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## Evolution of Conflict Management During Electoral Periods

Caroline Hughes, CDRI external consultant examines the changes in the nature of conflict and its management during electoral periods in Cambodia.\*

This year saw Cambodia's fourth electoral exercise since 1993, the third to be organised by Cambodian state institutions. In response to the interest generated by CDRI's study of conflict during the 1998 general elections, the Centre for Peace and Development commissioned a second study this year, offering a longitudinal analysis of the evolution of conflict management mechanisms over the course of three elections. In undertaking this task, the researchers had four aims. First, we aimed to compare the nature and causes of conflict escalation, and the effectiveness of mechanisms used to manage conflict, in 1998 and 2003, in order to model the process of conflict escalation. This provides a basis for formulating more effective conflict management mechanisms. Second, we aimed to investigate conflict and conflict management at the local level through fieldwork in case study communes, a research strategy that was not attempted in the study of the 1998 elections. Third, we focused particularly on the impact of longer-term processes of change that have taken place since 1998 – in particular, expanded civil society advocacy, the decentralisation of power to local government, and NEC reform – to evaluate their impact on conflict and conflict management. Fourth, we aimed to examine areas where limited reform has occurred, notably in the structure of access to the media, and to investigate the effectiveness of programmes sponsored by international agencies to address conflicts in this area.

Overall, the research team found that the level of conflict in 2003 was much reduced as compared to 1998. This was attributed to the following positive developments: greater participation by the major parties



*Despite flooded roads caused by torrential rains, Kompong Speu voters make their way to the*

and by non-governmental organisations in electoral preparation, including the drafting of legal frameworks and regulations; a much more detailed and greatly improved legislative foundation for the elections; greater openness and accessibility in working practices on the part of national and local level election agencies; and greater involvement of the SRP and FUNCINPEC in local politics through their positions on commune councils. Equally, ongoing processes of consultation, including the Committee for the Prevention of Conflict in Cambodian Elections (COPCEL), which attracted the commitment of political actors from government, opposition, and non-governmental organisations alike, resulted in the 2003 elections being characterised by a

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\* A full report of the study, which was funded by the Australian Government's AusAID, will be published as a CDRI Working Paper in March 2004.

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greater willingness to have open discussions and take steps to manage conflict among national level political actors.

Despite these advances, conflict still arose in 2003, particularly following the release of the election results. This summary reports on conclusions drawn from the 2003 study, with respect to the modelling of conflict escalation in Cambodian Elections. Using the model developed, it summarises the researchers' evaluation of two programmes of institutional reform – reform of the NEC and decentralisation of power to elected commune councils – and their impact on the 2003 election.

### Modelling Conflict Escalation in Cambodian Elections

CDRI's 1998 study proposed that conflict escalation occurred as a result of two inter-related factors: the weakness of institutions and a lack of a sense of political community among parties to conflict. Institutional weakness occurs when state agencies are lacking in either technical competence (as a result of inexperience, lack of resources, or poor leadership) or in political legitimacy (as a result of perceptions that they are biased, corrupt, abusive, or unrepresentative). A lack of a sense of political community among parties to conflict occurs when parties to conflict distrust one another, refuse to cooperate with one another, view one another as illegitimate participants in the political process, and, often, have fundamentally opposed perceptions of political events. These traits combine to fuel mutual suspicion and an unwillingness to seek compromise solutions to differences.

The relationship between institutional weakness and a sense of political community among political actors is complex. The two factors can be mutually strengthening, or can combine to form a vicious circle. Efficient action by authoritative institutions can provide just outcomes, promoting attachment and loyalty to the political community. At the same time, a strong sense of trust and cooperation among members of the political community allows the emergence of authoritative institutions that can act efficiently (see Fig.1). Conversely, poor trust and poor cooperation tends to undermine the abilities of institutions to work, and weak institutions which operate in an inconsistent or inefficient manner tend to fuel distrust between political actors and to reduce the level of political cooperation (Fig.2). In our case studies of conflict arising in 2003, we used this model for analysis, paying particular attention to the ways in which inadequate conflict management by institutions led to conflict escalation, as shown in Fig. 2.

Conflict management is very important in this proc-

ess. Both the 2003 and the 1998 studies showed that ineffective or illegitimate mechanisms for managing conflict are likely to increase distrust and fuel conflict escalation. On the other hand, effective and legitimate mechanisms for managing conflict can promote productive relationships between the various parties to conflict, and between parties and state agencies.

The ways in which ineffective mechanisms for conflict management weaken the attachment of aggrieved parties to institutional actors, and thus fuel distrust between political parties, is examined in Fig. 3. Both the 1998 and 2003 studies showed that there are recurring differences in the ways that political parties interpret problems in electoral processes. Whereas one set of actors commonly views procedural difficulties as technical failures, another set of actors routinely regards them as "political tricks." This fundamentally different perception of events makes finding a conflict management mechanism that can address the concerns of both parties difficult. Where state agencies fail to find conflict management mechanisms that address both views, and only address one or the other interpretation, conflict escalation is more likely. Because the institutional process has only addressed one set of interpretations, this leaves the other parties with the belief that their concerns have not been considered. This in turn prompts decreased attachment to institutions and the electoral process, prompts greater distrust of political opponents, and decreases the fund of goodwill that is required for brokering compromise solutions.

This model offers predictions for the likely success of conflict management mechanisms with respect to particular conflicts. Drawing on case studies of conflict escalation from 1998 and 2003, the 2003 study suggested that the following criteria promote effective conflict management:

- There is agreement on the nature of the conflict
- There is agreement on appropriate mechanisms for managing conflict
- Managers of conflict have the appropriate powers to implement conflict management processes, even if this means punishing wrongdoers from other institutions
- There is agreement on the criteria for measuring success
- Mechanisms for managing conflict are efficiently implemented, transparent and accessible

When the converse of each of the above is true, conflict management is less likely to be effective.

Study of conflicts in the 2003 elections indicated that in the most fundamental conflicts that arose this year –

Fig 1. Institutions and Political Community: Virtuous Circle of Effective Conflict Management

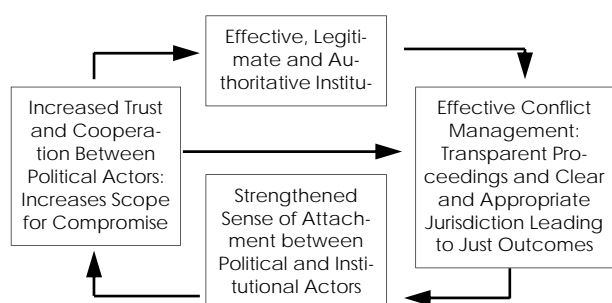
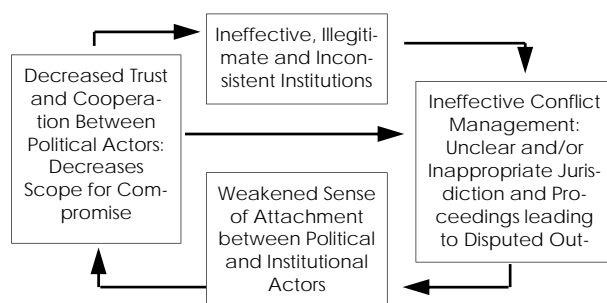


Fig. 2 Institutions and Political Community: Vicious Circle of Ineffective Conflict Management



notably, conflicts over the level of security surrounding the elections; conflicts over the role of village chiefs; conflicts relating to voter registration; and conflicts over the handling of complaints by the NEC – this model accurately describes the process of conflict escalation which led to the rejection of results by the opposition parties after the election. The model thus helps us to evaluate the contribution of programmes of institutional change to strengthening conflict management during elections.

### Institutional Change: NEC Reform

CDRI's 1998 study identified the process of formation of the NEC, its mandate, personnel, and mode of operations as significant obstacles to the effective management of conflict in the 1998 election. The NEC had been formed when some political parties were out of the country; its mandate and powers were unclear; its members at national level were overtly political, and at local level they were widely accused of bias; and its mode of operation suffered from both technical problems and a lack of attention to transparency, inclusiveness, or consistency of operation. For these reasons, the NEC remained weak, behaved inconsistently, and was perceived as illegitimate by many of the respondents to CDRI's study.

Between 1998 and 2003 a number of reforms were instituted, which addressed criticisms raised in 1998 and prompted new debates. The three sets of issues identified in the study of the 1998 election – impartiality, autonomy, and nature of working practices – remained salient for analysing debates over the reform of the NEC in 2002/3.

### NEC Impartiality

Criticisms of NEC impartiality in 1998 centred on both the selection process, which entailed that members openly represented partisan or sectional interests, and on broader accusations that the agency was dominated by

the CPP and took direct orders from the party, both at national and local level. Changes in the make-up of the NEC in 2002 included a shift to independent members, rather than party nominees. Amendments to the election law required that members of PECs and CECs were to be reselected, according to stated, meritocratic criteria. The categories of local officials banned from serving on local election committees were expanded.

In response to these changes, new criticisms emerged. Critics charged that the new selection process for NEC, PEC and CEC members was not sufficiently transparent. NEC members were nominated by the Ministry of Interior (MoI); both the opposition party and election monitoring organisations claimed that as the MoI was controlled by the parties of government, FUNCINPEC and CPP, the selection process could not assure an impartial NEC. Criticisms of local level procedures included charges that positions were not sufficiently advertised; that consequently, the same individuals tended to be re-employed, nullifying the impact of reform; and that there were too few women on election committees, thus rendering them unrepresentative of the population.

### NEC Autonomy

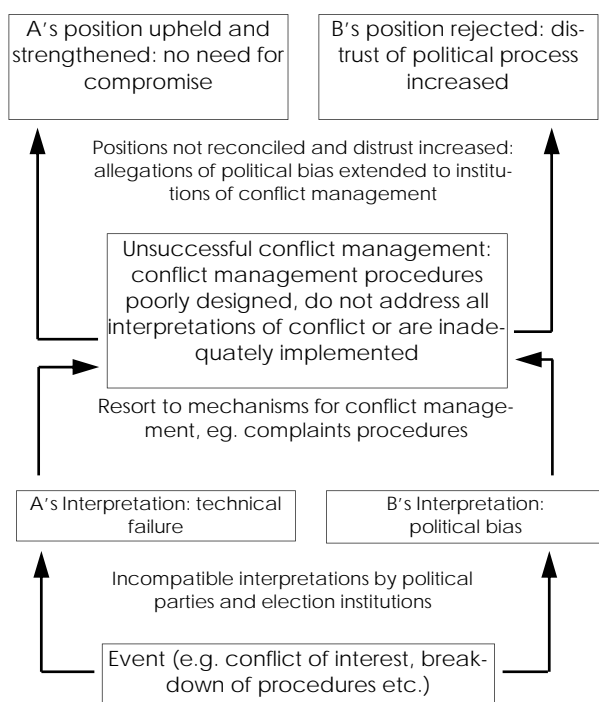
Criticisms of NEC autonomy in 1998 centred on the claims that, first, NEC jurisdiction was unclear or inadequate; and that second, even where the NEC had jurisdiction in a particular case, other institutions prevented the NEC from operating effectively and authoritatively. These criticisms were also made of PECs and CECs. In 2003, the NEC's powers were spelled out in much more detail in the amended election law. In particular, greater attention was paid to spelling out the different roles of local authorities and local election committees. The use of codes of conduct to guide the behaviour of different kinds of political and state actors made the different roles of different parties much clearer.

Although these efforts improved the situation, there is still considerable misunderstanding of what the NEC's jurisdiction actually is, and also considerable dispute about what it should be. In certain areas, such as security, the NEC's jurisdiction was limited. Criminal offences were the province of the Ministry of Interior. However, research in 2003 showed that CECs sometimes tried to manage conflicts which should have been left to the police as they involved crimes; in other cases, political actors criticised the NEC for failure to take action over events such as political killings which were beyond their jurisdiction. Equally, the role of the NEC in handling post-election complaints remained a hotly disputed question. A number of political actors argued that the NEC's jurisdiction here was too wide – that the NEC should not be in a position to adjudicate complaints directed against its own personnel.

Other problems with the NEC's jurisdiction were illuminated by, for example, the inability of the NEC to enforce media codes of conduct. The law did not give the NEC the power to punish violators of codes of conduct, rendering these only shakily effective in limiting the activities of political actors. The law did not give the NEC direct power over village chiefs either, with the result that the NEC had to ask the Ministry of Interior for assistance in addressing allegations of vote-buying or intimidation by village authorities.

In addition to this, allegations continued to be raised

Fig. 3: Model of Conflict Escalation: Poor Conflict Management Promotes Distrust





that the NEC took orders from the CPP; some political actors continued to attribute almost every deficiency in NEC operations to this. At local level, also, there was criticism of the reliance of the NEC on village chiefs to spread information to the population, and claims that the recruitment of teachers onto the CECs entailed that CEC officials could be easily intimidated by the local authorities that employed them for most of the year. Election monitors also claimed that PEC and CEC officials were disproportionately associated with the CPP.

### ***NEC Technical Competence***

The technical competence of the NEC was a major issue in 1998 – the first election organised by a Cambodian state agency since the war – but by 2003 it had reduced in importance. The greater experience of election officials led to greater competence, although this also entailed that any hitches that did occur were more likely to be blamed on political factors. Complaints in 1998 that processes were not transparent or inclusive were addressed to an extent by NEC efforts at greater openness. At national level, this included weekly meetings with political parties, NGOs and media representatives, regular NEC attendance at the COPCEL forum, and greater attention to rapid release of information to the press. At local level, also, weekly meetings with political party campaigners were held at CEC offices to pass on information from above, to receive complaints and to discuss issues arising with respect to the campaign or election.

These efforts were widely praised before the election, by interviewees for this study. However, after the election, the competence of the NEC in handling complaints was widely criticised. As in 1998, the complaints process proved to be one of the most controversial parts of the election. Although complaints procedures were specified in much greater detail in both law and regulations in 2003, than in 1998, critics continued to allege difficulty in submitting complaints due to official high-handedness, or unreasonable requirements regarding the provision of evidence in support. Critics also charged the NEC with a lack of flexibility and transparency in decision-making over whether to accept complaints. The NEC's power to dismiss complaints against itself was also criticised.

### ***Outcomes of NEC Reform***

Despite some very great improvements, the NEC remained an object of controversy in 2003, particularly with respect to its performance after the election. NEC operations before the elections were very much more widely praised in 2003 compared to 1998. Opposition parties and election monitoring organisations continue to distrust the impartiality and autonomy of CECs, although at local level all the major parties engaged with the CECs' programme of activities.

The NEC's performance continues to be undermined by a lack of clarity regarding its engagement with other institutions. In particular, the activities of the Ministry of Interior – responsible for the selection of NEC members, for security, and for disciplining local officials – need to be made much more transparent and accountable, to match the efforts of the NEC in this regard.

Equally, the clear support of the Ministry of Information, in dealing with the media, would make the NEC's position much stronger and more effective. Much greater engagement by these two institutions in the kinds of processes of transparency and accountability adopted by the NEC would constitute a major contribution to conflict management at election times.

### ***Institutional Change: Decentralisation***

The decentralisation of power to elected commune councils is significant in that local authorities – particularly at the commune level – were sharply criticised in 1998 for engagement in illegal activities such as vote-buying, intimidation, confiscation of voter cards, organising forced induction ceremonies to draft new members into the CPP, and using state resources to campaign. The election of multi-party commune councils in 2002 should in theory have introduced political pluralism at this level of government, thus preventing these kind of abuses of power. This hypothesis was investigated by the researchers through local level research in five case study communes in Takeo, Kampot, Battambang, and Kompong Cham provinces.

In our case study communes, we found that the positive political impact of decentralisation included an institutionalised role for the three main parties in most communes, for at least eighteen months before the 2003 election. This represented a considerable improvement compared to 1998. The winning of positions on commune councils legitimised the presence of activists supporting the three main parties in most communes, permitting the main parties to extend their networks. This significantly increased the institutional strength of the opposition SRP, in particular. We

also observed that in some communes, twelve months experience of working together with rival political parties as partners had alleviated distrust and promoted friendly relations between parties, although the extent and robustness of this effect is difficult to measure precisely.

However, there were also important limits to the political impact of decentralisation. First, many commune councillors, particularly from FUNCINPEC and the SRP, but also from CPP, are inexperienced and thus do not wield the authority that they should, towards each other and towards, for example, village chiefs. Commune councils have not yet started to implement policies, because funds have not been allocated to them, so there is little experience of practical problem-solving to draw on. This limits the extent to which they have developed strong working practices and relations with the local community, as opposed to relations with their political parties. Commune councils have few resources with which to act on election-related issues. In some communes, SRP and FUNCINPEC councillors reported that they were excluded from influence by their CPP colleagues. In some communes also, village chiefs appeared to report directly to the district level or to their political party, bypassing commune councils.

The positive observable effects of decentralisation on the election process in 2003 included greatly expanded freedom to campaign in the communes during the elec-

***Despite some very great improvements, the NEC remained an object of controversy in 2003, particularly with respect to its performance after the election.***

tion compared to 1998; and much less criticism of the political role of commune chiefs compared to 1998 (but greater criticism of other local authorities, especially village chiefs). However, the inexperience of commune councils affected their ability to fulfil their new function of registering voters, and this became a significant source of conflict after polling day. Furthermore, the inexperience of FUNCINPEC and SRP councillors, and of these parties in organising strong networks at local level, limited their ability to compete with the CPP's sophisticated organisational strategies in the communes. This was particularly important as these parties later claimed that their supporters had not been given sufficient information by state agents about registering and going to vote. Whereas the CPP effectively mobilised its supporters on polling day, FUNCINPEC and SRP were much less adept at this.

Consequently, a number of conflicts remained unresolved at local level. These included complaints over the alleged registration by commune clerks of illegal "foreign" voters; complaints over unequal distribution of information to supporters of different parties; complaints that CECs were partisan to the CPP; complaints that villagers were intimidated by village chiefs and afraid to discuss politics freely; and complaints that polling and counting station staff did not respond appropriately to problems and complaints.

It is too soon to assess the long-term impact of decentralisation, but the most important short-term effect has been to expand freedoms for party activists in most communes. However, we found that commune councillors from different parties still have profoundly different points of view on the situation vis-à-vis intimidation, political partisanship on the part of local authorities and election committees, vote-buying, and access to information. This suggests that a strong sense of political community and cooperation is lacking at local level between party representatives, and that problems may arise in the future in achieving cross-party consensus on commune issues.

Complaints over unequal capacities of different political parties in informing, assisting and mobilising their voters to go and vote escalated into a serious conflict following polling day. Less experienced commune councillors, and particularly those from newer parties, need assistance to become local leaders, helping to inform and mobilise villagers even where resources are lacking. Other organisations should also be encouraged to participate in this. The NEC must address the issue of partisanship in information flows to villagers by expanding its own programme of voter education.

### **Conclusions: Institutional Reform and the 2003 Election**

Compared to 1998, we found that the following aspects of institutions had improved, strengthening the sense of attachment between political and institutional actors, and decreasing distrust between political parties:

1. Broader participation in drafting and passing the election law and regulations greatly increased the legitimacy of the legal framework, and, consequently, strengthened the legitimacy of institutions and processes also.
2. Greater detail in the election law and regulations greatly increased the transparency of decision-making

and reduced the scope for discretionary activity on the part of institutions which promotes distrust on the part of political parties.

3. The working practices of the NEC at national level, particularly before polling day, and particularly increased accessibility to political parties and NGOs, were important in strengthening the attachment between political and institutional actors.
4. This was also true, but to a lesser extent, at local level, in the communes we visited.
5. The emergence of multi-party commune councils has given the SRP a much stronger presence at local level which encourages the attachment of the SRP to the electoral process.

We found that the following aspects of institutions undermined the sense of attachment between institutional and political actors, increasing distrust and reducing the scope for effective conflict management:

1. Serious continued weaknesses in institutions other than the NEC: for example, a lack of trust in the Ministry of Interior particularly by the opposition parties; the illegitimacy of village chiefs who have not been elected in twenty years; the inexperience of commune councillors. Particularly problematic is the continued perception, by a variety of political actors, of state institutions such as the police and the courts as abusive, politically biased, and corrupt.
2. Serious limits to the jurisdiction and powers of the NEC in certain areas: for example, vis-à-vis the media and village chiefs, and other institutional or official violators of electoral codes of conduct. This is made worse by the tendency of the NEC and CECs to adopt conflict management strategies which emphasise a lack of confidence in their own powers – e.g. through continued resort to reconciliation rather than punishment.
3. Continued lack of supervision of the NEC itself, e.g. through the creation of an independent body to appoint NEC members and an independent body to handle complaints.
4. Lack of transparency in certain key aspects of electoral procedure, e.g. appointment of PECs and CECs and handling of complaints.
5. Design of conflict management procedures focused on parties, not always taking into account rights-based perspectives.