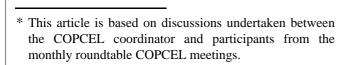# The Evolution of a Cambodian Election Process

Mr. Ok Serei Sopheak, Coordinator of the CDRI Centre for Peace and Development, and Chair of the COPCEL round table meetings, reflects on Cambodia's experience in building a democratic election process. *

As Cambodia prepares to engage in the National Election of July 2003, it is important to revisit Cambodia's recent experience and the lessons learned in the process of establishing democratic elections. Since the UN supervised election in 1993, Cambodia has organised two elections, the 1998 national election and the commune elections of February 2002. The challenges in both cases were not insignificant; armed conflict in 1997 threatened to set back the election process, and Cambodia did not achieve full peace and territorial integrity until 1998. Cambodia has nevertheless, surmounted what many in the international community — and Cambodians

The Commune Council elections of February 2002 were seen as a significant improvement over previous elections. Here a voter has their finger inked after voting to prevent them from voting a second time.

themselves — believed to be insurmountable challenges, and has continued to make steady progress.

With each new election experience, improvements have been made in aspects of the election process, for example in the legal framework, in voter education and registration, in the role of the media, and in campaigning. The management of the election process for both the national and commune elections have, from a technical standpoint, been generally recognised as credible by national and international observers. Also, the cost of Cambodian elections is on the decrease while the Cambodian contribution is increasing. That conflicts surrounding election issues are being more peacefully managed, or even prevented, is also encouraging. However, there remain serious concerns over some important issues. Among them, the reform of the National Election Committee (NEC), which has been the subject of passionate and intense debate.

There is a widely held perception, among Election Monitoring Organisations (EMO) and other

stakeholders, that the actions of the Ministry of Interior (MOI) in selecting and proposing a new NEC has left many feeling powerless and frustrated, believing the government is attempting to control the NEC. Such a widely held perception impacts negatively on Cambodia and damages the credibility of the election process as Cambodia approaches the 2003 national election. It also undermines the efforts to mobilise the broad support needed from within and outside Cambodia for the successful implementation of Cambodia's many reforms. While recent experiences of the NEC reform may be seen as a setback, it is important not to lose sight of the

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* This article is based on discussions undertaken between the COPCEL coordinator and participants from the monthly roundtable COPCEL meetings.

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broader picture, and of the positive developments that are taking root. It is equally important to recognise that there may be more than one-way to reach a desired end-point. For example, discourse on the independence of the NEC has principally focused on the form of its composition, overlooking the fact that its credibility could also be built around a transparent process which provides opportunities for civil society and the wider public to contribute to the preparation of procedures and regulations to govern the next electoral process.

The Significance of the 2003 National Election

Every election is important in the process of democracy building, even though by themselves elections do not make a country more or less democratic. For Cambodia, next year's election will mark a turning point in several ways. To date Cambodian elections have been partly financed by the international community, and many countries, particularly Japan and the European Union are expected to grant some financial support for the 2003 election. It is reasonable to anticipate, however, that after 2003 Cambodia will most likely have to bear the significant, full cost of elections. Forward planning, to ensure sufficient resources to finance at least three elections, the Senate Election, the 2007 Communal Election and the 2008 National Election, will be critical for the newly elected government if is to continue its commitment to the democratic process. In financial terms this will require an enormous effort on the part of Cambodian people. A peaceful, fair, and credible 2003 election will go a long way towards convincing people that the financial sacrifice is worth it. The cost of the 2002 commune election ($16 million) was much lower than the 1998 election (about $28 million), and it was even better managed. The cost of the 2003 election is expected to be lower still, as the Commune Councils will handle the registration of voters — which alone costs more than $4 million. In this respect steady progress can be seen from one election to the next. The financial issue is an important one, as the decision to hold elections will be based upon a conscious choice of the Cambodian people, not on financial pledges from the international community.

The political landscape of the 2003 national election will be very different, and much more favourable than the UNTAC-organised 1993 election and the 1998 election, which was heavily influenced by the fighting of July 1997. Previously, the general climate was dominated by fear. Key political players were just returning from exile, and had inadequate time — just a few months — to prepare the crucial pre-election phase of their campaigns. Also the last of the Khmer Rouge did not surrender their weapons until December 1998. The situation in 2003 will be quite different with a stable and peaceful election environment, assisted by Cambodia's current socio-economic and political situation.

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A large number of voters will be going to the polls as they reach 18 and will be able to exercise their voting rights for the first time. This could introduce a new dynamic into a political culture that will have to increasingly adapt and respond to this new constituency's hopes, views and impatient expectations. Whether political parties are sensitive to these changes, and have the capacity to respond, will be critical to the continuing evolution of the democratic process.

The 2003 national election can be measured therefore, as one step in a dynamic and continuously evolving process of democratic governance and will provide an opportunity to assess progress on a number of key issues such as reform of the NEC, voter registration, media campaigning, security, and vote counting.

NEC Reform

From the 1998 national election to the 2002 communal election all observers agree on at least one point: The NEC has succeeded in resolving major technical problems given limited timeframes. A point of discord, however, relates to the 'independence' of the NEC. From an NGO perspective there is concern that the NEC purports to be a referee, but is in fact also a player. In many countries around the world, members of the Election Committee are selected among lawyers who do not belong to any political party. In Cambodia, from 1997–2002, the composition of the NEC in fact reflected a spirit of consensus. Representatives came from the political parties (having seats in the National Assembly), the government (MOI), NGOs and members of the electorate. The public perception of a lack of independence in the NEC however, stems generally from four factors; a perception that NEC members representing political parties tend to put their own party's interests first; the role of the MOI in selecting NEC members gives the selection process a 'pro-government' label; the NEC position as 'referee' is unclear especially when dealing with the resolution of complaints where the NEC also acts as a player; finally, due to time and resource constraints in implementing its procedures, the NEC had to rely on the structure and competence of local authorities — perceived as politically biased — giving the impression that the NEC and local authorities are implementing the same agenda.

In preparing for the 2003 election, NEC reform figured at the top of everybody's agenda. It was interesting to note strong disagreement among key stakeholders on all issues but one; the reduction of the NEC composition from eleven down to only five or six members. The Cambodian People's Party (CPP) opted for all members to be 'independent'. FUNCINPEC and the Sam Rainsy Party (SRP) favoured a balance of power between the three political parties. FUNCINPEC proposed a 'two-all' formula with two representatives from each of the three main parties. The SRP preferred a 'two-plus-three' formula, with two non-party representatives (selected by

the King and NGOs), and three more representative, one from each of the three parties. For many months civil society conducted an intense lobby for five independent members proposed by a selection committee representing all interests. Issues such as how a selection committee would be appointed, as well as the time needed to resolve these issues raised many concerns. The two formulas proposed by FUNCINPEC and the SRP did not meet some concerns regarding the potential imbalance of voting power should there be a change of alliances in the NEC. This is a reality that cannot be ignored. An encouraging and positive aspect in all of this was the fact that there was real opportunity for extensive debate on all the issues. We must never take the birth of this new culture of dialogue for granted, however, as it has to be maintained and nurtured as much as possible.

At the time of this article, it appears that the MOI will propose a list of five dignitaries to the government and Parliament for consideration as NEC members. It would be ideal if in the future, a representative selection committee could nominate NEC members in a timelier manner. The question of independence should not only focus on the personality of NEC members, but should also be based on other important criteria such as public transparency of NEC operations, and transparency in preparation and implementation of rules and procedures in all phases of the election process. With constant vigilance and participation of key players, the concept of independence can gradually become a fact of life in the mind and the behaviour of the people.

An unfortunate lesson to be learned was that in Cambodia's post-conflict society, anything relating to public exposure — required in good democratic practice — is still very difficult.

Registration of Voters

During the last two elections in 1998 and 2002 this issue was one of the most controversial. The process was expensive, time consuming, politically sensitive, and technically laborious. The fact that up to two million voters were not registered, and that some parts of the implementation (especially information provided to eligible voters) relied on the assistance of local authorities, fuelled intense debate. Controversy related to the issue of residency (particularly for thousands of workers in factories), monks, and ethnic groups. As new voters (particularly the 18 year olds) register every year, registration procedures have to be flawless, ongoing and scrupulously implemented according to the spirit of the constitution and election laws.

During the last few months, there were long and intense debates on this issue. And there was an agreement. All key players have agreed that the registration of voters should be the permanent daily task of the new Commune Councils with assistance from the NEC. The fact that the huge majority of Commune Councils are now run by many political parties, provides a reasonable and realistic expectation that the registration process will be more transparent and accountable. Even so many problems need to be dealt with like the lack of experience

and resources, a limited timeframe for the next election, and the fact that national ID cards are still handled by the National Police. It is realistic to foresee that for the 2003 election, this issue will still be controversial, but it will only be a matter of time before the Commune Councils become completely equipped to deal with the problem. The objective should be a more flawless process for elections after 2003.

Media and the Election Campaign

During the 2002 Commune Election, there were two controversial issues. The first was what was considered 'public information' and therefore not limited to the timeframe of the official election campaign; the second was the broadcasting of the roundtable-debate between candidates and the Talk Show. With the first issue, the NEC procedures were not very clear about education materials, especially those prepared by many competent NGOs. Most of the materials were only authorised by the NEC to be distributed during the two-week timeframe set aside for the election campaign, although for voter education, information should have reached all those eligible long before that. On this particular point, based on the good cooperation and understanding already established among key players, the new NEC should seek to cooperate with relevant NGOs in working out an 'open principle' guideline allowing educational materials to reach the voters more widely. This approach would also save a lot of money for the NEC.

On the second issue, conflicts arose from unclear procedures and the reversal of decisions made by the NEC. Many national and international NGOs worked hard, investing finance, energy and a lot of time to prepare debates to be aired on radio and TV. These debates were often creative and introduced an impressive public participation into the democratic debate. An unfortunate lesson to be learned here was that in Cambodia's post-conflict society, anything relating to public exposure — required in good democratic practice — is still very difficult. A solution would be to increase dialogue to build mutual confidence and trust, and to establish acceptable 'game rules' agreed by all. We believe that these are not beyond the will and the mandate of the new NEC.

Security

If comparison is made with the fairly recent past, the security atmosphere surrounding periods of election has improved significantly. This statement does not ignore the fact that while the number of killings has decreased; a general atmosphere of fear unfortunately still persists. This is the result of a 'survival mentality' of some grassroots authorities and people, who as part of the legacy of war have been exposed to a culture of violence, physical fear, and political uncertainty for quite a long time. The huge circulation of small arms and the lack of a strict rule of law contribute to this atmosphere.

For this issue, consistent, widespread basic education, time, and clear-cut sanctions against perpetrators — whoever they are — would be determinant factors in decreasing the level of violence, particularly during election periods. During the 2002 election campaign, the MOI set up a competent task force to deal with this matter. It was very open in the manner in which it cooperated with civil society. It has shortened the period of investigation and sent the perpetrators to court. For next year's election and those afterwards, this task force should be maintained and strengthened. The general public should also be kept more regularly informed about the progress of cases pending. In this area, the debate on whether a criminal case is 'politically-motivated' or not, does not seem relevant as a crime is a crime and should not change the procedure of law enforcement. Unfortunately, a crime against a candidate during an election period does have a political impact.

Vote Counting and Complaints

The experience of this year's commune elections, proved that counting votes and handling complaints on voting day, with the cooperation of officials running the polling stations, and observers from NGOs and political parties, was one of the most improved aspects of voting. From the technical point of view, counting at the polling station remains more practical than counting at any other location. Concerns regarding fear, due to a small number of voters in one polling station, do not stand up to scrutiny. Certainly, if counting were conducted at the commune level the fear factor would still exist. In addition, the transport of the ballot boxes and late counting conducted by tired officials and observers would create more problems than solutions. If for some reason however, counting has to be at the commune level for the 2003 election, the procedures should be adjusted accordingly so that the process can still be smoothly implemented. It should not be forgotten that problems and mistakes are great teachers, provided that lessons are learned and more appropriate mechanisms are proposed.

This process would also be greatly improved if new NEC procedures could strictly implement the principle that those lacking official credentials, not be present at polling stations; this is especially true for officials from the local authority. To further improve the process, another important principle would be if an authority higher than the NEC, the Constitutional Council for example, handled complaints filed against the NEC (particularly at the Commune and Provincial Election Committee levels). This should also specifically include complaints relating to the commune election, as there is a short provision dealing with this issue in the National Election Law, but nothing in the Communal Election Law.

Conflict Prevention Approach

In February 1999, CDRI undertook research on the "Nature and Causes of Conflict Escalation in the 1998 National Election". The result of this research was presented to the public in June 1999, during a two-day conference that recommended a conflict prevention mecha-

nism in the Commune Election. The MOI and other stakeholders were quick to provide support to the proposed conflict prevention process. As early as August 1999, the first monthly roundtable meeting of Conflict Prevention in the Commune Election (COPCEL) took place.

It was held at CDRI with participation from government representatives, major political parties, the NEC, the media, women's representative groups, NGOs, and representatives from the donor community. Month after month without interruption, many key issues, such as those mentioned above were debated. Before the Commune Election in February 2002, thirty-one COPCEL meetings had been facilitated by CDRI. In terms of building trust and promoting dialogue and a culture of peace, COPCEL has been recognised as so important that participants unanimously voted to maintain the mechanism to serve the National Election in July 2003. Following a Cambodian lecture on the COPCEL experience, at a regional Conflict Resolution seminar in Thailand, a Canadian expert on Conflict Resolution commented that:

"COPCEL is a great model in the area of Conflict Prevention that should profoundly inspire all of us". The COPCEL acronym has been maintained and now stands for 'Conflict Prevention in Cambodian Elections'. There will have been 47 COPCEL meetings before the 2003 election, presenting a unique and rich experience in a post-conflict situation.

After the energy invested in the COPCEL mechanism, the major lesson learned has been that the transformation of a culture of violence into one of non-violence and peace through dialogue and trust building is possible. It needs a great deal of patience, mutual respect, and time from key players over the long process of nation building. But as nations cannot be built overnight, neither can enduring social peace.

Conclusion

In building democratic mechanisms, that include an election process as one of its principle components, no quick or fixed solution should be expected. It is a dynamic process with everybody continuously adjusting his or her contribution. As already mentioned, whatever problems have been encountered, there are many structural achievements that as a post-conflict society we should feel proud of. All key players, particularly those from the civil society have contributed very significantly to strengthening the process. We strongly believe that to continue progress, we must maintain and promote the habit of dialogue, which constitutes an inalienable part of the culture of peace. The road ahead is still long and full of obstacles and there is no reason for being self satisfied or complacent. But there is no reason why we should minimise our great achievements in the election process, the most critical area for democratic governance. Perhaps we should just occasionally stop and take the time to reflect on our past experiences and the lessons we can learn from them.