



Electoral Reform in Cambodia

Program Consultations Report

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NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

The National Democratic Institute for International Affairs (NDI) is a nonprofit, nonpartisan, nongovernmental organization that has supported democratic institutions and practices in every region of the world for more than two decades. Since its founding in 1983, NDI and its local partners have worked to establish and strengthen political and civic organizations, safeguard elections, and promote citizen participation, openness and accountability in government.

Democracy depends on legislatures that represent citizens and oversee the executive, independent judiciaries that safeguard the rule of law, political parties that are open and accountable, and elections in which voters freely choose their representatives in government. Acting as a catalyst for democratic development, NDI bolsters the institutions and processes that allow democracy to flourish.

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NDI in Cambodia

Since 1992, NDI has aided democratic activists in Cambodia through work with civic groups and political parties, the adoption of political party codes of conduct, the development of women's caucus and youth wings in parties, and electoral support initiatives. The Institute's current programs in Cambodia seek to enhance the capacity of citizens and political parties to participate more effectively in the political process. NDI works with local civil society groups to organize constituency dialogues that bring together citizens and parliamentarians to discuss local issues of concern. NDI also collaborates with a technical working group to draw together the recommendations of previous and ongoing electoral reform programs, and engage the National Assembly, the National Election Commission, political parties, civil society and the media on practical approaches to adopting such reforms.

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Electoral Reform in Cambodia: Program Consultations Report

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I. Background

Election laws and procedures often undergo periodic changes based on lessons learned during past elections. Although Cambodian elections have improved over successive elections and are generally well-administered and free of violence, shortcomings remain in the country's election process. Citizens still face obstacles to freely exercise their vote. These obstacles include: problems with the voters list and registration process, the use of special voter identification forms (1018 forms); limited training and/or lack of neutrality of some election and government officials; lack of public exposure to political options due to uneven media coverage; and inadequate and/or unclear complaint resolution procedures.

In partnership with the Committee for Free and Fair Elections in Cambodia (COMFREL) and the Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC), the National Democratic Institute embarked on an electoral reform initiative to conduct a comprehensive review of the election process in Cambodia and identify needed changes to correct any existing impediments to access, eligibility, and transparency. The program did not delve into specific technical changes, although extremely important, but rather attempted to capture the most significant broad areas in need of reform based on the input of many. Uniquely, this project consolidated the voices of nearly 150 representatives from a diverse cross-section of society, rather than simply present the analyses and recommendations of the three organizations.

To gather the input from a wide range of stakeholders, NDI and its partners formed the "Expert Committee on Electoral Reform" to hold in-depth consultations and interviews both in Phnom Penh and the provinces. Committee members included Kek Pung (formerly Galabru) of the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), Thun Saray of the Cambodian Human Rights and Development Association (Adhoc), Yong Kim Eng of the People's Center for Development and Peace (PDP), Hang Puthea of NICFEC, Koul Panha of COMFREL, Sok Sam Oeun of the Cambodian Defenders Project (CDP), and Laura Thornton of NDI. Sok Sam Oeun served as the team's legal advisor. The team met with political party representatives, government officials, lawyers, journalists, NGOs, election officials, local authorities, labor representatives, business leaders, academics, and international experts with the aim to review the election process and identify areas for improvement. The interviewees represented many sectors not often consulted on election matters.

In addition to the consultations, supporting activities for the program included an election document review and consolidation, the formation of an electoral reform library, and an examination of the legal framework. NDI gathered the reports and recommendations from both local and international organizations over the past decade and consolidated the recommendations into a common document. The document demonstrates the extensive monitoring and examination of Cambodian elections over the years and the consistencies and similarities in the reforms suggested by diverse organizations. NDI's library includes election

reports and analyses on Cambodia as well as hundreds of documents on elections in other countries, international standards and best practices, and monitoring and training tools. NDI distributed a bibliography of these documents to interested parties. Finally, Sok Sam Oeun, the expert team's legal advisor, reviewed Cambodia's existing election laws and regulations, as well as international practice and standards on election administration, to identify areas in need of revision based on the feedback from the consultations.

The timing for this effort was advantageous: the 2008 election experience was still fresh in people's minds; and any efforts to implement the project's recommended reforms could feasibly be accomplished before the next elections. Building the interest in implementation, however, is likely to be a long-term endeavor as it will ultimately require the political will of the country's leadership. This program aimed to keep the conversation on electoral reform alive and on the agenda well after the initial issuance of election findings and suggestions.

This report represents a summary of the expert team's consultations. The opinions and recommendations expressed do not necessarily reflect those of NDI or its partners. Several participants also expressed fear to speak openly about the election process, so the consultations have been grouped together by sector instead of reported on individually. The level of fear people expressed for offering their opinions – including fear of intimidation, retribution, and legal action – is noteworthy. The fact that people feel they cannot freely criticize or remark on an important democratic process is perhaps itself indicative of the problems remaining in the election climate in Cambodia.

II. Summary

Despite the number and diversity of the people contributing to this project, the assessments and suggestions were largely uniform. Whether a commune councilor, NGO leader, or journalist, or whether from the ruling party or opposition, people were surprisingly consistent in their remarks. Often the causes for and impact of various problems cited varied considerably, but the general reform needs identified were similar. Overall, people felt that electoral exercises were becoming increasingly smoother and more peaceful. Specifically, those consulted reported that violence and egregious fraud (stealing ballot boxes, armed threats at polling stations, etc.) were rare. It was acknowledged, however, that problems remained, particularly with regard to the overall transparency of the process.

Voter Registration and Voters List

Virtually everyone agreed, including those responsible for the process, that voter registration was the area in most need of reform. There was broad consensus that the registration process was unreasonably complicated and placed too large a burden on the voters, particularly in a country with a large population of migrant and seasonal workers. People argued that requiring voters to check their registration information every year, during an extremely limited period of time, was unrealistic and unnecessary. Voting, as one observer pointed out, should be a right but in Cambodia it was treated as if it was “a privilege.” This onerous process, people argued, led to inaccuracies in the voters list.

There was widespread agreement that there were flaws in the voters list and people repeatedly complained about false deletions. Reasons cited for the inaccuracies ranged from technical errors, problems in civil records (inconsistent name spelling, inaccurate or unknown birth dates, etc.), deletions made without adequate documentation, and intentional interference. Many local officials complained that the information on the lists they sent to the National Election Committee (NEC) was changed during the data entry process. Others contended that the mistakes occurred at the local level. All of those consulted in this program agreed that the use of 1018 forms – a voter identification document used for voters who lacked other forms of identification, such as a National ID Card – provided opportunities for abuse and confusion under the current process.

With regard to recommendations for improvements in voter registration, the vast majority of those consulted, including local officials responsible for the process, agreed that verifying the voters list annually was not necessary. There was a strong consensus for a permanent voters list, as in other countries, that is open for changes year-round rather than requiring annual verification. A voter would therefore only register if she or he had never voted before, and, if already registered, would only contact local officials if there was a specific change in relevant information, such as a new address. Interestingly, many people with whom the team consulted harkened back to the UNTAC¹ days, describing the registration process then as easy and efficient.

On the integrity of the voters list, those consulted emphasized the urgent need to clean the data. People agreed that the deletion list should be discontinued. Many suggested a defined mechanism for monitoring and securing the central database at the NEC with layered quality control. Everyone agreed that a national identification card system, one with a unique serial number for all citizens and bio-data technologies that could be integrated into the NEC database, would help limit the number of errors on the list. Stakeholders consulted suggested that 1018 should be discontinued or carried out with a sufficient tracking system and technical safeguards.

Participants in the project argued that the voters list and registration process could also be improved through enhanced transparency and oversight. The NEC could aid this, they suggested, through the publication of more detailed electoral statistics, such as those on the issuance of 1018 forms or other similar documents. The NEC, people agreed, should provide adequate oversight of registration tasks (carried out by local officials) through the appointment and training of sufficient staff. The public should also be allowed greater access to oversee processes, such as data collection and consolidation for the voters list.

NEC: Delegation, Composition, and Regulations

Another priority, and related, area identified in need of reform was the delegation of electoral responsibilities. There was also almost universal consensus that the process of delegating electoral responsibilities, such as voter registration, to local authorities – commune council and village chiefs – was problematic. It was widely accepted that local officials responsible for carrying out electoral duties needed more support – training, budgets, and

¹ United Nations Transitional Authority in Cambodia (UNTAC) organized and administered the 1993 elections.

qualified staff – as there was a serious lack of capacity at the commune and provincial levels, in particular. In addition, several of those consulted described interference at the local level by authorities, particularly in the voter registration process and issuance of the 1018 forms. Many, including the majority of commune councilors interviewed, suggested that the election committee and its staff should be responsible for registration. If the system of delegation was to be maintained, however, greater transparency, oversight, clearer regulations, legal determination of delegation and subsequent roles and responsibilities, and defined and harsh penalties for violations were recommended.

There was considerable agreement, including from some in the government, that the election bodies lacked neutrality, particularly at the PEC (provincial election committee), CEC (commune election committee), and PSC (polling station committee) levels. It was widely recommended that the composition of the NEC be reformed through the formation of a new selection committee, comprised of diverse representatives from different sectors (NGOs, professional organizations, lawyers). They also suggested fixed qualification standards for NEC leaders. However, many of those consulted, interestingly, expressed strong doubt in the ability to find any “neutral” people in Cambodia, with several suggesting that foreigners run the election process. Some recommended a focus on “balance” instead of neutrality, suggesting that composition at all levels of the election body – provincial, communal, and polling station committees – include representation from all parties with seats in the National Assembly. The selection process of all election officials, it was agreed, should be transparent and consultative. A majority of those consulted also recommended either a constitutional status for the NEC or an independent organic law on the election committee, instead of the committee being embodied under LEMNA.

People recommended improving the overall transparency of the Committee’s business, such as allowing more public access to documents and meetings. The NEC, interviewees explained, was resistant to the idea of a newsletter or other information on Committee business and only issued occasional press releases. There were also reports that the NEC did not want survey information or polling. The NEC did gather important information, experts pointed out, such as conducting thorough media monitoring on elections coverage during the campaigns, but refused to make any of this data public. In addition to reports, data, and documents being classified, the public has little access to meetings or discussions at the NEC.

Interviewees also considered the election committee’s regulations cumbersome, complicated, and inconsistent. The Regulations and Procedures for the Election of the Members of the National Assembly (RPEMNA) are over 700 pages long making them extremely inaccessible to local electoral officials as well as the public. A few observers also pointed out that there were new directives that had not been incorporated into RPEMNA. The project’s consultants suggested that the regulations should be consolidated and simplified.

Complaint Resolution/Adjudication

Complaint resolution and adjudication were highlighted areas of concern in the consultations. The primary complaint was that the legal provisions and regulations governing

adjudication were seriously flawed.² Articles contradict each other, the regulations are riddled with loopholes, and oversight provisions are weak. Legal provisions governing penalties and sanctions were too specific, people argued, and there were no provisions to penalize violations of the law that were not precisely listed. Therefore, violations easily fell through the cracks and could thus be ignored. Moreover, people argued, regulations governing post-election complaints provided two mutually exclusive avenues for pursuing complaints, each calling for radically different procedures and responses. It was also widely reported that local election officials charged with resolving electoral complaints had a limited understanding of legal matters and were ill-equipped to process disputes. Those consulted, including some election officials, complained that the deadline for the settlement of challenges was too short.

It was largely agreed that there needed to be a clear statement in the law on the jurisdiction of the NEC over *any* election-related dispute, with subsequent sanctions for all violations. Consultants also recommended that the regulations needed to specify clear NEC oversight of officials carrying out electoral duties, including the responsibility of the NEC to be pro-active in investigating irregularities. It was widely agreed that the legal framework needed to be amended to provide clearer mechanisms for dispute resolution. Continuous and thorough training of officials carrying out adjudication responsibilities was also repeatedly recommended. An overwhelming majority of those consulted, including numerous government officials, recommended the establishment of a separate judicial body to resolve election complaints. A few argued, however, that this was unnecessary and would not solve the problems inherent in the law and system.

Election System, Media, and Political Finance

Other areas of reform discussed at consultations included the election system, media, and political finance. The majority interviewed stated that the seat allocation formula should be changed to the “higher remaining votes” formula used under UNTAC. Many also suggested the introduction of a majority-plurality system, at least for a portion of National Assembly seats. Almost everyone interviewed, outside of the parties, asserted that an elected representative should not lose his or her seat if removed from the party.

Virtually all of those consulted, including many from the government, acknowledged that the media coverage of elections was not balanced, particularly on television, and there was a need to create a more leveled playing field. Finally, all of those interviewed agreed that there was no transparency in the financing and spending of political parties and election campaigns. Opinions differed, however, on whether or not this presented a problem in need of reform, and everyone unanimously agreed that political finance reform would never be adopted in the foreseeable future.

² A commonly cited example was the recent NEC ruling on votebuying in the May 2009 elections, which claimed that votebuying could not occur without the actual exchange of money, without any consideration of “intent.” One election committee official further explained that the only admissible evidence of votebuying would be a “signature letter with a stamp.” This ruling, people claimed, was inconsistent with international standards and definitions of votebuying.

Conclusion

These reforms are broad and would involve intervention by and the participation of many levels of the Cambodian government. It is evident that given the NEC's jurisdiction, it is limited in addressing some of these concerns, other than modifications to internal regulations and procedures. Because of the role of local authorities in many electoral tasks, particularly voter registration, and the proposals for a national identification system, the Ministry of Interior has an important role to play. Any changes to LEMNA or the composition of the NEC would require the participation of the National Assembly and possibly a constitutional amendment. Finally, understanding the decision-making process in Cambodia, electoral reform necessitates the political will and directives of the country's leaders.

III. Consultations³

NDI and the expert team designed guidelines for the consultations with stakeholders to ensure that similar topic areas were captured in all meetings. These included a broad list of issues and questions for discussion, with the following main headings: election system; NEC; voter registration; media, complaint resolution; and political finance. These guidelines served as a reference point only, and not all topics were addressed in every consultation. Rather, the consultation format was informal, allowing free-flowing discussion and questions. Each consultation followed the arrangement of a small workshop or roundtable, lasting approximately two hours each, often longer. It was a project requirement that NDI, COMFREL, NICFEC, and Dr. Sok Sam Oeun be present at every meeting, with few exceptions. The other expert team members attended when available. In a few circumstances, certain organizations or people refused to meet with the team as a whole, so NDI met with them separately.

Several of the consultations have been consolidated under "sector" headings, although the meetings were individually conducted. Individuals reported that they were afraid to talk openly about the election process and its flaws if they would be directly associated with their remarks. In addition, the team met with international experts, not all referenced in this report. It was extremely difficult for the team to secure meetings with representatives from the private sector, who all expressed fear of retribution if they remarked on the election process.

Before launching into consultations, NDI met with NEC Vice Chairperson Dr. Sin Chum Bo to discuss the program. The NEC has embarked on its own internal review of the 2008 elections, uncovering their own lessons learned and best practices. Chairperson Bo offered her support to our initiative. The expert team repeatedly tried to meet with NEC commissioners and officials to solicit their feedback and perspective, but its requests were denied.

³ The following opinions on Cambodia's elections and reform recommendations do not necessarily reflect the viewpoints of NDI or the expert team. This report serves simply to provide a record of the consultations held.

A. Political Parties^{4 5}

*Cambodian People's Party (CPP):*⁶

Cambodian People's Party officials unanimously emphasized that the 2008 elections were highly praised by local and international observers, although one official pointed out that the NEC only needed to demonstrate "acceptable" performance to gain basic international legitimacy. Officials agreed that small gaps remained in the process, but asserted that none that would have affected electoral outcomes. CPP officials explained that the laws, regulations, and codes of conduct were all there but that enforcement sometimes remained difficult. CPP officials with whom the electoral reform team met unanimously agreed that voter registration was a "weak point" that needed review. They suggested that citizens were, in part, at fault for not verifying their registration information. They also explained that Cambodians have many names with different spellings, making registration complicated and requiring voters to check their names annually.

Party officials suggested that the NEC provide better training at the commune level on the registration process as well as more thorough voter education on registration. One official acknowledged that local authorities carrying out electoral duties did not always "behave" and there was a need to strengthen and clarify NEC oversight. Officials agreed that the implementation of a national ID card system was extremely important to improving the voters list. A party leader acknowledged that there were problems with the 1018 form but said it would be discontinued anyway after the implementation of a national ID card program. Another described both the 1018 form and voter information notices (VINs) as "useless."

On complaints resolution, a few party officials said that training was needed at the local level for staff responsible for handing violations, as national party leaders from all parties interfered with the resolution process. One official added that if complaints were "political," there could be no solution.

Most CPP officials with whom NDI met stated that the small reforms needed in the election process would be addressed, although one predicted that there would be no institutional change on election reform as there was no incentive for those in power. Institutional change, he explained, was interest-based, demanded by society, or pushed by an active opposition or strong international community. On these counts, he said the opposition in Cambodia was not in a position to challenge, the international community had accepted the status quo, and the public cared about economic needs. The only way for reform, he suggested, would be to work with voters and civil society at the local level.

⁴ In addition to the official meetings with political party representatives, the election reform team met with other party members but in their capacities as government officials or elected representatives, which is captured in a later section.

⁵ Although the team met independently with some party officials, for the purpose of the report, comments are consolidated for each party.

⁶ CPP party officials would not meet with the electoral reform team so these meetings were conducted by NDI.

Sam Rainsy Party (SRP)

Sam Rainsy Party officials described the NEC as an institution as its “biggest worry.” SRP members reported that the composition of the committee was flawed and its decision-making biased. They argued that consensus would be required from the leaders of all parties in order to change the composition but expressed confidence that independent commissioners could be identified. On the subject of complaints resolution, the SRP leaders requested independent complaints committees from the village, commune, and district levels up. They argued that the NEC could not be both the “judge and defendant,” and suggested that the King could help in the selection of these committees.

Voter registration was another area of concern for SRP leaders. They recommended completely eliminating the current voters list and “starting over” based on a national ID card system. They stated that the NEC database and the civil registry had to be coordinated and bio-data was needed. SRP leaders also suggested that voters should be able to vote anywhere inside their commune, eliminating confusion about polling station assignment. They argued that international standards were needed to amend the law and the donor community must put pressure on the government for reform.

SRP cited lack of neutral media as a critical hurdle to a fair election process. Leaders suggested an independent committee managed by all political parties to ensure equitable coverage during elections. They stated that the Equity TV program (run by TV-K and the UNDP) was not useful, frequently misquoted people, and publicized false information. SRP members had no objections to determining “equity” of coverage based on the number of seats in the NA, recognizing that the CPP should get the majority of coverage.

Human Rights Party (HRP)

Like SRP, Human Rights Party leaders said the independence of the NEC was the most needed electoral reform. They suggested that the committee composition be changed to include “neutral” representatives from civil society. Political party representation, they argued, was not necessary. A wide range of people should be nominated, and the process should be fully publicized so the public could weigh in. Alternatively, if the parties had to be involved, they recommended that the parties each get the same number of seats and that each NEC leader receive approval from all parties. HRP officials stressed that all levels of the election committee should have independent composition.

HRP officials described the voter registration process as “too complicated.” They also emphasized that delegating registration responsibilities to local authorities was a “bad idea.” The election committee, they argued, should be fully responsible for carrying out a door-to-door registration process that was open to the public, with the involvement of NGOs at every level. They also stated that the election committee should be “computerized” at the commune level, as there were many discrepancies between the local voters lists and the finalized national one. They added that there was no reason the voters list should have flaws if there was a national ID card system and registry.

Like the representatives from the SRP, HRP officials argued that an independent institution was needed to resolve electoral complaints. They suggested a judicial committee comprised of legal experts and judges. On the subject of media, HRP leaders reported that equal access to media was a significant problem and opposition parties were consistently denied airtime. They recommended that all stations cover all political parties and an independent media council be established to monitor. They suggested that public broadcasting receive funding from foreign donors to ensure balance.

On the topic of the electoral system, the HRP leaders suggested that the country introduce a mixed electoral system with seats selected through majority-plurality as well as proportional processes. They also argued that the seat allocation formula should be changed to the one used during UNTAC 1993 elections, the “higher remaining votes” formula. They stressed that election day should be fixed in the dry season and that the transportation of ballots should be closely monitored. HRP supports political finance legislation that requires the disclosure of party and candidate expenses, limits expenditures, monitors abuses of state resources, and allows public access to records. Leaders stated, however, that the names of donors should not be revealed to protect their privacy (and prevent possible retribution).

*Norodom Ranariddh Party (NRP)*⁷

Norodom Ranariddh Party officials raised the same problem areas as SRP and HRP. They reported widespread distrust of the accuracy of the voters list used on election day and claimed that many illegible voters were removed from the list. NRP leaders said that the names were deleted on polling day, not before. They argued that the NEC was ultimately responsible for registration and the voters list but “always blamed others.” NRP leaders said that although VINs (voter identification notices) were designed to assist voters, they were not used properly and contained misinformation. Moreover, people used them as identification to vote, which was not permitted. Party leaders said that 1018 forms should be discontinued, given abuses by local officials, and a national ID card system must be put in place.

The NEC, NRP leaders stated, was not neutral and its decisions were influenced by the ruling party. This, leaders claimed, had hindered not only electoral administration but also the objectivity of the adjudication process. NRP had several complaints about illegal campaigning, alleging that the CPP and armed forces used state resources illegally to campaign. NRP officials also discussed the need for “free and fair” media coverage. They said that some parties were prevented from buying time on television. They also complained that the “Equity News” program was censored and NRP segments were repeatedly cut.

When offering recommendations, NRP suggested that Cambodia return to the procedures used during UNTAC, including the “higher remaining votes” seat allocation formula and the ability to vote anywhere in the country, which they argued was particularly needed for migrant workers. They recommended that there be a “total overhaul” of the voters list and a new registration process based on the national ID card system. NRP leaders suggested that the national ID card be a police responsibility and that all citizens receive a

⁷ The party has recently changed its name to the Nationalist Party, but was still NRP at the time of the consultation.

receipt with a stamp, which the provincial governor must sign. The registration period should be year-round, they argued, and information about registration should be provided to citizens throughout the country. NRP also recommended that an independent electoral judiciary body be established separate from the NEC to deal with election-related disputes and complaints, and that penalties should be enhanced.

NRP leaders emphasized that the NEC leadership should be selected by an independent body of representatives from different sectors -- NGO, judiciary/law, government, business, and academia -- and approved by the King. They argued that political finance laws were necessary to close the gap between rich and poor parties. They suggested state funding for parties for campaigns based on votes gained. NRP stated that all political parties should be able to access both state and private media sources freely and the NEC should provide air time to all parties to broadcast their policy platforms.

When the discussion turned to the target(s) of electoral reform advocacy efforts, NRP asserted that the NEC was “powerless” to implement reform and ultimately the Prime Minister and Council of Ministers would have to approve any changes. They suggested that the donor community was responsible for applying pressure on the Cambodian government.

Funcinpec

Funcinpec leaders reported that they lost many seats in the 2008 elections, not due to lack of voter support but due to “tricks” during the elections. They explained that the main problems were with the voters list and registration process. Officials said that many Funcinpec members’ names had been deleted from the list, while numerous “ghost voters” were not cleansed, allowing others to vote under false names. Registration was too onerous for voters, they argued, as many Cambodians lived and worked far away from home. The Funcinpec leadership also expressed distrust in the ability of the commune councilors to carry out registration duties neutrally. Leaders were concerned about the distribution of national ID cards and said that their party members were routinely discriminated against and asked to pay money to receive their IDs. They added that IDs were being distributed to under-age citizens to enable them to vote.

Funcinpec leaders recommended that the registration process should be year-round and that the commune election committees, not the commune councils, be responsible for the process. Leaders argued that it was not necessary to register and check the list annually, unless there were changes to voter information. They suggested that there be a completely new voters list and that voter cards be issued, as done under UNTAC. Furthermore, voters should be able to vote anywhere in their province.

Regarding NEC, PEC, and CEC officials, the Funcinpec leadership emphasized that the “human factor” was very important. The members of NEC and PEC were from two political parties, leaders explained, but most of the members of CECs and PSCs were CPP, consolidating the ruling party’s “already enormous” power-hold at the grassroots level. They suggested a new election committee composition, including representation of all the political parties with seats in the National Assembly from the national to the local levels of the

Committee (PEC, CEC, and PSC). Funcinpec leaders also recommended an independent complaints resolution body.

On the topic of media, Funcinpec officials said that although the party had the money to buy radio time to broadcast its message, it was blocked from doing so. The party lodged a complaint but it was never resolved. Leaders recommended that there be equality in the media, giving all parties equal time to broadcast their platforms, as during UNTAC.

Minor Parties

Each party representative described his or her concerns about the election process in Cambodia and offered suggestions for reform. All minor party officials focused on “equal rights” for parties, regardless of size, during the campaign, including equal time on television and radio. All parties, they argued, should also be reimbursed for their filing deposit despite being unable to win a seat in the NA.⁸ Party officials also argued that the UNTAC seat allocation formula should be reinstated.

As in other consultations, the minor parties highlighted the registration process and NEC neutrality as the biggest obstacles in Cambodia’s election process. They complained that voter information notices (VINs) were not fairly distributed and that voters lists were altered, not only during registration but also on election day. Representatives also complained about the use of the 1018 form, alleging interference by local authorities. They argued that the NEC was not neutral and could not serve as both the arbitrator and defendant in complaints adjudication. The party representatives recommended an independent “elections institute” to monitor and check all levels of the election process and vet out stronger punishments for electoral violations. The NEC, they suggested, should have representation from political parties at all levels of the committee, down to the polling station level. One party leader suggested that the NEC have a Khmer and a foreign director.

The discussion moved toward the role of minor political parties in general, with representatives debating the benefits of boycotting elections in the future. They agreed to form an alliance to support changes in the election law.

B. National Government⁹

Working group on elections, Ministry of Interior

The two hour discussion focused primarily on improvements in the voter registration process. Mr. Sak Setha explained that he was looking into the problem of voter registration specifically because local officials, under MOI jurisdiction, had been delegated to carry out

⁸ Members of the electoral reform team did explain that these practices were not at all unique to Cambodia and that in most democracies allocated media time, state funding, participation in debates, electoral reimbursement, etc. were based on some formula of seats earned.

⁹ Officials turned down a request to meet with the entire electoral reform team, so NDI met them independently.

this role on behalf of the NEC. He acknowledged that this delegation of authority had created confusion, as the lines of command were often unclear or misunderstood.

NDI and the MOI working group discussed the need for capacity building for the local officials carrying out registration tasks and the need to fix the inconsistencies and contradictory clauses in the various laws (LEMNA, MOI regulations on residence and nationality) regulating registration. In the long term, Sak Setha explained, the voters list would be folded into the centralized national civil registration. Everything in the country would be computerized and linked to a single ID document, erasing the need for 1018 and other controversial forms and simplifying voter registration. Mr. Sak Setha agreed that the voter registration issue had become politically charged and recognized the need for his reform team to be inclusive and transparent in its work.

Sak Setha reported that he appreciated NDI's past voter registration audits and carefully reviewed the results. NDI and the MOI working group also discussed the Institute's recent publication, *Promoting Legal Frameworks for Democratic Elections*. He said that his team would be looking over the guide's checklists in detail and discussing lessons learned from other countries on improving voter registration.

Ministry of Interior

Mr. Prum Sokha, Secretary of State, described the enormous differences, and improvements, in elections in Cambodia since 1993. Many of Cambodia's election procedures were imported, he explained, such as the proportional system and the seat allocation formula. Mr. Prum also described attempts to ensure the independence of the NEC from the Ministry, trying to promote independence while avoiding accusations of creating a new, forth power in the current system of checks and balances. He confirmed that regardless of NEC composition – whether based on balance (multiple parties) or independence – there must be independence in terms of operations, particularly at the local level.

Mr. Prum stated that voter registration remained a problem in Cambodia. He explained that commune councilors worked hard to put together accurate voters lists at the local level but the NEC's final list did not incorporate their work. He emphasized that problems in the list often occurred within the NEC, not the communes. He argued that confirming identity is the key factor to improvement, and a unique serial number for all citizens, one that is indisputable, is essential. The MOI, he shared, was working on the national registration process and would work with the NEC to ensure that the voters list corresponds to the civil registry.

With regard to the complaints process, Mr. Prum explained that there had been discussions of creating an independent judiciary body during the drafting of LEMNA, but it was determined that it could not work. He agreed that the length of resolution should be longer and training was needed for NEC staff. On the issue of media, Mr. Prum explained that media coverage continued to improve and there were numerous media sources in the country. He doubted whether media coverage affected electoral outcomes, particularly when

young people were not interested in watching political shows. He asserted his wish for media without any party-affiliations.

C. Local Government¹⁰

Beoung Tom Pon Sangkat Council, Phnom Penh

Toul Tom Pong II Sangkat Council, Phnom Penh

Beoung Keng Kang III Sangkat Council, Phnom Penh

Kompong Cham Commune Council, Kompong Cham district, Kompong Cham province

Veal Vong Commune Council, Kompong Cham district, Kompong Cham province

Kok Chork Commune Council, Siem Reap province

Beoung Kok Commune Council, Kompong Cham province

Sala Kom Rerk Commune Council, Siem Reap province

Slor Kram Commune Council, Siem Reap province

The commune councilors agreed that voter registration represented a needed area of improvement in the election process. They explained that registration problems were due to the following issues: voters did not understand that they needed to verify their names on the voters list annually; voters did not have the proper documents to register; voters lived too far away to register; and/or errors in the NEC data process. They explained that migrant voters made registration complicated and people often moved without notifying the authorities. Moreover, older people had difficulty registering each year. Several councilors explained that they were forced to delete names when people failed to confirm their registration, but then these people would often turn up to vote on election day and be unable to do so. The councilors said they actively encouraged people to register, and some reported even going door-to-door to inform voters. They explained that it was a difficult and time-consuming job for them, particularly in addition to their other duties, and it was a burden on the commune clerks, doubling their workloads.

Almost all councilors complained that the voters list was filled with duplicate names, incorrect names, and dead voters. They explained that it was very difficult for the councils to clean the list, as people moved without notice and there was no information on deaths. Many also reported that mistakes on the voters list were due to NEC “computer errors,” one describing the NEC central data entry office as “careless.” Councilors reported that they would send a list with the correct names and addresses from their communes, but would notice mistakes on the list ultimately sent from the NEC prior to election day. Commune leaders continually asserted that the final NEC voters list was not the same as that developed at the local level. They explained that names they had placed on the deletion list 1025 and sent to the NEC, for example, remained on the Committee’s final voters list.

One councilor complained that NGOs accused them of lacking neutrality and being aligned with the ruling party, but he stressed that they were objective and only followed procedures. Councilors also pointed out that the political parties could monitor their work. A

¹⁰ Although the team had independent meetings with each commune council, comments are consolidated for the purpose of this report. The team usually met with the commune council chief as well as councilors and staff/clerks.

few councilors said that they had no problems with the 1018 forms, and any complaints were due to poor law enforcement and the failure of “certain people” to follow procedure.

With regard to recommendations, councilors repeatedly suggested that the voters list be updated every year by the NEC, not the commune councils, and that the annual registration exercise be eliminated. Many harkened back to the registration process under UNTAC. Councilors emphasized the need for longer training periods for officials and argued that additional staff and budget were desperately needed during the registration period. Several councilors also suggested that the NEC employ qualified computer data-entry personnel and encourage ongoing public access to the process and monitoring by NGOs to avoid voters list errors. Finally, councilors described their hope for a new identification card that could be used for voting.

On complaints resolution, the councilors emphasized that they always resolved disputes according to NEC rules. Many councilors argued that the PEC and NEC were also fair because their officials followed the law based on “clear procedure” and were monitored by all political parties. Some, however, stated that the resolution process was not fair because there were “too many compromises” and not enough time for thorough investigation. The majority of councilors also recommended that there be an institution or court independent from the NEC to solve electoral disputes.

With regard to the electoral system, councilors were divided. Some argued that the current proportional system should remain because people were used to it and a new system would be costly and could “create chaos.” These councilors also felt there should be no changes in the electoral system if the country’s leaders were satisfied. One councilor added that the parties did not pressure representatives and everyone was free to speak out in the proportional system. Many councilors, however, asserted that a majority-plurality electoral system, or mixed system, would be good for Cambodia because people could remain in their positions even if they left their party. These councilors explained that majority-plurality representatives had a more direct relationship with their constituents. On other systems matters, several councilors recommended that counting continue to be carried out at the polling station to eliminate transportation needs and, thus, possible interference.

The councilors reported that the NEC was neutral, the selection process for officials was fair, and there was no need to change its composition. They added that parties and NGOs were able to monitor the committee freely. Several councilors, however, said there were unqualified people selecting election officials. Regarding access to media, the councilors praised TVK’s Equity program, but several acknowledged that other stations and programs favored the ruling party. One councilor suggested that the media coverage of elections be “broader” and give all political parties equal coverage.

The majority of councilors interviewed argued that a political finance law was unnecessary. They asserted that parties should be able to run their campaign and spend their money “however they chose” as long as they respected the regulations. One councilor stated: “Money does not determine popularity.” He added that parties with more members had greater budgets, serving as an appropriate reward. Another pointed out that it was the parties’

responsibility “to make people love them.” A few councilors, however, did support controls on the incomes and expenses of political parties and requirements for parties to report their budgets and finances. One suggested that finance laws would support “pluralism” in the country.

D. Local Election Officials^{11 12}

Provincial Election Committee (PEC), Kompong Cham province
Provincial Election Committee (PEC), Siem Reap province

PEC leaders described some difficulties in the election system. The geography in the provinces was often complicated (river, mountains, canals, flooding), so it was a challenge to transport election materials in the rainy season. In addition, there were complaints that the PEC offices did not have enough staff due to small budgets, and the staff they did have were not qualified. Moreover, one leader said they did not have enough money for basic office equipment.

PEC leaders explained that although it was difficult to determine whether electoral duties were carried out objectively by local authorities, as these officials were political in nature, the PEC was an independent body and the recruitment of polling station officials (PSOs) was objective and “followed the law.” One PEC official added, however, that it was hard to find qualified election officials because highly-qualified individuals could find higher salaries elsewhere. He added that there was no mandate for electoral officials, as they worked on contractual basis. He suggested that they become official government employees, which would make them “more neutral” and allow them to improve their skills through ongoing experience and training. PEC leaders said that complaints were resolved by following NEC regulations and procedures without discrimination, and they felt it would cost too much to create a separate adjudication body.

The PEC authorities reported that there were many problems with voter registration, particularly given the significant number of incorrect names on the voters list. They said that in numerous cases, the names on the voters list were not the same as the names on the identity cards or family books. One official added that these mistakes were made by the “sloppy work” of the commune clerks or the data entry center of the NEC. He also explained that voters often neglected to check their names on the list. PEC officials interviewed recommended eliminating the annual registration process completely. Rather, as proposed by others, there should simply be an update of the list by the NEC. They maintained that commune clerks should continue to carry out ongoing registration responsibilities, as they know the community, but that they needed more staff and training. The village chiefs should also continue to distribute information on voter registration, given their knowledge of the people in their villages.

¹¹ The expert team repeatedly tried to meet with NEC commissioners and officials to obtain their feedback and perspectives, but all requests were denied.

¹² Although the team met independently with local election officials, the comments are consolidated for the purpose of this report.

On the subject of media, one official said that people have an equal right to media in theory, but in practice access was unfair.

E. Teachers and Academia¹³

Cambodia Independent Teacher's Association (CITA)

An organization leader expressed his dissatisfaction with the NEC, claiming it was not neutral. He also said that the NEC should not be the judge and defendant in electoral disputes. When asked for suggestions for improvement, he argued that it would be impossible to change the NEC without changing all the country's ministers and leaders. In theory, he recommended that the NEC be led by representatives from civil society and an independent court be established to review electoral complaints and monitor the NEC.

The teachers' leader asserted that commune chiefs and local officials were key obstacles to free and fair elections, reporting that teachers across the country had complained about their interference and intimidation. He added that NEC tasks, such as registration and distribution of 1018, should not be delegated to local authorities. Authorities manipulated, he alleged, the voter lists, deleting names of those who supported the opposition, and moved voters from their established polling stations at the last minute. He recommended that the country follow the UNTAC system, which allowed voters to register and vote anywhere.

He reported that the CPP used teachers to distribute party materials during the campaign period and the party used schools for party purposes. The CITA official added that teachers were scared to report violations, and 90% of teachers carried a CPP card, not necessarily out of choice but necessity. He suggested stronger whistleblower protection laws.

Norton University

Royal Academy of Cambodia

Pannasastra University

All academic leaders interviewed by the team explained that it was dangerous for them to speak about politics. One official said that people at the school were too afraid to participate in political activities and students actually avoided majoring in political science for fear of being associated with politics. Unlike universities in other countries, these leaders said that political activities were banned from their campuses. One of the university leaders also described the imbedded culture of corruption in the country and how it affected elections in Cambodia. He explained that students, for example, had to start bribing their teachers in Kindergarten and thus learned these transactions as normal behavior.

One university head reported that he was happy that Cambodia was moving toward democracy, but acknowledged that it was "not there yet." He described limitations on public expression and political debate, particularly among the youth. He added that activities were tightly controlled, which had an impact on elections. People faced difficulties in participating

¹³ Although the team met independently with university representatives, the comments are consolidated in this report.

and were scared to speak out. This leader argued that limitations on freedoms could arguably be good for stability, as “too much talk” could lead to anarchy. He stated that China could take the lead for Asia, with restriction on critics and emphasis on economic growth. He added that he had no idea what was next for Cambodia, as things were fragile, or whether it would follow the path of China or democracy.

On the subject of voter registration, several professors stated that the process was too short and unreasonably complicated for voters. They suggested that people who were already registered should not have to check their names and registration should only be used for new voters or voters with changes in information. They also recommended that the system allow people to register outside their home communes. Virtually all heralded UNTAC as a better system. Several academics pointed to the delegation of registration authorities to local officials as the root of the problem. The commune councils, they argued, were dominated by the ruling party, which led to discrimination against the opposition.

In the last election, many professors reported that names were missing from the voters list on election day. They explained that many of these voters had checked their names and found them on the original list, but somehow their names vanished by polling day. Several academics labeled this a “big problem,” and argued that it was essential to correct the procedures. Another university leader said it was hard to determine the level of manipulation of the voters list, as little concrete evidence existed, but he estimated that between 10% to 20% of eligible, willing voters were unable to vote.

University representatives largely agreed that the national ID card system would contribute to a smoother registration process. A few added that the MOI would still have to look carefully at the laws on nationality and immigration to determine “legitimate citizens.” They also suggested that people might not take the process seriously, as it was not relevant to their daily lives. Overall, they predicted the process would take a long time, cost a lot of money, and would require considerable political will.

With regard to media, several professors strongly expressed their view that the media was not free or fair and political parties did not have the same exposure, often due to lack of funds. They reported that the CPP owned all the stations and the opposition parties could not get licenses. Equity TV, they argued, was not fair given the division of time, was too short, and did not have widespread reach. These professors added that newspapers were better but useless as Cambodians “do not read.” Finally, one professor noted that the country’s defamation and disinformation laws were a threat to freedom of press and expression. As a result, journalists were weak and avoided the real issues. One university representative explained that the people who had money received the most coverage. Many reporters, he said, were paid, lacked neutrality, and were controlled. Several professors argued that a strong journalist association was needed, but indicated that the only solution to the problem was to “change people’s ideas” to challenge the status quo.

Political finance, one school leader argued, was not possible in Cambodia as there were too many sources of funds and transactions could be too easily hidden given weak law enforcement in the country. Disclosure would also be difficult, as the political and state

structures were so tightly entwined. Moreover, the powerful and rich had no incentive to disclose. He added, however, that it would be very valuable for the public to know the sources of political financing to determine whether or not they were comfortable with the various associations.

One university leader argued that there was a need to make the NEC more independent and transparent. He suggested both creating a different candidate recruitment and selection process and allowing volunteers to sit in the NEC through a “public-sharing” concept. He recommended that funding for the NEC come directly through the Ministry of Finance. He added that the payments of salaries and bonuses to NEC staff should be carefully monitored to ensure that they come from an independent fund. He argued that electoral responsibilities should not be delegated to other authorities but kept concentrated in the NEC.

The complaints process, several educators agreed, was not independent and a new mechanism was needed. They suggested an independent body to resolve complaints and prevent the NEC from being the “judge and defendant” in cases. One professor argued, however, that there was no such thing as an independent body in Cambodia and questioned how it could be appointed to ensure neutrality. Another professor added that Cambodia generally had good laws but poor implementation.

Several educators interviewed said that the proportional system was not helpful as it put too much power in the hands of parties and thus discouraged accountability to the people. They suggested a mixed system. They also stressed that representatives should keep their elected seats even if they fall out with their party. Seat allocation, several argued, was also imbalanced and the country should use the UNTAC formula of higher remaining votes. A few academics added that the minor parties should form an alliance to campaign together, as they currently were ineffective divided.

On the general election environment, one university official suggested that competition was not challenging enough and space was needed for independent candidates. He predicted that there would be fewer parties in the future as there were lots of risks to join politics in Cambodia (intimidation, threats, etc.). Moreover, if an incumbent lost in Asia, he observed, he or she was in trouble. As this professor stated, “It’s a must-win situation.” The prospect of a sitting leader stepping down was frightening to Cambodians, particularly when one looked around the region at figures such as Thaksin, Estrada, President Chen, President Roh and Suharto.

In conclusion, several academics suggested that the only improvement would come with strong political will from the country’s leaders. They said the only way to change the political thinking of the country’s leadership was to educate the public and have the people demand reform and apply pressure. They expressed little hope in the international community being able to advocate reform, particularly with all the “un-tied” aid available from China.

F. Journalists

Journalists in Cambodia reported several violations during the campaign period. For example, political parties, they claimed, continued campaign activities through the night before election day, despite a ban on such activities during so-called “cool day.” They suggested that “cool day” be dropped from the law given it was not respected anyway. They recommended stronger voter education programs and stated that the NEC should utilize print, radio, and television media to publicize information on the elections and the political parties.

Regarding media coverage of elections, the journalists admitted that there was a bias with regard to publicizing political messages during the campaign. They expressed their fear of punishment if they covered various political views. They also suggested that training be provided to journalists by the NEC on the election process, rules, and procedures.

The journalists reported that voters’ names were removed from the list both prior to and on election day. They observed that many citizens lost their right to vote in the 2008 National Assembly election. They suggested that NGOs should help the NEC to ensure that voters’ names are on the list and that commune clerks should be repeatedly and thoroughly trained on their roles and responsibilities in registration, with NEC oversight. They also said that the current challenges of obtaining identity documents from the commune councils, and the flaws in distribution of 1018 forms, underlined the importance of a national identity card system. Finally, journalists recommended a return to the UNTAC election system, allowing registered voters to vote anywhere in the province.

G. Non-Governmental Organizations (NGOs)

NGO Roundtable One: Centre d’Etude et de Développement Agricole Cambodgien (CEDAC), Youth Council of Cambodia (YCC), Star Kampuchea, Youth Resource Development Program (YRDP), and Pannasastra Student Senate (PASS).

The NGO representatives’ main complaint about the current election process in Cambodia concerned the voters list and registration process. They reported that voters could often not find their names on the list and local officials abused the 1018 forms. CEDAC, which represents farmers, described how countless people were able to vote in villages where they did not live because they received a 1018 form. CEDAC members observed commune and village chiefs distributing 1018 forms on behalf of the CPP.

On the topic of campaigning, NGO representatives reported that the ruling party placed CPP stickers and propaganda on people’s houses without their permission, and local authorities would “punish” those who removed the stickers. They pointed out that this was a form of intimidation. One NGO representative also told how the organization’s members were threatened by police when trying to monitor the 2008 elections. They reported these threats to the NEC but received no response. Another NGO official said staff witnessed the ruling party threatening voters during the 2008 election campaign, and the party was handing people ballots instructing them where to “tick.”

The general sense among this group was that the NEC was competent and relatively neutral at the center but that the local offices were biased. One representative pointed out that there was no point in discussing NEC reform as it would never change if the same party remained in power. He added that winners never want to change the system that got them elected. NGO representatives agreed that an independent institution should be established to adjudicate complaints. There was also consensus that the electoral system should be changed to a mixed majority-plurality and proportional system. They argued that individual candidates were important in building accountability and providing opportunities for youth and candidates representing smaller parties. A few representatives also recommended a change in the seat allocation formula, which they argued favored ruling parties.

Participants also described efforts by the ruling CPP to encourage youth participation. The party, they reported, had been seeking out youth and students to participate in party events, promising numerous perks. Several representatives also alleged that the party was actually planning to establish a “mock” opposition party, comprised mainly of youth. This effort would involve separating the youth cadres of CPP and registering a new political party, which would remain loyal to and receive funding from the CPP but present itself as opposition.

NGO Roundtable Two: Cambodia Center for Human Rights (CCHR), Mlup Baitong, Center for Development Resource Institute (CDRI), Cambodian Women’s Crisis Centre (CWCC), The Khmer Kampuchea Krom Community (KKC), Khmer Kampuchea Krom Human Rights Association (KKKHRA), Youth For Peace (YFP), and the People’s Center for Development and Peace (PDP-Centre).

The NGO representatives were unanimous in their desire to adopt a majority-plurality, FPTP election system, or at a minimum, a mixed system. An adequate compromise, they suggested, would be to have commune councilors elected through majority-plurality, with the NA remaining proportional. A couple participants pointed out that this change in system would not solve the problem of votebuying but might enhance representative accountability to constituencies. The meeting participants were also agreed that the NEC was not neutral, particularly at the local levels. One participant reported, for example, that the previous day, an election official threw a party for CPP members and police officers to celebrate the CPP’s victory in the May indirect elections. They suggested that NEC, PEC, and CEC members be selected from independent candidates. One NGO representative recommended that the King set up a committee to conduct the selection.

NGO representatives reported that there were many flaws in the voters list in 2008. They described how many people in the communities in which they work verified their names and information during the registration period but found that their names were missing on election day. Local authorities intentionally withheld information about registration from opposition-supporters and commune clerks deleted names, participants claimed. They also reported that the Khmer Krom were routinely discriminated against, with councilors refusing to register them. NGO representatives pointed out that the registration process was easy during UNTAC and that the current system was far too complicated and placed too great a burden on the voters, requiring them to check and re-check their registration information.

They recommended that voter registration duties not be delegated to local authorities but rather be the full responsibility of the NEC and its staff. Meeting participants also warned that this was a flash-point for citizens, inciting a lot of anger in 2008.

The NGO representatives agreed that the media was not neutral, particularly television. They stressed that it was difficult to change the system, as people were afraid and practiced self-censorship. The country's loose defamation, libel, and slander laws also made investigative journalism difficult, they explained, serving as a serious disincentive for investigative reporting. They suggested that all political parties should have coverage and that a media information department should be established to ensure balance.

On the topic of complaint resolution, participants agreed that until the NEC was neutral, there was no point in filing complaints. They expressed no trust in the adjudication system, explaining that all cases brought by the opposition were thrown out, even if ample evidence was provided. One participant suggested the establishment of a separate body to hear complaints. Another representative, however, argued that it would not make a difference as the winner in Cambodia would always be the "most powerful person," whether the case was handled by the NEC, a separate body, or the courts. Other participants recommended a special, independent investigative team within the election committee, which would not include EC or local officials, to adjudicate complaints.

Finally, a few participants endorsed the idea of a political finance law that would mandate disclosure and limits on spending. They added that the public should have the right to see the financial reports of and know the donors to all the political parties. Other participants argued, however, that this would be a fruitless endeavor as the government had already made it clear that it would not support any political finance regulations as they violated "freedom of expression." It was agreed that at this point in time, political finance reform efforts would be useless.

NGO Roundtable Three, Kampong Cham Province: Nokor Phnom Community Empowerment Organization (NPCEO), Youth Council of Cambodia (YCC), Legal Support Woman and Children (LSCW), and Khmer Kampuchea Krom for Human Rights and Development Association (KKKHRA).

This group of NGO leaders agreed that the NEC and PEC were not neutral and that the selection process for election officials was biased. They suggested that NGOs be involved in the selection of election staff. They added that NGO observers needed a better understanding of the electoral laws and procedures and should take a more active role in voter education initiatives. On electoral systems, a few NGO representatives advocated for a majority plurality system, while others argued that it would not make a difference. All agreed that politicians should not lose their elected seats if they resign from their party.

There was consensus that the voter registration process was problematic, and NGOs could help voters check their names. They added that the voters list sent by the NEC was not the same as the list originally developed in the commune office, indicating that there were flaws or interference in data entry at the NEC. The NGO representatives agreed that there

should be an independent committee to resolve electoral disputes, and the committee should include lawyers and “independent people.” They also felt that the NEC should audit all political parties and take steps to ensure a small gap in funding between parties.

NGO Roundtable Four, Siem Reap Province: Training and Development Organization (TDO), Vulnerability and Illiteracy Reduction (VIR), and PDP-Centre

These representatives emphasized that the electoral system should be changed to at least a partial majority-plurality system. Individual candidates, they argued, could build more direct relationships with their constituents and give voters the power to directly vote him or her out of office, as opposed to having the party decide. They reported many flaws in the voter registration process. They said that the form 1018 was used by authorities in an unfair manner. They also recommended that the UNTAC system for registration be used.

NGO representatives felt that the NEC was not neutral and suggested that the representation from political parties be equal at all levels of the Committee. They added that donors could help release the NEC from political pressure. They said that there should be a specific legal provision guaranteeing the independence of the NEC, especially the management team, with clear punishments for mistakes. The group also recommended a neutral dispute resolution committee to investigate the NEC on its work and to ascribe penalties for violations. Finally they requested equal representation for political parties in media election coverage.

H. Labor/Union Groups

The majority of labor representatives focused primarily on voter registration as the area in most need of reform in Cambodia’s election process. They complained that it was far too complicated, particularly for laborers who work far away from home. They explained that government owners sometimes allowed a day off for registration but it was the cost of travel that was the main impediment. One representative explained that sex workers also rarely voted due to the cost of travel to their home provinces and general discrimination during registration and voting. They explained that Cambodian workers overseas had their passports taken by the factories so could not return home to register or vote. One representative argued that voters did not care about the registration process as elections had little effect on their lives.

Many reported that in 2008 voters were not able to vote because they couldn’t find their names on the voters list. They complained that the voters list was flawed and data was missing or incorrect, so they had to continue to correct the information year after year. One leader said he had never been able to vote because his date of birth was different in two documents. Several union leaders also explained that NEC delegation of registration was problematic because commune councilors were mostly CPP, creating doubts about their neutrality in implementing their duties. A few representatives asserted that opposition names were deleted from the voters list, while ruling party supporters were able to register even without the correct documents.

Representatives also complained about 1018. They said workers didn't understand the process. One man described how he brought a worker to get a 1018 but was told his date of birth was incorrect so the official refused to give him one. Another labor leader who represented civil servants was told by local authorities that the 1018 was "just for CPP supporters" to "make things easier for them." He reported that many of his members were told that someone already voted in their name, using a 1018.

Labor leaders suggested that the NEC should be responsible for checking names, not the voters or commune councils, and registration should be an ongoing, year-long process. They all stated that it was much easier under UNTAC and suggested that voters should be able to register and vote from anywhere, including overseas. Many asked why the NEC could not set up registration and voting facilities at factories, as is done in other countries. One leader said that 70% of the process was "acceptable," but the errors needed to be fixed. The majority also favored a voter ID card.

There was concern among labor leaders that election officials were not neutral and several suggested that the NEC members should not be appointed but voted on in the National Assembly. It was also recommended that every party should have representation in the electoral committee bodies at all levels, NEC, PEC, and CEC. A couple labor representatives argued that foreigners should be on the committees as it was so difficult to find "neutral Cambodians."

With regard to the election system in the country, most agreed that the proportional system was not ideal and that there should be majority-plurality candidates. One leader argued that this would allow many different sectors to field representatives without party affiliation. One man suggested that the NA have designated seats for certain sectors, as in some other countries. Leaders repeatedly suggested that voters should be allowed to vote anywhere in the country. One labor leader emphasized that things were much better under UNTAC despite the presence of the Khmer Rouge and other threats at the time. The issue of political finance was dismissed out of hand by labor representatives due to the fact that the government would never comply. One leader summarized: "It will never, never happen."

Labor representatives agreed that television in the country represented only one party. Even situations in which opposition parties could afford some airtime, the stations refused. They stated that opposition parties could also not get television licenses of their own. Some union leaders suggested that all stations be required to broadcast information from all parties, while others said that the government would never allow equality.

I. Business/Tourism

Angkor Holiday Hotel, Siem Reap
ANZ Royal Bank
Syngenta

All business representatives discussed the impact of elections on business. One manager noted that elections served as a deterrent for tourists in the country. Another

businessman agreed that elections had the potential to hurt business, particularly if there were protests. Investors became nervous, he added, when they witnessed no justice in complaints resolution, as it reflected poorly on rule of law in the country. One manager, however, said that elections had no impact on his business. One recommendation was the establishment of designated campaign places during elections, as activities created traffic jams and disturbed tourists. He added that the concentrated campaign areas would also reveal the inequities between the major and minor parties.

Businessmen agreed that the majority of business leaders did not care about political parties and tried to stay out of politics. One manager added that his organization had an ethics code preventing political involvement. In general, these businessmen explained that the rising private sector middle class was apathetic and did not follow political events in the country. One business representative explained that despite their preference to avoid politics, companies were often forced to become involved by contributing to the ruling party. Businesses, he said, often received benefits as donors, such as being able to evade taxes. Companies supporting the opposition, however, had to be extremely cautious or they would be punished, it was reported.

One manager discussed election campaigns and expressed his disappointment that political parties continued to use empty rhetoric instead of specific platforms. He argued that parties should do a better job at utilizing policy-based research and surveys to form their message. He also expressed disappointment at the opposition, which had experienced an increase in media access but did not use the time well.

On the topic of voter registration, it was stated that annual registration was unnecessary and created problems. Educated people, one businessman explained, were able to register with few problems but rural and migrant voters faced difficulties each year. Many voters did not find time to register and could not find their names on election day. Interviewees stated that local officials made mistakes on the voters list, such as false deletions, preventing people from voting. One businessman reported that many of his colleagues in Phnom Penh could not find their names on the list despite having registered. The 1018 form, it was agreed, was abused.

Annual registration should be discontinued, it was recommended, and voters should only have to register and check their names once. One interviewee suggested using a voter card, as done during UNTAC. It was also recommended that voter registration not be delegated to commune councilors, because, according to one businessman, they were partisan and routinely prevented opposition-affiliated citizens from registering. Rather, the NEC should carry out registration itself. One manager suggested a data overhaul and a system established to tie the voters list to an efficient census, adding that it was difficult to rely on the commune councilors to collect accurate information. All businessmen interviewed encouraged the NEC to conduct a more effective education campaign to improve registration. One business manager also suggested that party activists play a more active role and “do their homework” to make sure the voters list was accurate.

With regard to the NEC, there was consensus that the current committees were not neutral, although one officer said that the polling station officials were improving their abilities. The NEC took direct orders from the government, one man reported, and needed its independence. Business leaders agreed that finding un-affiliated, neutral people in Cambodia to serve on the NEC would be difficult. One businessman focused on the importance of ethics among election officials, regardless of political affiliation. He indicated that people could still be encouraged to do their jobs fairly if the correct systems in place. He was worried more about the way in which election officials carried out their duties and less about the composition of the committee. Another interviewee suggested that the composition be completely changed and that foreigners organize the new NEC. Another suggestion was that the chairperson and vice-chairperson from the NEC be elected by universal vote.

Business representatives agreed that the NEC be constituted as a completely autonomous body with a fixed budget. The NEC should have more power, they asserted, and be authorized to carry out all election-related duties independently, including the registration of voters. Election regulations also needed to be better defined and streamlined.

On the topic of complaints resolution, one business manager argued that the NEC should stop commenting on cases until an investigation had been conducted. He also said that the NEC's ruling on votebuying in May 2009 was "ridiculous" by determining that votebuying did not exist unless money was explicitly exchanged. He argued that intent should be enough. This manager added that in small indirect elections, like those in May, violations like votebuying could affect electoral outcomes. He said that the election regulations on disputes were problematic and violations needed to be clearly defined.

Another business official argued that it was "absurd" that the NEC consistently dismissed virtually all complaints, even ones with ample evidence. He cited the example of opposition parties having copies of falsified 1018s, and referenced the May ruling on votebuying. He also agreed that intention to violate the law should be explicitly included in the regulations. He stated that the NEC should not use the excuse of "technical or computer errors" to dismiss problems. This official said that not only did the laws regarding complaints need to be completely revised and clarified but also systems must be in place to force the committee to follow the law and not bow to political pressure. He suggested that a special court on elections be established.

The media, particularly television, businessmen explained, was dominated by the ruling party. Opposition coverage was rare, and one businessman added that even the Equity programs on TVK provided limited time to the opposition. Journalists also practiced self-censorship, because if they did not, one business representative pointed out, they would be put in jail. Voice of America (VOA) and Radio Free Asia (RFA) were cited as rare examples of objective reporting in the country. One business manager said it was silly for the media to accommodate and cover all the minor parties and the media should focus on providing primetime coverage to only those with seats in the NA.

Business representatives firmly agreed that the proportional system of elections placed too much power in the hands of party leaders and suggested that a majority-plurality system be

introduced to strengthen accountability to the people. They all recommended some form of mixed system, mentioning both the NA and the commune council elections. All agreed that elected representatives should keep their seats regardless of their status with their party. It was also agreed that the elections should be carried out in the dry season. One manager said that there should be more polling stations, as they were too crowded and many voters did not bother to wait. Another businessman suggested that the bond be increased for parties to limit the number of minor parties. He said non-ruling parties were too fragmented and should work together.

Business leaders agreed that financial disclosure was important but extremely unlikely. One described the “shocking” lack of transparency and the need for the people to understand the sources of funding. He added that the ruling party also used state resources for party purposes and required public officials to donate to the party. One manager also argued that a political finance law would ensure greater equality between parties. Another stressed the importance of external, public audits to enhance transparency and accountability. Although they agreed that political finance reform was “impossible,” one manager suggested providing some carrots for disclosure. For example, he said, if a party disclosed its funding sources it could have access to state funding.

Khmer Civilization Foundation (KCF)

The election team and the Foundation leader first discussed the May council elections. He explained that these elections had no impact on the economy or tourism, and the public was not at all interested in the process. He added that the local bodies would do nothing, as the government would continue to “control everything.”

A KCF leader then described the impact of the general elections on tourism. There continued to be a sense that Cambodia was not safe during elections, he explained. He added that the campaign was never fair, with illegal interference by civil servants, local officials, media, and others. He also stated that the opposition was “hurting itself” and needed to prove itself to voters, and the parties required stronger internal management and regulations. He argued that the election law and regulations were adequate but enforcement was weak, adding that the overall system governing elections needed to be simplified. Because the NEC’s main problem was enforcement, he said, it needed an effective mechanism to proactively check its staff and local officials. Finally, he argued that the election body was not independent.

With regard to voter registration, the KCF official reported that there was a dire need to develop a system to control and check the process. He said that voter registration depended on the ability and integrity of the local authorities. He then described how police stole ballots, local officials demanded bribes, and clerks asked for too many documents. Poor people, he explained, often did not have the money to travel for registration, particularly factory employees who lived far away. On the subject of dispute resolution, he argued that, again, it was a problem of enforcement not procedure.

Given his position in the tourism industry, the Foundation representative discussed the role of business in elections. He argued that elections were all about the personal interests

and greed of individuals. There was, he reported, no control of donations from businesspeople to the parties and candidates, adding that frequently illegal money financed campaigns. Small parties, on the other hand he said, received no support, and businesses were punished if deemed “opposition supporters.” Moreover, he explained that businesses would never support monitors or NGOs for fear of being tainted for associating with anyone who has criticized the government. The tourism leader stressed that businesspeople gave to the ruling party, and their businesses grew in direct correlation with their level of support. Moreover, he said, businesspeople targeted those political leaders in the ruling party who had the specific jurisdiction or power over their related areas of interest. These *quid pro quo* relationships, he explained, were essential to those doing business in Cambodia. When asked for suggestions of reform, he said that political finance reform was pointless and the only person who could change the system was the country’s leader.

Electoral reform was not something that could be carried out through NGOs or the NEC, he argued. He added that electoral reform efforts to date had been “useless.” He stated that only the very top leaders of the country could implement the reforms needed. At the international level, he suggested, diplomats could do a better job of providing pressure and incentives.

J. International Experts¹⁴

It was found during the consultations that there were few questions about the need for reform but rather about the political will for reform. Experts pointed out that there were limited incentives for change. Some important reforms, such as having the NEC enshrined in the constitution, were unlikely in the near term. In addition, an examination of the benefits of the current election system, such as reevaluating advantages and disadvantages of proportional representation, was very improbable. Absentee voting, although desperately needed, would also not be allowed due to the government’s fear of the preferences of overseas voters.

The first recommendation on the voters list was to clean the data with help of the national ID card database. The new ID card would include a unique number, providing security control. The MOI should not, however, be the sole source of data for the NEC. Rather, the new ID and serial number should be used in the registration process. International experts agreed that there needed to be a “three-layered” quality control system at the NEC data center to minimize errors in the voters list. There was some debate about whether the police or civilian branches of the MOI should have the responsibility of implementing new ID cards. Advisors argued that the police had better records as well as the human resources and structure.

The registration process itself also needed reform, according to international experts. The registry was not at all “permanent” and put a tremendous burden on voters, demanding that they come home every year to check their voting information. One expert noted that voting in Cambodia seemed more of “a privilege than a right,” judging by the amount of work voters had to do in order to vote. Registration should be open all year, experts argued,

¹⁴ This section does not include the feedback from all interviews.

allowing people to change any relevant data with the commune council at any time. Year-round registration, like in other countries, would arguably not be more costly than trying to accomplish the task in a couple weeks as the work would be spread out. With regard to 1018, security features were desperately needed.

Experts reported that there was a bit of a “responsibility struggle” between the NEC and the MOI on the issue of voter registration. The NEC argued that problems with registration were under the jurisdiction of the MOI, as the registration responsibilities were delegated to local authorities. The MOI, however, pointed out, correctly, that the ultimate responsibility for the integrity of the voters list was that of the NEC. Experts pointed out, however, that although registration was ultimately the NEC’s responsibility, local authorities knew “where the power lay” and respected their superiors at the MOI, not NEC. Experts also pointed out that the NEC did not have adequate staff for oversight of registration. The international community did provide funding for 155 trainers to the Committee, as well as training material support to 11 contesting political parties, prior to the 2008 Elections.

On the topic of media, experts agreed that the need for balanced news media was evident. Observation reports for 2008 National Assembly Elections stated for example, that TVK gave 822 minutes of coverage to the ruling party and only two minutes to the other parties (UNDP). A Center of Excellence for journalists and enhanced media monitoring were recommended. Regarding the complaints resolution process, experts agreed it was problematic due to a lack of staff training as well as unclear or selective application of NEC regulations. The regulations needed to be completely revised to eliminate inconsistencies. Overall, experts suggested that the transparency of the business, meetings, and data of the NEC must be enhanced. Allowing public access to documents, decision-making, and NEC information would contribute to better practices and limit doubts about neutrality.

APPENDIX ONE: CONSULTATIONS¹⁵

Party representatives, officials, and advisors (most names and titles available upon request, although several people requested anonymity)

CPP: Four officials

SRP: Five officials

HRP: Two officials

Funcinpec: Six officials

NRP: Two officials

Society of Justice Party (SJP): One official

Hangdara Democratic Movement Party (HDMP): One official

Khmer Anti-Poverty Party (KAPP): Three officials

Khmer Democratic Party (KDP): Two officials

National government officials

Ministry of Interior: Two Secretaries of State, two officials

Local government officials (13 CPP councilors, 1 SRP councilor)

Beoung Tom Pon Sangkat Council, Phnom Penh: Three officials

Beoung Keng Kang III Sangkat Council, Phnom Penh: Two officials

Toul Tom Pong II Sangkat Council, Phnom Penh: One official

Kompong Cham Commune Council, Kompong Cham district, Kompong Cham province: One official

Veal Vong Commune Council, Kompong Cham district, Kompong Cham province: One official

Beoung Kok Commune Council, Kompong Cham province: One official

Sala Kom Rerk Commune Council, Siem Reap: Three officials

Kok Chork Commune Council, Siem Reap: One official

Slor Kram Commune Council, Siem Reap province: One official

Election officials

Provincial Election Committee (PEC), Kompong Cham province: One official

Provincial Election Committee, Siem Reap: One official

Teachers/academics/consultants

Cambodia Independent Teacher's Association (CITA): One representative

Norton University: Two representatives

Pannasastra University: Two representatives

Royal Academy of Cambodia: Five representatives

¹⁵ The team and NDI were able to meet with senior leaders and representatives of each organization, including the political parties.

Journalists

Reaksmey Kampuchea News: One representative
Cambodian Club for Journalists (CCJ): One representative
Moneaksekar Khmer News: One representative
Koh Santepheap News: One representative
Freelance reporters: Two representatives
Radio Free Asia (RFA): One representative
The Cambodia Daily: Two representatives
Kampuchea Thmey News: One representative
The Phnom Penh Post: One representative

NGO representatives

Centre d'Etude et de Development Agricole Cambodgien (CEDAC)
Youth Council of Cambodia (YCC)
Star Kampuchea
Youth Resource Development Program (YRDP)
Pannasastra Student Senate (PASS)
Cambodia Center for Human Rights (CCHR)
Mlup Baitong
Cambodia Development Resource Institute (CDRI)
Cambodian Women's Crisis Centre (CWCC)
The Khmer Kampuchea Krom Community (KKC)
Khmer Kampuchea Krom Human Rights Association (KKKHRA)
Youth For Peace (YFP)
People's Center for Development and Peace (PDP-Centre)
Nokor Phnom Community Empowerment Organization (NPCEO)
Youth Council of Cambodia (YCC)
Legal Support Woman and Children (LSCW)
Training and Development Organization (TDO)
Vulnerability and Illiteracy Reduction (VIR)

Labor/Union representatives

Cambodian Food and Service Workers Federation (CFSWF)
Workers' Federation in Construction Industry of Cambodia (WoFiCi)
Cambodia Federation of Trade Union (CFTU)
Cambodian Industry Food Union Federation (CIFUF)
Cambodian Union Federation Building and Wood Workers (FBWW)
Union Federation of Independent and Democratic (UFID)
Cambodian Confederation Trade Union (CCTU)
National Independent Federation Textile (NIFTUC)
Network Men Women Development Cambodia (CNMWD)
Trade Union Federation for Increasing Khmer Employees Lifestyle (TUFIKEL)

Free Trade Union Workers of Kingdom of Cambodia (FTUWKC)
Independent Democratic of Informal Economic Association (IDEA)
Cambodian Independent Civil-Servant Association (CICA)
National Union Federation Cambodian Workers (NUCW)
Cambodian Federation of Independent Trade Unions (CFITU)
Textile & Garment Workers' Federation of Cambodia (TGaFe)
Coalition of Cambodian Apparel Worker Democratic Unions (C.CAWDU)
Construction Labor Federation Union of Cambodian (CLAFU)
Cambodia Federation Voices' of Worker Union (CFWU)
Worker Freedom Union Federation (WFUF)
Federation Union of Khmer Democracy Workers (FUKDW)
Trade Union Workers Federation of Progress Democracy (TUWFPD)
Cambodian Association for Informal Economy Development (CAID)

Business/Tourism leaders

Angkor Holiday Hotel, Siem Reap
Khmer Civilization Foundation (KCF)
ANZ Royal Bank
Syngenta

International experts

Representatives from the EU, representatives from the UNDP, and independent consultants.