrecy of the ballot in N.A election	47%	86%			Shows increased voter confidence for national elections
6	"Yes" ballot will be secret in commune election	N/A	41%			"Don't know" responses 49%. Indicates significant misgivings for secrecy in commune elections
7	Received gift from a political party	78%	N/A			Vote buying is likely to increase
8	"Yes" perception of obligation to vote according to party pledge	35%	18%		12% (up to party gift/ money)	"No" responses almost unchanged, "don't know" responses dramatically increased
9	Know/understand right to free elections	N/A	N/A			
10	Know/understand that election is to elect representatives that reflect will of the people	N/A	N/A			
11	Elected representatives are accountable	N/A	N/A			Only 73% of grassroots respondents indicated this awareness. Others thought politicians had completely free mandate after election
12	Commune officials should not engage in threats, corruption, oppression, or expropriation	N/A	78%			
13	Commune officials must be responsive to villagers	N/A	61%			
14	Voters can remove elected commune officials	N/A	91%			Voters therefore understand a fundamental tenet of democracy
15	Party platform knowledge (party to vote for)				69.7%	
16	Party platform knowledge (each party)				50.1%	This figure is about the response "No" which is 48.2%
17	People who vote up to party platform consideration				68.2%	30.1% others thinks of other factors for their vote
18	Among high reasons for voting, social development			20%	19.5%	Whereas the reasons of gift receiving and making

	and poverty reduction is the highest					promise are only 1.1% and 0.04% respectively in 2003
19	Awareness of political parties solutions to local problems				38.8%	
20	Cheating during the elections	18%		12%	11%	Result showing increasing credibility of voters over the running process of elections
21	Felling of freedom to express political opinions			66%	79%	
22	Number of turnout ⁴⁷	93.7%		87.5%	83.22%	
23	Source of information - Village Chief - TV - Radio	- 9% - 4% - 23%		- 48% - 12% - 13%	(⁴⁸) - 1.1% - 15.8% - 19.8%	In this 2003 elections, the most popular mean is Tape broadcasts in village by car, motor cycle, which enjoys 26.3%
24	Consider elections free and fair	28%		51%	53%	The results showed upward direction of voter views over election development
25	Optimism over vote irregularities decrease			13.6% (in 2000)	9.5%	This decrease change reveals growing optimism of voter over the cutting down of irregularities. The result is reckoned on average basis.
26	Open-minded/political tolerance			16% (in 2000)	81%	Significant change in this area of political perception.
27	People who know whom to complain to			28% (in 2000)	68%	
28	Opinion of reporting election problems				67%	
29	Intelligent opinions on voting ⁴⁹				70.5%	This percentage is on average of 81% and 60% whose response "Ok to take money, but vote for any party"

⁴⁷ NEC statistic

⁴⁸ According to survey conducted on May 16., 2003 by TAF "Democracy in Cambodia-2003, A survey of the Cambodian Electorate", there is totally different result. This last one showed 63%, 25% and 19% consequently. And Commune Chief stands in 3rd position with 24% in this information spread.

⁴⁹ Responses: "It's OK to take money from a political party and vote for the party you like" and "Can take money and vote for any party".

Annex 7:

**Report on the Irregularities of Provincial Electoral Commission's
Recruitment Procedures**

Phnom Penh, May 23, 2003

Recently, the NEC (NEC) had recruited its Provincial Election Commission (PEC)'s components. Beside COMFREL had deployed its provincial staff to observe the PEC selection process throughout the country from April 6 to the official appointment of PEC.

During this period, COMFREL found irregularities as followings:

- The announcement on the selection was not transparent enough and the recruitment process was not open for consultation and evaluation over the criterion of the PEC's composition following to the NEC's regulations and procedures chapter 3, clause 3.7.1.6: *"The PEC members shall have the reputation of honesty and integrity and shall be widely recognized as such by the citizens"*.
- The PEC's composition is not represented all group of Cambodian's society following to the NEC's regulation and procedures. Most of the PEC's component are members and affiliated to the ruling parties.
- It is not respect to the NEC's regulation and procedures chapter 3, clause 3.7.1.8. *"If possible, there should be at least one woman as a member of the PEC"*. Because 14 out of 24 provinces/municipalities have not female component in the PEC.

1- The Recruitment Process of the PEC's Officials:

The PEC recruitment process in this year is not widely open, because according to our observation on the numbers of applicants was decreased 50% if compared to 1998 PEC's selection. This is caused by un-widely announcement and it did not respect to the timeframe for publicizing and distributing the application forms was from 7 to 16 April, 2003, but actually, the people in most provinces/towns did not know about this announcement such as in Kratie, Stung Treng, Takeo, Otdor Meanchey, Siem Reap and Kompong Chhnang. In these provinces, the announcement was not well publicized, the advertisements were posted at the PEC's office only and the time of posting was very short, for only 01 or 02 days.

The PEC's selection commission in this year is different from the 1998 one. The 2003 PEC's selection commissions are consisted of the NEC's secretariat that is in charge of selecting and then submit the screened candidates to the NEC. Whilst the 1998 PEC's members who is responsible for direct selection and decision-making. The recruitment process look to be have good image at outsider but most of the new selected PEC is former PEC officials.

2- Criterion of PEC's Officials:

The article 18 of the law on the Election of Members of the National Assembly (LEMNA) stated that *"The composition of the Provincial/Municipal Election Commissions shall be appointed by the NEC from among populations, public servants and/or officials of the province/municipality who are eligible to vote, except for members of the Royal Cambodian Armed Forces, National Police, court officials, religious priests, provincial governor(s) and deputy governor(s), chiefs and deputy chiefs of districts/Khan, members of the commune/Sangkat council, village chief, village deputy chief and village member"*.

Based on this article and the NEC's regulation and procedures chapter 3, clause 3.7.1.1, no priority is provided to the civil servants or former PEC officials. But in fact, most of the recruited PEC compositions are the former civil servants and ex-PEC official. This does not mean the ex-PEC officials are incompetent. We acknowledge that the ex-PEC officials are competent and experienced in election process. Yet, our concern is that the performance of ex-PEC officials had not provided a credible aspect in solving complaints that break the law or regulation and procedures of the NEC.

In particularly, no punishment was used over the perpetrators related to threat, intimidation, vote buying even if there were enough evidence and name of the violators.

Otherwise, referring to the interview with the political parties in the PEC recruitment process, we found that there were some conflicts between the CPP and FUNCINPEC (according to a top official of FUNCINPEC Party). The rest of the two parties has no their representative in the PEC.

For instance, in Koh Kong, three complaints from four people on the injustice of the PEC selection process were submitted to the NEC. One of the complainants is a FUNCINPEC agent. So far these complaints have not been solved by the NEC requiring the plaintiff collect/seek proof to show the unfair process. Whilst in Rattanakiri, there has dispute among PEC members concerning improper procedure in selecting PEC staff with their partisan and relatives.

3- Composition of the PEC:

Among the 24 PEC, COMFREL found that the majority of their members are from the ruling parties.

PEC Component	Ex- PEC (1998)	New PEC (2003)
Chairman	83%	19%
Vice-chairman	42%	58%
Members	58%	42%

Referring to the above table, even though, there are some changes of the new PEC members up to 50% still most of the PEC's chairman are the former one. According to COMFREL's observers, most of the ex-PEC composition were members or affiliated to the CCP. Based on our finding in 17-provinces/towns, among 126 PEC members, 58% from CPP, 3% from FUNCINPEC, 2% from SRP and the rest 37% from unidentified groups. And following to the primary finding of COMFREL in 11 provinces/towns among PEC members, 79% from CPP and 21% from FUNCINPEC.

The rate of female composition in the PEC in 2003 is 6%, it is decreased if compared with 1998 that consisted of 8%. This issue seem not respect to the NEC's regulation and procedures chapter 3, clause 3.7.1.8: *"If possible, there should be at least one woman as a member of the PEC"*. This clause is meant enough to encourage the NEC to select female candidates. But in reality, 14 out of 24 PECs have no female members. We don't know whether the NEC has a policy to encourage women to be member of the PEC up to 30 or 40% as the NEC's members.

4- Conclusion:

COMFREL still concerns over the PEC component that could not get credibility from the electoral stakeholders especially non-ruling party which contests in the elections. The recruited component does have experiences in election administration work especially in arranging election technique smoothly. Still they cannot show their reliable competence and will in solving electoral infraction in particularly the conflict/issue sensitively related to the politic.

Annex 8:

No. 07.1499/03 NEC
News release 06.212/03 NEC

Phnom Penh, June 28, 2003

Report On The Two First Days Of The Electoral Campaign

The NEC noticed that since the beginning of the electoral campaign until today all competing political parties have rallied their members and supporters to procession through out the country by voicing their respective leaders' speeches on loudspeakers.

However the NEC noticed some incidents as follow:

- The FUNCINPEC In Kampong Cham province and SRP in Phnom Penh verbally assaulted other members' parties, which violated the code of conduct of political parties.
- An assassination occurred in Chroy Sneng village, Kampong Kor commune, Prek Prosab district, Kratie province. A female member of FUNCINPEC killed her husband, member of CPP, because he jointed his party's rally.
- Voting cards in Chuy Chakrey and Svay villages, Treynhor commune, Pouk district Siem Reap province have been collected. (On these electoral cards, FUNCINPEC's seal was added.)
- In Siem Reap province the SRP used portrays of the King.
- Several private radios and TVs acted partially by broadcasting speeches of a few parties only.

The NEC believes that, in general, the first two days of the campaign were satisfactory, but a number of political parties have violated the code of conduct, regulations, procedures and electoral law.

In order to have a process free, fair and just elections the NEC has tried its utmost by issuing guidelines and appeals to political parties, authorities at all levels, media and all electoral commissions to abide by codes of conducts, regulations, procedures and electoral law.

Annex 9:**A. Table of Irregularities Occurred During Polling Day**

Compl: Complaint

Unsolv. Unsolved complaint

Provinces/Towns	Place and Security			Campaign Activities			Insecurity-Obstruction			Technical Irregularities			Rights of Voters			Party Agent Campaign			Other Irregularities			Sub-Total			Station with Irregularities
	Cases	Compl	Unsolv	Cases	Compl	Unsolv	Cases	Compl	Unsolv	Cases	Compl	Unsolv	Cases	Compl	Unsolv	Cases	Compl	Unsolv	Cases	Compl	Unsolv	Cases	Compl	Unsolv	
Banteay Meanchey	2	0	0	3	0	0	23	0	0	7	0	0	0	0	0	2	0	0	1	0	0	38	0	0	22
Battambang	16	0	1	24	2	0	49	5	4	56	10	3	23	14	6	19	9	2	13	3	0	200	43	16	86
Kampong Cham	13	0	0	17	0	0	168	8	1	167	11	8	100	9	5	61	5	0	21	0	0	547	33	14	193
Kampong Chhnang	14	7	6	8	0	0	48	8	6	57	0	0	31	6	4	22	6	4	26	0	0	206	27	20	83
Kampong Speu	2	0	0	2	0	0	12	0	0	26	6	0	10	0	2	4	1	0	10	0	0	66	7	2	28
Kampong Thom	3	2	2	0	0	0	16	3	2	21	11	10	17	15	14	4	3	3	5	0	0	66	34	31	30
Kampot	5	0	0	0	0	0	12	0	0	20	2	0	6	0	0	7	3	1	5	0	0	55	5	1	30
Kandal	2	0	0	2	0	0	24	3	0	43	0	0	13	1	1	20	1	1	3	0	0	107	5	2	68
Koh Kong	11	0	0	26	0	0	103	0	0	75	4	4	13	4	1	15	9	3	13	0	0	256	17	8	74
Kratie	6	0	0	8	0	0	15	0	0	32	0	0	5	0	0	8	2	0	7	0	0	81	2	0	30
Mondul Kiri	15	0	0	0	0	0	14	0	0	4	0	0	4	0	0	0	0	0	0	0	0	37	0	0	15
Phnom Penh	22	0	0	34	0	0	167	2	2	662	1	20	184	23	15	127	69	6	226	10	3	1422	105	46	317
Preah Vihear	3	0	0	1	0	0	57	0	1	124	0	0	15	0	0	3	0	0	24	0	0	227	0	1	50
Prey Veng	3	0	0	2	0	0	17	2	1	19	0	0	13	5	1	7	3	0	6	0	0	67	10	2	43
Pursat	3	0	0	1	2	0	21	1	0	25	4	0	10	3	0	8	4	2	2	0	0	70	14	2	25
Rattanakiri	1	0	0	0	0	0	0	0	0	13	0	0	7	0	0	0	0	0	11	0	0	32	0	0	7
Siem Reap	22	0	0	14	2	0	23	1	1	85	4	2	23	0	0	17	1	0	11	0	0	195	8	3	70
Sihanouk Ville	3	0	0	4	0	0	22	3	0	34	0	0	16	1	2	13	1	0	10	0	0	102	5	2	36
Stung Treng	1	0	0	2	0	0	0	0	0	7	0	0	5	1	0	6	1	0	2	0	0	23	2	0	13
Svay Rieng	3	1	1	0	0	0	2	1	1	3	1	1	5	3	2	0	0	0	1	0	0	14	6	5	6
Takeo	15	2	0	1	0	0	51	1	0	59	10	0	15	0	0	37	4	1	5	2	0	183	19	1	56
Utdor Meanchey	9	1	1	10	1	0	56	5	3	56	1	1	16	4	0	7	3	1	6	3	1	160	18	7	50
Kep	0	0	0	0	0	0	6	0	0	1	0	0	0	0	0	2	1	0	0	0	0	9	1	0	3
Pailin	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2	2	0	1	0	0	5	2	0	5
Total	174	13	11	159	7	0	906	43	22	1596	65	49	533	89	53	391	128	24	409	18	4	4168	363	163	1340

B. Table of Irregularities Occurred During Counting Periods

Provinces/Towns	Ballot Safety			Irregularities-Threat			Votes Examination			Fraud of Ballot			Sub-Total			Stations with Irregularities
	Cases	Complaint	Unsolved	Cases	Complaint	Unsolved	Cases	Complaint	Unsolved	Cases	Complaint	Unsolved	Cases	Complaint	Unsolved	
Banteay Meanchey	1	0	0	1	0	0	0	0	0	1	0	0	3	0	0	3
Battambang	7	0	0	14	1	0	4	0	0	21	0	0	46	1	0	24
Kampong Cham	6	0	0	39	1	0	6	0	0	22	0	0	73	1	0	37
Kampong Chhnang	9	0	0	12	0	0	1	0	0	14	1	0	36	1	0	17
Kampong Speu	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	1
Kampong Thom	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Kampot	449	527	0	12	1	0	0	0	0	0	0	0	461	528	0	6
Kandal	9	0	0	1	0	0	0	0	0	0	0	0	10	0	0	8
Koh Kong	13	0	0	32	3	0	0	0	0	12	1	0	57	4	0	20
Kratie	3	0	0	3	0	0	0	0	0	2	0	0	8	0	0	5
Mondul Kiri	0	0	0	0	0	0	0	0	0	2	0	0	2	0	0	2
Phnom Penh	9	0	0	225	25	20	1	1	0	83	2	0	318	28	20	64
Preah Vihear	1	0	0	16	0	0	5	0	0	18	0	0	40	0	0	14
Prey Veng	502	390	0	7	0	4	6	2	1	4	1	0	519	393	5	12
Pursat	2	0	0	2	1	0	0	0	0	3	1	0	7	2	0	5
Rattanakiri	10	0	0	12	0	0	3	0	0	3	0	0	28	0	0	4
Siem Reap	2	0	0	21	2	0	2	0	0	7	1	0	32	3	0	17
Sihanouk Ville	0	0	0	16	0	0	1	0	0	10	2	2	27	2	2	10
Stung Treng	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	1
Svay Rieng	1	0	0	3	0	0	0	0	0	1	0	0	5	0	0	3
Takeo	0	0	0	11	1	1	3	0	0	0	0	0	14	1	1	14
Utdor Meanchey	6	0	0	14	2	0	0	0	0	3	0	0	23	2	0	6
Kep	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Pailin	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	1,030	917	0	441	37	25	32	3	1	208	9	2	1711	966	28	273

Annex 10:

Date: September 08, 2003

Appeal for New Government Negotiation

We, representatives of NGOs have noticed that there will be a political tension of the establishment of a new government resulting from July 27, 2003 general elections. This tension may affect the stability of the country governance and can lead to economic and social crisis, which affect the standard of living of people at large.

We, the representatives of NGOs would like to make a strong appeal to the political leaders whose parties won national assembly seats in the July 27 elections to find a way to form a new government by considering national and people interests are more important than the personal and party interests.

In the negotiation process to find possible ways to form the new government, we would like to make an appeal to the political-party leaders to set up a general political agenda for the interest to the country and people at large. We would also like to make further appeal to political-party leaders to include priority concerned issues in the agenda of the new government by focusing on various effective strategies to make the agenda effectively implemented. We would like to recall some priority concerned issues which the three elected political parties have set in their agendas during the recent election campaigns most of which concerned over the country construction and development, which are not only our civil society concern, but also the concern of Cambodian people at large. The concerned issues are as follow:

- 1- *the strengthening of effective judicial system, which is independent from the government and political parties,*
- 2- *the elimination of corruption,*
- 3- *the formation and strengthening of various democratic institutions such as the Anti-corruption Commission, National Auditing Agency, Senate (the appointment and adoption of the Senate Election Law), National Congress, National Human Rights Commission, NEC, etc.*
- 4- *the increase the salary of the government officials to the maximum amount to enable them to survive in order to avoid corruption conduct,*
- 5- *the effective implementation of the poverty reduction strategies through ensuring political stability, sustainable economic growth and providing support to the poor and vulnerable people,*
- 6- *the prevention of exploitation of, and violence against women and children,*

Cambodian people have already performed their task and duties in the elections and at the moment, it is the turn of political parties to use their own duty and task to response to the will of the people by forming and ruling the new government, otherwise leaders of the elected political parties must be historically responsible for any serious country incidents which might happen in the near future.

If you have any questions, please keep in touch with the following people:

- 1- Mr. Thun Saray, President of ADHOC and Facilitator of CHRAC
- 2- Dr. Pung Chhiv Kek, President of LICADHO and President of CAMBOW
- 3- Mr. Koul Panha, Executive Director of COMFREL
- 4- Mr. Russell Peterson, Representative of the NGO Forum on Cambodia
- 5- Mr. Nhek Sarin, Executive Director of Star Kampuchea
- 6- Mr. Hang Puthea, Executive Director of NICFEC
- 7- Mr. Mak Sarath, General Secretary of Youth Council of Cambodia (YCC)

Joint Statement

on

Proposal of Main Points for the Agreement among the Three Elected Political Parties Pertaining to Building Confidence in the Responsibility and Solidarity of the Royal Government and Key Democratic Institutions

Phnom Penh, 30 October 2003

We are calling for the three elected political parties to consider and improve key main points in order to build confidence in the responsibility and the solidarity of the future Government and key democratic institutions. We request that the parties negotiating to form government should work together to develop an agreement that is legitimately recognized and made public. This joint policy and action plan should aim to create a more accountable and transparent system for measuring the performance and good governance of all public institutions representing the interest of the Cambodian people.

The following includes some significant points promoted for consideration in the negotiation between the parties and we hope will be inserted in the expected agreement on the joint policy and action plan:

1. Strengthen and Encourage the Legitimacy of Non-Partisan Institutions:

We ask that the parties consider setting standards for establishing independent, non-partisan government bodies including the key institutions of the Election Administration bodies, Constitutional Council, Supreme Council of Magistrates, National Audit Authority and all other major national institutions established by the Constitution. Amend the law on General Statute of Royal Cambodian Armed Forces, Law on Co-statute of Civil Servant. This aims at preventing all the three types of Cambodian Armed Forces- Gendarmerie, Military, and National Police *from being political party member*. Law on the Statute of Judges must spell out *not to be political party member*.

2. Establish Democratic Institutions Mandated by the Constitution:

These include the Supreme Council of National Defense and the National Congress as neutral and nonpartisan bodies.

3. Creation of New and Independent Institutions within the Constitution:

Human Rights, National Election and Anti-Corruption Commissions should be written into the Constitution.

A separate, independent and non-partisan committee must be established to construct clear guidelines and criteria for selection of candidates for all Constitutional Bodies.

4. Adopt New Laws that Promote Greater Transparency and Accountability:

These include the Anti-corruption Law which includes Asset Declaration of Prime Minister, Cabinet Members, Governors, Senators, National Assembly members and any elected official before, during and after their term in office; Political Financing Law; Code of Conduct for Public Officials; There should also be a mechanism in the National Assembly or Senate on establishing rules for any leader of the government who violates the code of conduct, oath of allegiance in taking office, or article 96 and 97 of the Constitution, or being absent with no reason from the parliament.

5. Promote a Fairer Political Process:

We urge that the Prime Minister position have a limit to two terms in office. Adopt a new law on Senate Elections. Amend the Law on Election of Representatives in order to change from a proportional to mixed system (proportional and majority systems) which is also open independent individuals running for elections.

6. Constitutional Clarification on Coalitions:

In the case when a coalition partner(s) withdrawal results in less than two-thirds seats, government is dissolved and a new government must be formed.

7. Amendment of current Constitution Articles:

Amend article 97 of the Constitution allowing any Commission of the Parliament to invite the Prime Minister or Minister(s) to explain orally any issue relating to their responsible field of work. Amend current article 90, 98 and 119 of the Constitution, adding that "*The National Assembly shall pass a vote of confidence in the Royal Government by an absolute majority (50 percent +1 vote) of the National Assembly.*"

8. Strengthening Political Parties:

Political parties recognized by the Parliament should be provided funding from the National Budget.

We strongly request negotiating parties to consider all points and not see them in isolation.

We are very pleased and well prepared to participate and discuss in detail the key points mentioned above with all elected political parties.

[End]

Working Groups

1. Mr. Thun Saray, First Representative of COMFREL and President of ADHOC, Tel: 016 880 509
2. Mrs. Kek Galabru, Coordinator of Cambodian Human Rights Action Committee and Executive Director of LICADHO, Tel: 012 802 506
3. Mrs. Chea Vannath, President of Center of Social Development, Tel: 016 831 905
4. Mr. Sok Sam Oeun, Member of Board of Director of COMFREL and Executive Director of CDP, Tel: 012 901 199
5. Mr. Koul Panha, Executive Director of COMFREL, Tel: 012 942 017
6. Mr. Hang Puthea, Executive Director of NICFEC, Tel: 012 959 666
7. Mr. Pol Ham, Director of Advocacy and Policy Program, Pact Cambodia, H/P: 012 616 616.
8. Mr. Nhek Sarin, Executive Director of STAR Kampuchea, Tel: 011 725 873
9. Mr. Young Kim Eng, Member of Board of Director of COMFREL, Chairman of YCC and Executive Director of KYA, Tel: 016 82 82 11

For detail, please contact:

Mr. Thun Saray, First Representative of COMFREL and President of ADHOC,

Tel: 016 880 509

Mrs. Kek Galabru, Coordinator of Cambodian Human Rights Action Committee and Executive Director of LICADHO, Tel: 012 802 506

Mr. Sok Sam Oeun, Member of Board of Director of COMFREL and Executive Director of CDP, Tel: 012 901 199

Mr. Koul Panha, Executive Director of COMFREL, Tel: 012 942 017

Annex 11: Statement on Election Reforms for 2003 Consultative Group Meeting

(i) Introduction

The third National Assembly Election, which took place on 27 July 2003, drew praise from both national and international monitoring organizations for the improved organization and implementation of the electoral process in Cambodia. Yet, there were some concerns raised as to the neutrality of this election management. According to the statement made by the meeting of Analysts Team on Cambodia in 2002 issues and recommendations on Election Reforms were raised urging complete democracy implementation aimed at improvement of governance of reducing poverty in Cambodia.

This new statement will highlight implemented results, and raise some more priority issues that demand immediate reforms before the next general election takes place. This statement will also raise some new priorities including the **Senate Election**.

The following Priorities and Recommendations represent the views gained from discussions amongst election monitoring organizations (EMO) and Human Rights NGOs.

(ii) Key Issues

Restructure NEC with clear procedure correction of recruiting and selection and written in Constitution

Although the National Election Commission (NEC) was restructured prior to the 2003 election, from 11 to 5 persons, it was noted that problems arose in relation to the procedure for selection including the failure to follow open-guidelines. Thus the selection of candidates for the NEC were made by Ministry of Interior, which was regarded as being under the control of the government led by ruling party. These five NEC's composition are selected by co-minister of Ministry of Interior from CPP party three (3) persons and other two by co-minister of Ministry of Interior from FUNINPEC before being submitted to Council Minister for approval and National Assembly for the final vote of approval.

If we examine the NEC's composition and its members at all levels, it would appear that most are from ruling party with a small number from FUNCINPEC. According to a study carried out by Committee for Free and Fair Election in Cambodia (COMFREL), in Provincial Election Commissions (PEC) 70% of officials were affiliated with CPP, 20% with FUNCINPEC and the other 10% from the public. Several parties were unhappy at this balance and raised issue of whether the NEC and its subordinate bodies were in fact neutral. A lack of trust in the bodies that organize the election and enforce the election law ultimately undermines the overall process and final result.

The electoral system should be revised so as to encourage independent candidates:

The Cambodian electoral process remains based upon a system of proportional representation. There are concerns that the current system does little to encourage National Assembly members to communicate with the electorate regarding their actions as elected officials and the discharge of their election promises.

At the same time the system gives power to political leaders in relation to listing representative candidates and commune/sangkat council. Elected representatives and commune/sangkat council have been threatening with expulsion from their positions, if they did not work towards the parties' interests. The stranglehold of the large parties over the political process combines with the current system to prevent independent candidate from standing for election.

A quota should be established by which women members make up at least 30% of those on political party/government policies:

As a result of the 2003 Election, there are about 25% of females candidate registered. We notice on elected females candidates, there still low as previous assembly: only 9% of 123 parliamentarians. This issue, because, of all political parties don't have real will to urge and encourage the females to be more elected. 493 equal to 25.88% female were registered as candidates and 12 of them were voted into the assembly as result of 27 July National Election, 2003. And 603 equal to 16.91% females were registered as candidates and 14 females were voted into the assembly as a result of the 1998 election. Therefore, Civil Society urges the Royal Government and all political parties to improve the representation of women via encouraging them to stand as female candidates.

Strengthening the competence and power of an independent tribunal to deal with election law violations

In the 2003 election, NEC once again failed to effectively operate an effective complaints system. The procedures dealing with complaints were ineffective in their drafting and operation to punish electoral law violators and enforce the law in relation to serious problems such as vote buying cases of intimidation. A large number of cases, especially at the CEC level were dealt with through procedures of conciliation rather than a hearing. This conciliation procedure did not deter electoral violations; rather it seemed to encourage perpetrators to continue to acts and increased the culture of impunity. At the same time, jurisdictional problems arose in relation to the NEC's competence and that of the courts in relation to different types of election offence. The law needs to be clarified and the roles of all bodies made clear. Finally better training of election officials needs to take place in order that they have a full understanding of the electoral complaint procedure.

Access To Media

Media access is large controlled by the ruling party especially broadcasting. However, compared to previous elections, it can be concluded that there has been progress in campaign broadcasting in relation to the 2003 election. This has been as a result of activities undertaken by national and international civil society in establishing programs such as voter education, political debates, and equitable political news broadcasts.

Strengthening non partisan Election Monitoring Organizations (EMO):

According to the previous election monitoring, we draw concerns on the acts of Gov't/ruling party that try to create mechanism of actively using its impacts to control neutrality and some works of NGOs' monitoring election. For instance, in 1998 National Election, Gov't/Ruling Party put one member into composition NEC member who was clearly known that he was in CPP in the roles of NGOs'representative, although there was unpleasant from civil society. Till 2002, the year of Commune/Sangkat Council Election, Gov'n't/ ruling party tried to establish on NGO **COORDINATION COMMITTEE on MONITORING ELECTIONS** aiming at controlling on EMO that may affect independency of EMO. This 2003 National Election, the ruling political parties support a particular group of NGO consisting about 76 organizations. They are non-government organizations, but their actions absolutely support all acts of ruling. These factors caused public confusion on neutrality of Electoral Monitoring NGOs.

Senate Elections

NGOs strongly express our support for elections to be held for the second term of the Senate, in accordance with the spirit of the Constitution of the Kingdom of Cambodia. His Majesty Samdach Preah Norodom Sihanouk, King of Cambodia refused to use his special privileges to appoint Senators, who are not elected through the elections, stating, "*The Senate must be born from people*". An election is essential for the observance of, and respect for, democracy and the Constitution in Cambodia. It ensures full participation from all parties who will serve the public interest of all ways of life of the people.

The suggestion that the lack of finances in the country should lead to the appointment of senators is not legitimate. A failure to organize an election because of the lack of budget for which the Government itself is responsible, and does not explore ways to generate resources, will undermine the observance of democracy in Cambodia.

Noticeably, so far a number of Senators invested their efforts to draft "Law on the Election of Members of Senate". We and other election stakeholders will encourage participatory discussions on the draft Law on the Election of Members of Senate by members of the National Assembly, government, civil society, donors community, political parties and lawyers, in order to explore possibilities.

(iii) Recommendations

► Restructure NEC with clear procedure correction of recruiting and selection and written in Constitution-In order to improve information and debate of the media monitoring of political platforms. Both state-run media and private-run media, must have procedures and guidelines the equity and equal access to media.

- State-owned media times for elections should provide free of charge to NGOs voter education program.
- The law on broadcasting media should be established TV and Radio.

- ▶ The legislative and executive branches should take full responsibility for the development of legislation on Senate elections and thereafter for the organization of this election
- Amend chapter 3 of the National Assembly Election Law in relation to the NEC. In particular:
Recheck the structure of the NEC keeping 5 persons membership but making sure they are not political representatives, hold positions in the RGC or key national institutions within 3 years of being appointed to the NEC

Members should be independent, neutral, non-political affiliated, competent and good reputation

Members should hold higher education advance degree, and/or been in post as a judge for an extended period, and/or be of good reputation. Female candidates should be encouraged.

In terms of the nomination procedure - a recruitment commission should be established made up of: representatives of political parties as member of National Assembly, non-government organizations and the Cambodian Bar Association.

The names of candidate's names should be released to the public in order to encourage their feedback before being submitted to the National Assembly for confirmation.

Members of the electoral body should have the immunity or privilege as National Assembly members.

- To strengthen the function and competence of NEC members, an independent body should be established, this body should have the right to punish NEC members if they violate the election law.

The electoral system should be revised so as to encourage independent candidates:

- The Electoral System should operate on a mixed-system voting system (individual and proportional systems combined) to provide the opportunity for independent-group to contest the election.
- Political party and non-political party candidates should be able to contest the election in all constituencies.

Establish a quota for female candidates

- Determine a quota of at least 30% of female candidates on all political party's lists. This quota should also be stated in the electoral legal framework or the policy of political party in order to provide women a more effective opportunity to take part in social and political affairs.
- Female candidate's names should alternate with male candidate's names starting from the top of the candidate list.

Strengthening the competence and power of an independent tribunal to deal with election law violations

- Increase the provision of information and training of court officials, the police, and the general public on election complaints procedures.
- Establish bodies to conduct hearing independent of the NEC and within the existing judicial framework.
- The police at all levels should coordinate with polling staff of the sub-committee or department of investigation of the NEC.

Media Access

- In order to improve information and debate of the media monitoring of political platforms both state and private run media must have procedures, guidelines and law regarding equal access to media.
- State-owned media outlets should provide airtime free of charge to NGOs for voter education programs.

For more information and the issues raised in this paper, please contact:
Election Sectoral Group, COMFREL, Tel: 023-884-150/023-883-967
Email: comfrel@online.com.kh or comfrel@forum.org.kh

Annex 12: Observation Methodology and Checklists for COMFREL's Observers on Polling and Counting Days

I. Polling Observation Methodology

In advance of polling, COMFREL observers were given training and assigned checklists (refer to below checklists) with detailed information summarized into 16 major criteria for polling procedure. The criteria on which polling day was assessed are as follows:

1. Were there any campaign activities on cooling off period (June 26, 2003) and polling day?
2. Were there any insecurity in the village surrounding the polling station?
3. Were there any essential polling station materials missing?
4. Were the polling station staff competent for their duties and did they apply the correct procedure?
5. Were the polling station staff neutral?
6. Were voters not registered on the list allowed to vote? (Inclusion)
7. Were voters registered on the list not allowed to vote? (Exclusion)
8. Was there sufficient guarantee of voter secrecy?
9. Were unauthorised persons allowed into the polling station?
10. Did unauthorised persons interfere with the polling procedure?
11. Was there any intimidation of voters?
12. Was there any intimidation of polling station staff?
13. Did anyone attempt to bribe voters?
14. Were there any problems outside the polling station?
15. Were there any problems at closing?
16. Were there any problems during the transport of the ballot boxes to the commune counting centre?

The data recorded on polling day observer forms was consolidated at the provinces or Phnom Penh, first by adding up the number of irregularities at polling stations in each commune and then the totals for each category in each district and province. In addition, provincial offices sent in information on specific incidents during the polling and vote counting processes. On the evening of polling day, information on polling day observations had begun arriving at the COMFREL Central Office in Phnom Penh.

Initial Assessment of the Polling Process

In a press conference after polling day, COMFREL announced that according to reports received, the 2003 National Assembly Elections were conducted in an improved manner technically in comparison to previous elections, an opinion that has been shared by several election monitoring organizations. However, COMFREL and NICFEC appeal to the NEC to investigate and satisfactorily solve the political party and voter complaints.

Despite instances of irregularities and cases of political intimidation and vote buying, more political parties have demonstrated dynamism in promoting their political platforms which is a clear indication of Cambodia's development towards democratization. However widespread violations of the election law were still taking place and need to be analyzed and addressed especially during pre election period. *For details please refer to COMFREL-NICFEC Joint Statement on the Finding of Cooling Day, Polling and Ballot Counting Periods, August 6, 2003 or [section 12](#).*

II. Vote Counting Observation Methodology

Comfrel observers were assigned checklists with detailed information summarised an overall assessment of vote counting (see below checklist). The criteria on which vote counting was assessed (technical irregularities equal to 50% of counting station) are as follows:

1. The transparency of counting process;
2. Observer and/or party agent is not allowed to monitor;
3. The lock of the ballot box is cut or broken;
4. Vote count cheating;
5. Wrong performance of procedures from two times in the counting centre or team (including the electoral official does not respect working hour, they does not exercise their task following the manual, etc);
6. The electoral official is not neutral or they violate the code of conduct;
7. Suspending of counting process for a period of time without an appropriate reason;
8. The electoral official does not receive and solve complaint;

Vote counting observation data was subsequently consolidated at the provincial offices or in Phnom Penh. In addition, provincial offices sent in information on specific incidents during the vote counting process.

Initial Assessment of Vote Counting

On the day immediately after vote counting, Comfrel held a press conference and announced its initial assessment of the counting process. Comfrel reported that the count had been held in an atmosphere generally free from deliberate violations of the counting process. The counting had taken place smoothly and with few incidents. Problems and irregularities had been mainly isolated and did not represent a prevailing trend.

The incidents reported thus far did not appear to be part of a widespread campaign to undermine the counting process, instead having resulted more from technical problems due to the complexity of the count reporting process. Comfrel and other observers and political party agents experienced no significant access problems. In the vast majority of counting centres, Comfrel observers were not hindered from entering and observing the counting process.

Overview of Vote Counting Observation Results

Comfrel observers were on hand at almost all of the country's 1,621 commune counting centres (divided into 4,168 counting teams) to note the ballot count for parallel vote tabulation. Detailed reports on the vote counting process were received from all commune counting centres or 100% of the total.

During the vote counting, Comfrel observers reported irregularities at 273 out of 4,168 counting groups or 5.68% of those where a detailed watch was kept on the counting process. For details, please see [section 12.4](#).

III. Parallel Vote Tabulation

Alongside monitoring the vote count, Comfrel observers also noted the ballot count for each of the contesting political parties at the counting groups. The count for each commune counting groups and centre was then entered into a computer database and totaled to produce a Parallel Vote Tabulation.

For this year on the counting day, COMFREL try to process a new approach of randomly quick count for the election results. We, central office's staff, contacted with our observers through mobile phones directly from around 160 communes (~10% of all communes) in 15 provinces/towns where hand phone coverage is available. Partial results were released immediately through email, fax, phone, radio FM102, print media and posted at COMFREL central office. Many interesting people came to COMFREL office asking for partial results.

Soon after the completion of the counting, Comfrel regularly announced its preliminary tabulation results. It was not long, however, before a discrepancy was discovered in the seat allocation formula used on Comfrel's computers and the allocation used at the NEC, which produced different numbers of seats won for the three major political parties.

Other than for the discrepancy discovered in seat allocation and later corrected on Comfrel's computers, the results obtained through Comfrel's Parallel Vote Tabulation were very close to the results announced by the NEC. *(Please see separate report for details)*



COMMITTEE FOR FREE AND FAIR ELECTIONS IN CAMBODIA (COMFREL)

CHECKLIST ON POLLING DAY, 27 July 2003

Identity of Observer Responsible for Filling the Checklist on Polling Day for 2003 National Elections:

Observer's name:..... Comfrel ID card:..... Observer ID Card:.....
 Polling Station (PS) no:..... Polling Station location:..... Village:.....
 Commune/Sangkat:..... District/Khan:..... Province/city:.....
 No. of voters in the list of PS:..... No. of voters who cast their votes:.....
 Observer's Signature:..... Date of completing the checklist:/...../2003

Note: Please ticks in the box to indicate problems or irregularities happened and counts the total cases and complaint (both verbal and written one) by political party and elaborate the incident in the space provided and total the unsolved complaints.

COOLING OFF DAY (No campaign activities)

I. Cooling Off Periods - A day before polling day (July 26, 2003)

Nº	Questions (Campaign and Security)	Yes	No. of cases	No. of complaints
1	Is there a campaign activity on July 26, 2003?	<input type="checkbox"/>		
2	Is there a case of not sending the voting equipments/materials to the polling station on time — July 26, 2003?	<input type="checkbox"/>		
3	Is there insecurity for the equipments/materials and the place where they are kept?	<input type="checkbox"/>		
4	Is there insecurity in the village surrounding the polling station?	<input type="checkbox"/>		

If there is/are, please specify: How many cases? Where? Who did? Who are the victims? How did it happen?

.....

POLLING DAY

II. Polling Day (July 27, 2003)

Nº	Questions (Campaign Activities)	Yes	No of Cases	No of cases complaint
5	Is there any political party who gave large-scale transportation to voters?	<input type="checkbox"/>		
6	Do you see or hear there is the campaign activities, gift giving or campaign for any political party or candidate?	<input type="checkbox"/>		
7	Is there an ongoing distribution of leaflet or poster or sticking the leaflet or poster for any party or candidate?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who did? Who are the victims? How did it happen?

.....

Nº	Questions (Threat, obstruction and insecurity)	Yes	No of cases	No of cases complaint
8	Do you see local authority overseeing the voters in front of the polling station causing fear or losing the secrecy of the vote?	<input type="checkbox"/>		
9	Is there anyone taking weapon in or outside the queue?	<input type="checkbox"/>		
10	Is there anyone obstructing the voters by giving money, or material and telling the people not to cast the vote?	<input type="checkbox"/>		
11	Is there anyone causing fear (both verbal and gesture) in the polling station?	<input type="checkbox"/>		
12	Is there any armed forces members who wear uniform walking into the polling station?	<input type="checkbox"/>		
13	Is there insecurity or threat in the polling station without the solution of security station of PS or PS chief?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who did? Who are the victims? How did it happen?

.....

Nº	Questions (Irregularity of Procedure)	Yes	No of cases	No of cases complaint
14	Are there any polling station official (PSO) or other voting materials arriving later than six o'clock in the morning?	<input type="checkbox"/>		
15	Is there a case of starting to cast the vote without adequate material according to the procedure?	<input type="checkbox"/>		
16	Is there a case of not showing the empty ballot box before casting the vote?	<input type="checkbox"/>		
17	Is there a case of not writing the PS code and stamping on the ballot box?	<input type="checkbox"/>		
18	Is there a case of opening the PS later than 7 o'clock?	<input type="checkbox"/>		
19	Are there any irregularities that lead to the losing of secrecy of the vote?	<input type="checkbox"/>		
20	Is there the case of not following the procedures of arranging the seat for the PS members?	<input type="checkbox"/>		
21	Is there a case of not examining the forefinger or not putting the voter's forefinger in the indelible-ink or not examining the voter's identity with the list or giving the voter more than one ballot paper?	<input type="checkbox"/>		
22	Is there a case of postponing the voting process eventually?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who did? Who are the victims? How did it happen?

.....

Nº	Questions (Rights to Vote)	Yes	No of cases	No of Complaint
23	Is there a refusal of eligible voter to vote?	<input type="checkbox"/>		
24	Are there any complains from voters for the refusal of PSOs? (Officials did not give the voter the form no. 1202)	<input type="checkbox"/>		
25	Is there anyone who is not eligible to vote and anyone who has the ink mark on their forefinger is allowed to vote for the second time?	<input type="checkbox"/>		
26	Is there any voters who can vote more than one time?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who did? Who are the victims? How did it happen?

.....

N ^o	Questions (Complaints of Party's Agents)	Yes	No of cases	No of Complaint
27	Are there any complaints from the party's agents?	<input type="checkbox"/>		
28	Is there a refusal or ignorance in giving complaint form 1202?	<input type="checkbox"/>		
29	Is there a case of not solving the party agent's complain or complains made by other observers?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who did? Who are the victims? How did it happen?

.....

N ^o	Questions (Other Irregularities)	Yes	No of cases	No of Complaint
30	Are there any other irregularities did not mention above?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who did? Who are the victims? How did it happen?

.....

IN THE POLLING STATION AFTER FINISHING CASTING THE VOTE
(Number of Ballot Paper in this Polling Station)

III. Minute on the Ballot Paper

Ballot Paper after casting the vote in this Polling Station

<i>Types of Ballot Paper</i>	<i>Number of Ballot Paper</i>
a. Ballot Paper Received
b. Spoilt Ballot Paper
c. Unused Ballot Paper
d. Ballot Paper Given to voters
e. Ballot Paper in the Ballot Box

IV. Observer Evaluation

<input type="checkbox"/>	THE ELECTION PROCESS IS UNACCEPTABLE DUE TO TOO MUCH SERIOUS CASES (If you tick this box, you must attached the report explaining the incident)

If there are any complains from any political parties, please attach!



COMMITTEE FOR FREE AND FAIR ELECTIONS IN CAMBODIA (COMFREL)

Report need to be sent urgently
Serious Violence, Violation, Threatening, Obstruction

Name of the reporter:..... Sex:..... Age:..... Position:.....
District/Khan:..... Province/Municipality:.....
Date of filling the report:..... Time:.....
Date of completing the filling:..... Time:..... Signature:.....

The Following for the elaboration of cases happened:

Incident Happen: At..... (Morning/Afternoon), Date:.....
Where It happened: At..... Village/Phum:.....
Commune/Sangkat:..... District/Khan:.....
Identity of Offender: Name:..... Sex:..... Age:..... Position:.....
Institution/Party.....
Number of Offenders:..... List Following:.....
Identity of Victim: Name:..... Sex:..... Age:..... Position:.....
Institution/Party.....
Other Victims:..... List Below:.....
Describe the Incident:.....
Intervention:.....
Observer Comments:.....
Witnesses:.....

Upon Completing this Report, Please send it to Provincial Coordinator or District Contac Person Immediately!!!



COMMITTEE FOR FREE AND FAIR ELECTIONS IN CAMBODIA (COMFREL)

CHECKLIST AT THE COUNTING GROUP 28 July 2003

Identity of Person Responsible for Filling the Form (Village Volunteer or Commune Activist)
 Observer's Name:..... Comfrel ID card:..... Observer ID Card:.....
 Commune:..... District:..... Province:..... Observer's Signature:.....

I. Minute on Ballot Paper

Voting Group No:.....	Polling Station No:.....	Polling Station No:.....	Polling Station No:.....
<i>Types of Ballot Paper</i>			
a. Ballot Paper Received			
b. Spoilt Ballot Paper			
c. Unused Ballot Paper			
d. Ballot Paper Given to Voters			
e. Ballot Paper in the Ballot Box			

Note: Please ticks in the box to indicate problems or irregularities happened and counts the total cases and complaint (both verbal and written one) by political party and elaborate the incident in the space provided and total the unsolved complaints.

II. KEEPING THE BALLOT PAPER from July 27 afternoon to July 28, 2003

Nº	Questions (Ballot Paper Security)	Yes	No of cases	No of complaint
1	Is there a drop out ballot paper when taking to the counting center?	<input type="checkbox"/>		
2	Does the locked in the ballot box open?	<input type="checkbox"/>		
3	Does the safeguard of ballot box participate by all parties' agents and does it show transparency?	<input type="checkbox"/>		
4	Are there any problems with security room (room where ballot boxes are stored)?	<input type="checkbox"/>		
5	Are there any problems with security room, for example unauthorized people can get in and out...etc?	<input type="checkbox"/>		
6	Are there any disturbances when safeguarding the ballot boxes?	<input type="checkbox"/>		
7	Is there a lack of electricity or light for the people who are safeguarding the ballot boxes?	<input type="checkbox"/>		
8	Are there any chaos—explosion, fire or collapse the building when safeguarding the ballot boxes?	<input type="checkbox"/>		
9	Is there the lost of ballot boxes?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who did? Who are the victims? How did it happen?

.....

III. Irregularities and Threat

Nº	Questions (Vote Counting Group)	Yes	No of Cases	No of complaint
10	Is there anyone who brings weapons into the counting center?	<input type="checkbox"/>		
11	Are there any threats or obstruction of the observers or parties' agents?	<input type="checkbox"/>		
12	Are there any disturbances of the counting process?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who/which party did? Who/which party is the victim? How did it happen? Who/which party filed complain? Describe?

.....

Nº	Questions	Yes	No of cases	No of complaint
13	Does the counting center include more than three Polling Stations?	<input type="checkbox"/>		
14	Is there any dropping out of ballot paper during the counting process?	<input type="checkbox"/>		
15	Is there the case of not showing the ballot paper to all participated?	<input type="checkbox"/>		
16	Is there the rejection of ballot paper without the agreement from all participated?	<input type="checkbox"/>		
17	Are there any irregularities on stating the result of the ballot paper?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who/which party did? Who/which party is the victim? How did it happen? Who/which party filed complain? Describe?

.....

Nº	Questions	Yes	No of cases	No of complaint
18	Is there a delay in counting the ballot paper?	<input type="checkbox"/>		
19	Is the counting center an appropriate place?	<input type="checkbox"/>		
20	Are there any rejects of observers, parties' agent during the counting?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who/which party did? Who/which party is the victim? How did it happen? Who/which party filed complain? Describe?

.....

Nº	Questions (Examination of ballot paper in the ballot box)	Yes	No of cases	No of complaint
21	Are the polling station code and the ballot box different from the previous time?	<input type="checkbox"/>		
22	Is there the lost of secret stamp?	<input type="checkbox"/>		
23	Is there the variable or lost of serial number?	<input type="checkbox"/>		
24	Are there any lost of unused ballot paper?	<input type="checkbox"/>		
25	Is there the increase of number of voters (number of voters are different from when the voting finished)	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who/which party did? Who/which party is the victim? How did it happen? Who/which party filed complain? Describe?

.....

Nº	Questions (Vote Cheating)	Yes	No of cases	No of complaint
26	Is there the cheating of calling out the vote (many frequent miscalling)?	<input type="checkbox"/>		
27	Are the marks of the vote on the board frequently wrong?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who/which party did? Who/which party is the victim? How did it happen? Who/which party filed complain? Describe?

.....

Nº	Questions	Yes	No of cases	No of complaint
28	Do they count one ballot paper more than once because of irregularities or partiality?	<input type="checkbox"/>		
29	Do they count the vote without finishing the vote?	<input type="checkbox"/>		

If there Is/are, please specify: how many cases? Where? Who/which party did? Who/which party is the victim? How did it happen? Who/which party filed complain? Describe?

.....

IV. The Ballot Paper Used in the Group

↳ **The Total Ballot Paper from All Ballot Boxes in This Group**

Valid Ballot Paper	Invalid Ballot Paper	Total Ballot Paper
Amount:.....	Amount:.....	Amount:.....

V. The Total Support Vote Gained by Each Political Party

Political Party	Support Vote Gained (in number and in words)
1.	In number:..... In words:.....
2.	In number:..... In words:.....
3	In number:..... In words:.....
4	In number:..... In words:.....
5	In number:..... In words:.....
6	In number:..... In words:.....
7	In number:..... In words:.....
8	In number:..... In words:.....
9	In number:..... In words:.....
10	In number:..... In words:.....
11	In number:..... In words:.....
12	In number:..... In words:.....
13	In number:..... In words:.....
14	In number:..... In words:.....
15	In number:..... In words:.....
16	In number:..... In words:.....
17	In number:..... In words:.....
18	In number:..... In words:.....
19	In number:..... In words:.....
20	In number:..... In words:.....
21	In number:..... In words:.....
22	In number:..... In words:.....
23	In number:..... In words:.....

VI. Complains

↳ How many complains made by political parties?

Number of Complains:.....
Number of Complains:.....

- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases
- ↳ Party, filedcomplain s =cases

If there are any complains from any political parties, please attach!



COMMITTEE FOR FREE AND FAIR ELECTIONS IN CAMBODIA (COMFREL)

CHECKLIST FOR THE TOTAL RESULT AT THE COUNTING CENTER

Identity of Person Responsible for Filling the Form (For Commune Activists)
 Observer's Name:..... Comfrel ID card:..... Observer ID Card:.....
 Commune:..... District:..... Province:.....
 Observer's Signature:..... Date:...../...../2003

(TOTAL ELECTORATES IN COUNTING CENTER)

Total People Registered for 2003 Election in the Commune

Total:.....	Male:.....	Female:.....
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II. Minute of Ballot Paper (The Examination of Ballot Paper Lists in the Commune)

Kinds of Ballot Paper	Number of Ballot Paper
a. Ballot Paper Received	Amount:.....
b. Spoilt Ballot Paper	Amount:.....
c. Unused Ballot Paper	Amount:.....
d. Ballot Paper Given to Voters	Amount:.....
e. Ballot Paper in the Ballot Box	Amount:.....

III. Minute of Used Ballot Paper (All Ballot Paper From All Ballot Boxes in the commune)

Valid Ballot Paper	Invalid Ballot Paper	Total Ballot Paper
Amount:.....	Amount:.....	Amount:.....

IV. Minute of Support Vote gained by each political party

Political Party	Support Vote Gained (in number and in words)
1.	In number:..... In words:.....
2.	In number:..... In words:.....
3	In number:..... In words:.....
4	In number:..... In words:.....
5	In number:..... In words:.....
6	In number:..... In words:.....
7	In number:..... In words:.....
8	In number:..... In words:.....
9	In number:..... In words:.....
10	In number:..... In words:.....
11	In number:..... In words:.....
12	In number:..... In words:.....
13	In number:..... In words:.....
14	In number:..... In words:.....
15	In number:..... In words:.....
16	In number:..... In words:.....
17	In number:..... In words:.....
18	In number:..... In words:.....
19	In number:..... In words:.....
20	In number:..... In words:.....
21	In number:..... In words:.....
22	In number:..... In words:.....
23	In number:..... In words:.....

V. Political Parties and The Result

- ☞ Are there any irregularities when summing the vote result in the counting center?
 - If there is/are, please attach with the report:.....
- ☞ Are there any political parties that did not acknowledge the result?parties
 - party, filed complains = cases
 - party, filed complains = cases
 - party, filed complains = cases

Comments of COMFREL's Observer:



COMMITTEE FOR FREE AND FAIR ELECTIONS IN CAMBODIA (COMFREL)

Report need to be sent urgently
Serious Violence, Violation, Threatening, Obstruction

Name of the reporter:..... Sex:..... Age:..... Position:.....
District/Khan:..... Province/Municipality:.....
Date of filling the report:..... Time:.....
Date of completing the filling:..... Time:..... Signature:.....

The Following for the elaboration of cases happened:

Incident Happen: At..... (Morning/Afternoon), Date:.....
Where It happened: At..... Village/Phum:.....
Commune/Sangkat:..... District/Khan:.....
Identity of Offender: Name:..... Sex:..... Age:..... Position:.....
Institution/Party.....
Number of Offenders:..... List Following:.....
Identity of Victim: Name:..... Sex:..... Age:..... Position:.....
Institution/Party.....
Other Victims:..... List Below:.....
Describe the Incident:.....
Intervention:.....
Observer Comments:.....
Witnesses:.....

Upon Completing this Report, Please send it to Provincial Coordinator or District Contac Person Immediately!!!