



PRELIMINARY STATEMENT

Cambodian elections 2008 show some progress but still fall short of key international standards

29 July 2008, Phnom Penh

The European Union Election Observation Mission (EU EOM) has been present in Cambodia since 13 June 2008 following an invitation from the Royal Government of the Kingdom of Cambodia. The EU EOM is led by Martin Callanan, Member of the European Parliament. The EU EOM deployed 130 observers from 25 EU Member States and Norway. The observers were deployed throughout Cambodia to observe and assess the electoral process in accordance with international standards for elections. The EU EOM was joined by a seven member delegation from the European Parliament, led by Glyn Ford, Member of the European Parliament, which endorses this preliminary statement. On election day, observers visited 719 polling stations in the 20 Provinces and 4 Municipalities of Cambodia to observe voting, counting and the consolidation of results. The EU EOM will remain in country to observe post-election developments. This statement is preliminary; a final report including recommendations for future elections will be published in October 2008. The EU EOM is independent in its findings and conclusions.

Preliminary Conclusions

- **While the campaign was generally conducted in a more peaceful and open environment compared to previous elections the 2008 National Assembly Elections have fallen short of a number of key international standards for democratic elections.**
- **Despite improvements in transparency there was a lack of confidence in the impartiality of the election administration among election stakeholders.**
- **On election day, voters turned out in good numbers, showing their commitment to peaceful elections by calm and orderly behaviour. Polling and counting were generally well administered.**
- **The campaign was marked by consistent and widespread use of state resources by the Cambodian Peoples Party (CPP).**
- **The distribution of money and gifts by candidates and party officials was widely reported and a pattern emerged of frequent defections of opposition political leaders and key activists to the CPP.**

This preliminary statement is available in English and Khmer but only the English version is official.

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- The National Election Committee (NEC) proved its ability to organise technically good elections with the planning and execution of the recruitment and training of election administration staff and other important electoral activities being timely and well conducted. In a positive measure of transparency the NEC decided to publish the result for each polling station on its website.
- Despite the recognition of improper and mistaken deletion of voters from the voter list the NEC refused to restore their names and thus disenfranchised around 50,000 previously registered voters.
- The voter education activities of the electoral administration were assessed as inadequate and in many cases village chiefs were providing information to voters in a biased manner while distributing the voter information notices.
- While the applicable laws generally provide a workable framework for the conduct of elections there are some inconsistencies, flaws and ambiguities. The provisions concerning the complaints and appeals process are too complex.
- The CPP dominated media coverage of the elections to the detriment of the other parties to a degree which was not consistent with international standards on free and equal access to the media. All opposition parties received access to state television TVK and state radio RNK according to election regulations, as well as time on a small number of private radio stations which do not have national reach.
- There was generally a lack of participation of women in all aspects of the political and electoral process.
- The widespread presence and participation of party representatives and domestic observers was considered important and contributed significantly to the transparency of the voting and counting processes at the polling station level.

Preliminary Findings

BACKGROUND

The National Assembly election on 27 July 2008 was the fourth National Assembly election since the first United Nations Transitional Authority in Cambodia (UNTAC) organised election conducted in 1993. Since 1993, National Assembly elections have been conducted with regular five year intervals as prescribed by the Constitution. Elections for Commune Councils were held in 2002 and 2007 respectively.

Although gradual improvements have been noted, previous elections in Cambodia were often violent and fell short of international standards. The 2008 National Assembly election provided an important opportunity to strengthen public confidence in the electoral process and demonstrate genuine commitment by all political stakeholders to peaceful and non-coercive means of campaigning as well as to wider democratic principles.

Cambodia has signed and ratified the most prominent international human rights treaties such as the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social and Cultural Rights. In addition to these legally binding international instruments, the Constitution of the Kingdom of Cambodia endorses the UN Charter and the Universal Declaration of Human Rights. A member of ASEAN, Cambodia is part of a process to introduce regional human rights instruments.

For the 2008 election, the 123 National Assembly seats were contested by a total of 2,478 candidates (1,162 titular and 1,316 alternates) representing 11 political parties. Among these, eight fielded candidates in all 24 constituencies.

LEGAL FRAMEWORK

The legal and regulatory framework governing the electoral process contains some inconsistencies, flaws and ambiguities. The primary piece of legislation governing the elections is the Law on the Election of Members of the National Assembly (LEMNA). Several other pieces of legislation and regulations¹ also impact on the electoral process. The lack of consolidation of the legal framework makes it difficult for any stakeholder to have access to the rules and to have a clear understanding of them. Despite these failings they establish the necessary institutions and generally provide a workable framework for the conduct of elections.

The LEMNA remains vague in many respects and leaves wide room for interpretation. The NEC issued about 700 pages of Regulations and Procedures, Directives and Codes of Conduct for different categories of persons involved in the electoral process. The Codes of Conduct regulate the rights and obligations of those concerned in a satisfactory manner overall, but the Regulations and Procedures tend to be overly complicated.

¹ The Constitution of the Kingdom of Cambodia, the Political Party Law, the Press Law, the Law on Assemblies, the Law on Nationality, and the Penal Law 1992. Furthermore there are NEC Regulations and Procedures, Directives, Joint Directives between the ministry of Interior and the NEC and Codes of Conduct for Political Parties, Media, Observers, Electoral Officials and for Members of the Armed Forces and Police.

In previous elections the NEC was the highest level of jurisdiction for complaints and appeals related to the election campaign. However, in 2006 the LEMNA was amended and the Constitutional Council was made the highest level of jurisdiction. Although this can be considered a step in the right direction as it provides for a judicial review of NEC decisions, many interlocutors expressed their concerns about the independence of the Constitutional Council.

The provisions concerning the complaints and appeals process are too complex. By the end of the election campaign 202 complaints were received by the Commune Election Commissions (CECs), 113 by Provincial Election Commissions (PECs) and 39 by NEC. Most complaints of the opposition parties concerned the destruction of campaign material, interference with the electoral campaign of other parties, threats and intimidation, vote buying and use of state assets and civil servants in the campaign. The most frequent complaints by the CPP concerned insults. There were also a number of complaints concerning alleged violations of Regulations and Procedures by CEC officials.

Although the number of complaints filed at CEC level was significantly lower than in 2003 a higher proportion of cases reached the NEC level in 2008 than in 2003. Out of 39 cases that had reached the NEC by the end of the election campaign, only 18 were decided before the elections.

Many of the complaints were of a minor nature, whereas more serious incidents went unreported. This might be connected to the fact that the special procedures obliging election officials who witness electoral offences to initiate proceedings have never been used. These procedures were designed to ensure that violations are dealt with even if the victims are unwilling to file a complaint for fear of retaliation.

ELECTION ADMINISTRATION

There was a lack of confidence in the impartiality of the NEC among election stakeholders. The NEC does not enjoy constitutional status and its members do not have a fixed term of office. All institutions involved in the appointment of NEC members are currently dominated by the CPP. Only two out of nine members are associated with the opposition and NEC decisions are taken by majority rather than consensus. The NEC appoints members of PECs whose membership was dominated by the CPP.

Given concerns raised in previous elections, it was inappropriate for the NEC to continue to allow village chiefs to be involved in the distribution of voter information notices (VINs) to voters, given their lack of impartiality: many village chiefs participated in the electoral campaign activities of the ruling party.

The NEC proved its ability to organise technically good elections. The PECs and to a lesser extent the CECs were positively assessed by EU observers for their efficiency and ability to organise elections. The planning and execution of the recruitment and training of the election administration staff and other important electoral activities was timely and well conducted.

The voter education activities of the electoral administration were assessed as inadequate by the EU observers. Although a number of locally based Non-Governmental Organisations (NGOs) undertook some limited voter education activities, the political parties were by far the most active in this area providing information on how to mark the ballot paper “correctly”. In many cases village chiefs were providing information to voters in a biased manner while distributing the voter information notices.

In general, key interlocutors assessed the level of transparency of the electoral administration positively. The regular meetings held with the electoral stakeholders were also positively assessed by

opposition members. Political party representatives and domestic observers were accredited without any obstacles to observe the elections. Concerns remain regarding NEC meetings which are not open to observers or the media and the minutes are not made public. In a positive measure of transparency the NEC decided to publish the results for each polling station on its website.

VOTER REGISTRATION

A permanent voter register was introduced in Cambodia after the 2002 Commune Council elections. The register is updated annually and since 2002 the number of voters registered for each election has increased. The total number of voters on the final list for the 2008 election was 8,125,529 up from 7,799,371 for the 2007 Commune Council elections.

During the last update between 15 September and 20 October 2007, 587,160 names were deleted from the list. The high number of deleted names from the register became an issue of controversy as opposition political parties believed that it was mainly their supporters who were deleted.

In response to a National Democratic Institute (NDI) audit of the voters register, the NEC conducted its own assessment and announced that the number of eligible voters mistakenly removed from the voters list was 49,340 or 0.6% of total registered voters, thus officially recognising that voters were “improperly and unintentionally” disenfranchised. The NEC however rejected calls to restore improperly removed voters names to the list claiming time, legal and operational constraints.

Despite strong criticism regarding irregularities and flaws in the voters list by senior representatives of opposition parties, EU observers did not find evidence of the systematic deletion of opposition supporters. However, as the Commune Clerks often provided no evidence regarding the decision on names included on the deletion list the whole process was open to arbitrary decision of the Commune Councils, the vast majority of whom are dominated by the ruling party.

In a positive development, the NEC issued a directive on criteria for polling station officials to decide whether to allow people to vote when their data had not been correctly recorded on the voter list.

PARTY AND CANDIDATE LIST REGISTRATION

The registration process took place from 28 April to 12 May 2008. Out of the total number of 213 rejected candidates more than 200 candidates were rejected because their names were not on the final voter list. The United People of Cambodia Party (UPCP) was rejected for registration by the NEC on the grounds that several of its candidates were not on the official voter register.²

The UPCP and three other political parties whose lists were not registered by the NEC complained about misleading instructions and unequal treatment of small parties by the NEC. The EU observer assessment is that this issue did not significantly affect the rights of political parties to participate in the elections.

² The NEC rejected the registration of the UPCP list on the grounds that several of the party’s candidates did not meet the requirement of being a registered voter. Only 38 candidates remained on the list, a figure below the 41 candidate threshold required under the LEMNA. The party’s appeal against the NEC ruling was rejected by the Constitutional Council after a public hearing on 26 May.

CAMPAIGN ENVIRONMENT

The official campaign for the National Assembly election started on 26 June 2008. However, actual campaigning started several months earlier with senior leaders of the ruling CPP utilising opening of schools, hospitals and other infrastructure improvements as campaign platforms. The Sam Rainsy Party (SRP) leader also undertook a campaign style tour of the provinces shortly in advance of the official campaign period.

While all 11 political parties organised campaign activities, the campaign environment in the larger cities and provincial capitals was dominated by the five larger parties. Competition sharply diminished in rural areas with mainly the CPP, and, to a lesser extent, the SRP having a wider presence. EU observers reported a more competitive and tense campaign environment in the populous multi-seat constituencies.

The official campaign was generally perceived by all observers as more peaceful and open compared to previous elections. However, the overall impression of EU observers is that the CPP took advantage of its incumbency to dominate the campaign. The CPP consistently made use of several types of state resources including government property and vehicles as well as government employees.

There were indications that local authorities across the country abused security and administrative provisions, for example by demanding prior notification or the right to authorise campaign activities to hinder opposition parties from carrying out planned events. Such restrictions were not applied to the CPP. The police took no action against large numbers of vehicles without license plates used in CPP, and to a much lesser extent, the National United Front for Independent, Neutral, Peaceful and Co-operative Cambodia (FUNCINPEC) campaign activities. Several reports indicated that these were government vehicles. Regardless of ownership, the practice is illegal under Cambodian law, and should not have been ignored. These practices represented a breach of the legal framework governing the elections, including codes of conducts for members of the armed forces and police and for political parties, as well as the various laws and directives addressing the role of Village Chiefs. The unequal application of the rules and laws governing elections demonstrated the extent of problems associated with Cambodia's biased legal system.

Distribution of money and goods were widely reported in media, by Cambodian observer groups, local interlocutors across the country and by EU observers. While this practice was carried out by most parties, there is evidence that the CPP engaged in such practices to a significantly greater extent than any other party. EU observers also received reports that voters were warned of negative consequences should they fail to vote for the ruling party. There were also indications of CPP attempts to encourage opposition voters to abstain.

Reports of harassment of opposition supporters appeared in the run up to the official campaign for the 2008 election. In addition, the pattern and frequency of opposition defections to the CPP would support claims that the CPP offered large sums of money, expensive goods such as motorbikes, and government positions to attract opposition leaders and key activists.

The main campaign topics related to Cambodia's continued stability, economic prosperity, inflation and improvements in rural livelihoods as well as sensitive issues such as land grabbing, border issues, corruption and illegal immigration. However from 15 July, many Cambodians turned their focus away from the election towards the dispute between Cambodia and Thailand over the Preah Vihear temple site.

MEDIA ENVIRONMENT

Media coverage of the elections was dominated by the ruling party to a degree which was not consistent with international standards on free and equal access to the media for all electoral contestants.

All opposition parties received access to state television TVK and state radio RNK according to election regulations, as well as extra free time on Women's Media Centre FM102, with five parties receiving paid access to the airwaves on Beehive FM105. A small number of private or party-owned radio stations also broadcast opposition party coverage. Newspapers were free to cover the party of their preference. However in terms of overall coverage, the dominance of the CPP may have undermined the ability of the Cambodian electorate to receive a sufficient amount of information about the parties to make an informed choice.

Television broadcasters devoted minimal coverage, generally in a negative tone, towards the opposition parties, focusing instead on what were described as the many positive achievements of the CPP in government. The state television company TVK provided significant amounts of free airtime to all parties during the 30-day campaign period, fulfilling its technical obligations to the NEC and providing extra time to the parties in televised debates organised by the NDI. It also produced, with the assistance of the United Nations Development Programme (UNDP), the most professional election news programme on TV – Equity News. Nevertheless, it did not curtail its propaganda function during the elections, devoting more than 822 minutes in its news programmes to the government compared to 2 minutes for the opposition. The performance of private television companies was worse, since almost no opportunity was provided to parties other than the CPP to accurately present their views.

Of the radio companies monitored by the EU EOM, all devoted the most time to the CPP and to the government. State radio company RNK devoted four hours of airtime per day to all the parties participating in the elections, but focused its own news programming on the contribution of the CPP-led government to the country, in a positive tone. Greater balance was achieved by the private Women's Media Centre FM102 and Beehive FM105 stations, which also rebroadcast the news of Voice of America (VOA) and Radio Free Asia (RFA). Some critical coverage of the government was registered on VOA and RFA, however their coverage of all parties was mainly neutral.

The three Cambodian leading circulation dailies – *Rasmei Kampuchea*, *Kampuchea Thmey* and *Koh Santepheap* – devoted by far the most coverage to the CPP, often in a positive tone. *Moneaksekar Khmer* and *Samleng Yuvachun Khmer* openly supported the SRP and the Norodom Ranariddh Party (NRP) respectively, publishing highly critical articles and opinions about the ruling party.

The media environment in the run up to the elections was marred by the closure of Angkor Ratha radio station in Kratie, for airing opposition parties' programmes without prior government approval in May, the arrest and temporary detention on defamation charges of *Moneaksekar Khmer* editor Dam Sithik, in June, and the worst incident: the murder on 11 July of *Moneaksekar Khmer* journalist Khim Sambo, whose son also lost his life in the attack.

The NEC issued warnings to the media for breaking campaign rules midway through the campaign but took no other measures, despite ample evidence that the media ignored the warnings. In a break from this inaction, the Ministry of Information – on behalf of the NEC – closed down a radio station breaking campaign rules by broadcasting opposition programmes on 26 July, in a disproportionate show of enforcement.

HUMAN RIGHTS

Although fewer cases of election related violence were reported, the killing of a high profile journalist, jailing of a newspaper editor, threats against other journalists and intimidation of opposition party members and key activists undoubtedly created fear and insecurity during the election campaign. EU observers consider several of these incidents to have been politically motivated.

Several female candidates and politicians informed EU observers of the discrimination they experienced against them during the candidate nomination process and internal political party elections. However, many male politicians claim that they find it difficult to encourage women to enter politics. It is however noteworthy that no female politicians were present in any of the meetings EU observers held with political party leaders and senior representatives at national level and in this election, only 14.8% (172) of total candidates are women.

Women are under-represented within the election administration, with only two out of a total of nine Election Commissioners serving for the NEC being women and only 15% of the total NEC staff. This pattern was repeated at the PEC and CEC administration level. Women rarely hold decision-making positions within the electoral administration but tend to hold lower level administrative positions. Almost one third of accredited domestic observers were women.

CIVIL SOCIETY

A total of 72 Cambodian civil society organisations were accredited by the NEC as domestic observers. Between them they registered a total number of 31,262 observers for Election Day. However, only a few of these organisations, such as the Committee for Free and Fair Elections in Cambodia (COMFREL) and the Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC) fielded substantial numbers of long-term observers, an important component of a credible election observation methodology.

COMFREL presented several quality election reports related to the various stages of the electoral process. Both organisations also participated in the voter registration audit organised by NDI, the results of which were, to large extent, recognised by the National Election Committee.

By 26 July, some 117,000 party representatives were accredited with the NEC. While the election administration provided some voter education, many voters would have benefited from targeted civic education initiatives, as the lack of an understanding of fundamental democratic principles and voting procedures is widespread.

POLLING

The EU EOM observed a total of 719 polling stations on election day. Voting and counting was conducted in a very calm and peaceful atmosphere. The full complement of NEC polling station staff was generally present at the opening and there were very few reported cases of missing polling staff during the day at the polling stations visited. Women were found to be chairpersons in only 17 per cent of polling stations visited. All materials required for the conduct of the poll were available at the polling stations visited by EU observers.

Polling was generally conducted in an orderly manner. The NEC polling staff proved to be committed and generally well trained. No campaign material or campaigning activities were observed. In some polling stations Village Chiefs and/or Deputy Village Chiefs were standing outside the outer perimeter observing the voters. There were only a few isolated reports of intimidation and EU observers assessed the general environment as good or very good in 91 per cent of the polling stations visited. Party representatives were present in all the polling stations visited and the main domestic observer group COMFREL was present in 50 per cent of visited polling stations.

In the majority of polling stations visited the members of the polling station staff were not checking the voters' fingers for traces of ink. Ballot boxes not properly sealed, voters being allowed to vote without producing a proper ID were other procedural irregularities reported by EU observers in an insignificant number of polling stations visited. Overall, EU observers evaluated the performance of polling staff as good or very good in 92 per cent and the polling process as good or very good in 88 per cent of visited polling stations.

COUNTING AND CONSOLIDATION

The closure of polling stations took place in a calm and quiet atmosphere. No cases of intimidation, tension or disruption were observed in the 57 polling stations visited to observe the closing. The turnout of voters was high at 70-75 percent and with higher percentages in the rural areas. No voters were queuing at the time of closure and all the polling stations visited closed at 15.00 hours. Party representatives were present for the close and counting in all the polling stations visited and the main domestic observer group COMFREL was present in 60% of visited polling stations.

The closure procedures were followed and implemented appropriately in the majority of polling stations visited. However, there were a number of irregularities in the counting procedures in a number of polling stations visited. In 11 per cent of polling stations the total number of voters' names marked on the voter list did not equal the number of ballots found inside the ballot box and in 42 per cent of polling stations visited a copy of the Ballot Counting Record Form (Form 1102) was not posted outside the polling station on completion of the counting process.

Notwithstanding these procedural lapses EU observers overall assessment of the closing and counting process was good or very good in 84 per cent of the visited polling stations.

The EU EOM will continue to observe the completion of the entire electoral process.

The EU EOM wishes to express its appreciation to the Royal Government of the Kingdom of Cambodia and the National Election Committee of Cambodia for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Commission in Cambodia and to International Organisation for Migration (IOM) for their support throughout.

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