

The Evolution of Democratic Process and Conflict Management in Cambodia

**A Comparative Study of Three
Cambodian Elections**

Working Paper 30

Caroline Hughes and Kim Sedara

with the assistance of Ann Sovatha



**Working
Paper
No. 30**

CAMBODIA DEVELOPMENT RESOURCE INSTITUTE
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Phnom Penh, April 2004

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Foreword

This CDRI Working Paper, *The Evolution of Democratic Process and Conflict Management in Cambodia: A Comparative Study of Three Cambodian Elections*, is published at a sensitive time for Cambodia and its political institutions. As of late February 2004, Cambodia faces a continuing stalemate in the formation of a new government following the July 2003 national election, its third election under the 1993 Constitution.

The Working Paper analyses key developments in the technical capacity and political legitimacy of institutions charged with conflict management, the types of conflicts that are most effectively managed by these existing mechanisms, and the problems that lead to conflict escalation and that may require new policy and administrative responses.

It delivers some important messages in this sensitive environment. The study concludes, consistent with the views of independent election monitors, that the 2003 national election was a legitimate expression of democratic processes under the Constitution of the Kingdom of Cambodia. It also concludes that, despite the many legitimate criticisms of their performance, and areas where both policy and practice can be improved, that Cambodia's institutions have, since the 1997 national election, matured and improved their capacity to manage conflict in democratic political processes.

CDRI publishes the outcomes of this study as an expression of its continuing commitment to responsible well-informed public policy dialogue and debate as the underpinning of Cambodia's future political, economic and social development.

Larry Strange

Director

Cambodia Development Resource Institute

Phnom Penh, April 2004

List of Acronyms

| | |
|-----------|---|
| ADHOC | Cambodia Human Rights and Development Association |
| BLDP | Buddhist Liberal Democracy Party |
| CCHR | Cambodia Center for Human Rights |
| CDRI | Cambodia Development Resource Institute |
| CEC | Commune Election Committee |
| CLEC | Community Legal Education Center |
| COFFEL | Coalition for Free and Fair Elections |
| COHCHR | Cambodia Office of the High Commissioner for Human Rights |
| COMFREL | The Committee for Free and Fair Elections in Cambodia |
| COPCEL | Conflict Prevention in the Cambodian Election |
| CPD | Centre for Peace and Development |
| CPP | Cambodian People Party |
| CSD | Center for Social Development |
| EMO | Election Monitoring Organisation |
| EU | European Union |
| FUNCINPEC | Front Uni Nation pour un Cambodge Neutre, Pacifique et Cooperative |
| KID | Khmer Institute for Democracy |
| MOI | Ministry of Interior |
| NADK | National Army of Democratic Kampuchea |
| NDI | National Democratic Institute |
| NEC | National Election Committee |
| NICFEC | Neutral and Impartial Committee for Free and Fair Elections in Cambodia |
| PEC | Provincial Election Committee |
| PRK | People's Republic of Cambodia |
| PSO | Polling Station Officer |
| RCAF | Royal Cambodian Armed Forces |
| RFA | Radio Free Asia |
| SRP | Sam Rainsy Party |
| TVK | National Television of Kampuchea |
| UNDP | United Nations Development Programme |
| UNTAC | United Nations Transitional Authority in Cambodia |
| VOA | Voice of America |
| WFP | Women For Prosperity |

Cambodian Words

| | |
|-----------------------|---------------|
| <i>Somros somruol</i> | To facilitate |
| <i>Yvon</i> | Vietnamese |

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In the four research provinces of Battambang, Kampong Cham and Takeo, we would like to thank the Provincial Election Committees, the provincial party offices of the Cambodian People's Party, Sam Rainsy Party and FUNCINPEC Party, and the provincial offices of COMFREL and NICFEC, all of whom shared their ongoing views of the province-wide situation.

In our case study communes of Peam Ek, Wat Tamim, Ta Khaen, Veal Vong and Thnaot, we would like to thank the members of the Commune Election Committees for allowing us to attend their meetings; the commune chief and councillors for submitting to repeated interviews, and for facilitating our visits; commune political party activists for talking frankly about the problems of campaigning; and the many other individuals, from state, party and non-governmental organisations, who gave us their time and their opinions, and shared their concerns and frustrations.

We would very much like to thank the peer reviewers of this report for their care in reviewing the final draft, and all our colleagues at CDRI for their comments, criticisms, feedback and facilitation of this research along the way. Particular thanks are due to three individuals whose efforts were crucial to the project. We gratefully acknowledge the very significant input of Ann Sovatha to this study, and thank him for his energetic participation as research assistant, his efficient conduct of the political parties' survey, his hard work as ad hoc interpreter and translator, and his undying enthusiasm and good humour on the road. We would also like to convey our grateful thanks to Sen Sina for collecting all the documents for us, and, last but certainly not least, to Mr Ok Serei Sopheak, for allowing us to exploit his vast web of contacts, and for facilitating our access to the corridors of power.

Executive Summary

This study examines the evolution of mechanisms for conflict management since 1998, and their effectiveness in preventing conflict escalation during the general elections of 2003. The study draws on extensive field research carried out by CDRI researchers on the 1998 and 2003 elections, and on the practical experience of conflict management gained by staff of CDRI's Centre for Peace and Development which, through its Committee for Conflict Prevention in Cambodian Elections, hosted a four year programme of meetings between election organisers and representatives of political and civil society.

The present study looked in detail at three specific developments relevant to conflict management that took place between 1998 to 2003, namely the reform of government institutions involved in electoral conflict management, particularly the NEC and the commune level of government; the development of civil society programmes for conflict management; and the changes in electoral procedures, including the overall legal framework for elections, the complaints procedure, and the voter registration procedures. Fieldwork was conducted during the 2003 election period to investigate the impact of these changes on the ability to manage electoral conflict at national and local level. Ability to manage conflict management effectively is regarded in this study as a function of the technical capacity and political legitimacy of institutions, and the level of trust and goodwill between political actors. It is also noted that effective conflict management can itself improve the political legitimacy of institutions and the level of trust between political actors.

Electoral conflicts were identified at three stages of the research. Before the election, electoral conflicts were identified through initial interviews with political party representatives, through a survey of statements by political actors in public and in COPCEL meetings, and through a survey of issues raised in the press in the six months leading up to the campaign period. During the election campaign period, conflicts were identified through interviews with political actors at national and local level. Following polling day, conflicts were identified through further interviews with political actors, analysis of complaints submitted to the NEC, and through surveys of the justifications put forward by the losing parties for their rejection of the results. Management of conflict was investigated primarily through interviews with parties to conflict and conflict managers, and through survey of any available written materials.

Overall, the study drew two sets of conclusions. First, it drew conclusions with respect to the impact of the key developments identified on the technical capacity and political legitimacy of institutions charged with conflict management – primarily the NEC, PECs and CECs, and commune authorities. Second, it drew conclusions as to the types of conflicts that are most easily managed by existing mechanisms in Cambodia, as well as identifying problematic elements that lead to conflict escalation.

Institutions for Conflict Management

The study found that institutional reform had been successful with regard to the NEC at the national level, whose working practices gained much greater approval from political actors

across the political spectrum in 2003, compared to 1998. In particular, the technical competence and transparency of working practices of the NEC attracted praise. In part this was a function of the changed composition of the NEC, and the changes to the Election Law which dictated the NEC's functioning in much greater detail. In part, it was a function of civil society efforts to draw the NEC into constructive dialogue with other political actors, and the NEC's positive response to these initiatives.

The means of making appointments to the NEC, and to its provincial and commune level subsidiaries continued to attract strong criticism, and led to charges of political bias. These accusations were made particularly loudly in the fraught period of complaints resolution following polling day, and the neutrality of the NEC was in 2003, as in 1998, again raised as an issue in the rejection of election results, despite the relatively positive evaluation of the NEC's performance before the election. As in 1998, the complaints resolution process proved to be the most problematic part of the NEC's work. In 2003, continued problems in processing complaints undermined the fragile trust built between the NEC and other political actors in earlier stages of the election process. Changes to the complaints resolution process in 2003 did not significantly alleviate the problem.

Other conflicts involving the NEC emerged from a lack of fit between the NEC's legal powers, particularly vis-à-vis other state agencies, and perceptions of its jurisdiction. In its attempt to enforce codes of conducts for local state officials and for the media, for example, the NEC found that it did not have the means to impose penalties for non-compliance. This prompted other political actors to criticise the NEC as weak, toothless, and, in some instances, politically biased.

Reform of the commune level of government had a significant effect on the ability of political parties to campaign at local level. Multi-party commune councils provided an institutionalised role for the main parties in most communes, legitimising the presence of activists supporting these parties, and providing them with the opportunity to extend their networks and gain experience of working with one another. This removed one of the most serious sources of conflict observed during the 1998 elections.

However, given the relatively short time since the commune elections, many commune councillors remain inexperienced, and the slow pace of devolvement of resources to commune councils means that these have as yet had little chance to develop their own mechanisms for conflict management. In some communes, SRP and FUNCINPEC councillors reported that they were excluded from influence by their CPP colleagues, and in some communes, village chiefs appeared to report directly to the district level or to their political party, bypassing commune councils, further weakening them as conflict managers.

Institutional weaknesses, on the part of commune councils and political parties, were the source of inadequate implementation of new procedures for voter registration. Unequal distribution of information was alleged by opposition parties to have benefited CPP supporters at registration and polling, contributing to conflict between parties. The ability of the state to provide similar, non-partisan opportunities for political participation to all voters equally, thus undermining the CPP's organisational advantage, is still lacking. 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 their own programme.

During the campaign period, there were fewer complaints about the activities of commune authorities, compared to 1998, suggesting that despite technical deficiencies, the commune authorities had greater legitimacy in 2003. However, many complaints were still made about the behaviour of other local authorities, particularly village chiefs. The NEC's efforts to

control village chiefs met with little success, primarily because the NEC's role in this respect was not clearly defined in the election law.

Indicators of Likely Success in Conflict Management

In examining the success or failure of these institutions in managing specific conflicts during the 2003 elections, the researchers investigated the following case studies: the conflict over registration; the conflict over village chiefs; the conflict over access to the media; and the conflict over the complaints process. The researchers concluded that of these, only the conflict over access to the media had been resolved satisfactorily. Analysis of these case studies led to identification of the following criteria as indicative of the likely success of conflict management measures as these currently exist in Cambodian elections:

Conflict management is successful where:

- 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.

Conflict management is unsuccessful where:

- There is no agreement on the nature of the conflict;
- There is no agreement on the mechanisms for managing conflict;
- Managers of conflict are unsure about their powers to implement conflict management processes, if there is likely to be resistance from other institutions;
- There is no agreement on the criteria for measuring success;
- Mechanisms for managing conflict are poorly implemented, lacking in transparency and inaccessible.

These conclusions suggest that conflict management mechanisms in Cambodia continue to suffer from a number of problems:

- A continued fundamental mismatch of perceptions between representatives of different political parties on current political realities in Cambodia;
- Lack of forums for frank discussion of these conflicting perceptions;
- Lack of innovative ideas for conflict management;
- Distrust between parties sufficient to block frank discussion and experimentation with conflict management;
- Lack of willingness on the part of political actors to devolve appropriate authority to neutral institutions for conflict management;
- Lack of technical capacity on the part of institutions and conflict managers;
- Lack of a culture of transparency and accessibility on the part of state agencies.

Chapter 1:

Rationale and Method of Research

The rationale for the present study emerges from past work by the Cambodia Development Resource Institute (CDRI) which has focused on the causes of escalation of political conflict in Cambodian elections. Work conducted by CDRI in the past on these issues falls into two categories. First, research has been conducted previously into the nature and causes of conflict escalation in the 1998 elections.¹ Second, CDRI's Committee for the Prevention of Conflict in Cambodian Elections (COPCEL) has organised a four-year series of monthly meetings during which key political actors have been invited to raise concerns and discuss potential sources of conflict in commune and national elections. Through these activities, CDRI has developed a rich source of expertise and material pertaining to processes of conflict and conflict management in Cambodian elections.

CDRI's previous study of *The Nature and Causes of Conflict Escalation in the 1998 National Elections* identified a number of obstacles to the ability of Cambodian institutions to prevent the escalation of conflicts during election periods. These obstacles were divided broadly into two categories: problems of state institutional structure and weakness of political community. The kinds of conflicts which inevitably arise from a complex and highly charged procedure of this sort escalated, rather than being appropriately and effectively managed and resolved, because institutions lacked the *capacity* and the *legitimacy* to fulfil their functions, and because lack of an overarching sense of political community between adversaries entailed that institutional failures heightened mutual distrust, and could not be resolved by the exertion of mutual good will.

The study defined the capacity of state agencies to fulfil their functions as comprising a mix of technical and political capabilities. Technical capabilities included both material resources and the human resources necessary to use these effectively. Political capabilities included an appropriate legal framework and policy mandate, the authority to fulfil these in practice, and in particular the capacity to overcome any illegitimate obstacles or impediments raised by other political actors. The study further discussed the importance of institutional legitimacy, given the high level of distrust between contending political parties, and recurring concerns over the political partiality of key state agencies. The study concluded that in the context of deep distrust between actors in the political community, these two aspects of institutions were intertwined. Technical capabilities of state agencies were enhanced by cooperative attitudes on the part of other actors, while political legitimacy was enhanced by efficient and transparent administrative action, and undermined by inefficiency and unresponsiveness on the part of state agencies.

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

¹ Caroline Hughes and Real Sopheap, *The Nature and Causes of Conflict Escalation in the 1998 National Elections*, (Phnom Penh: CDRI, 2000).

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. 3.

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

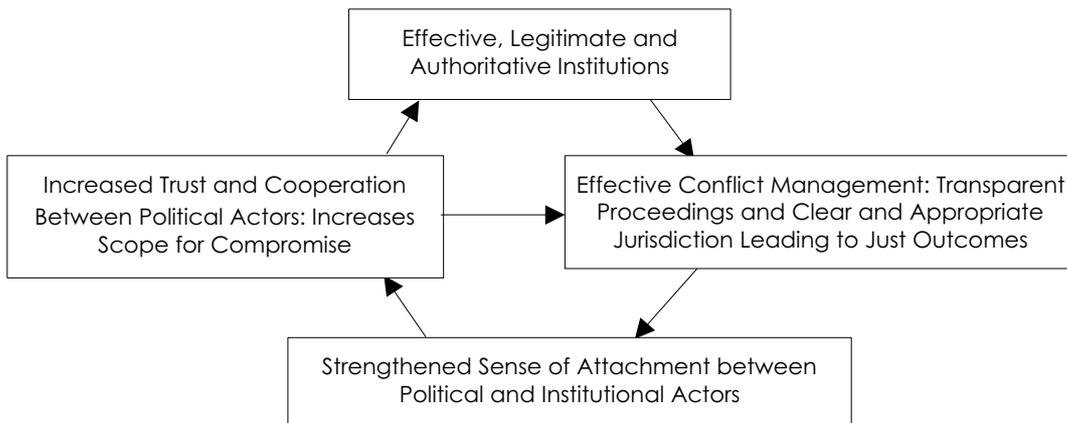
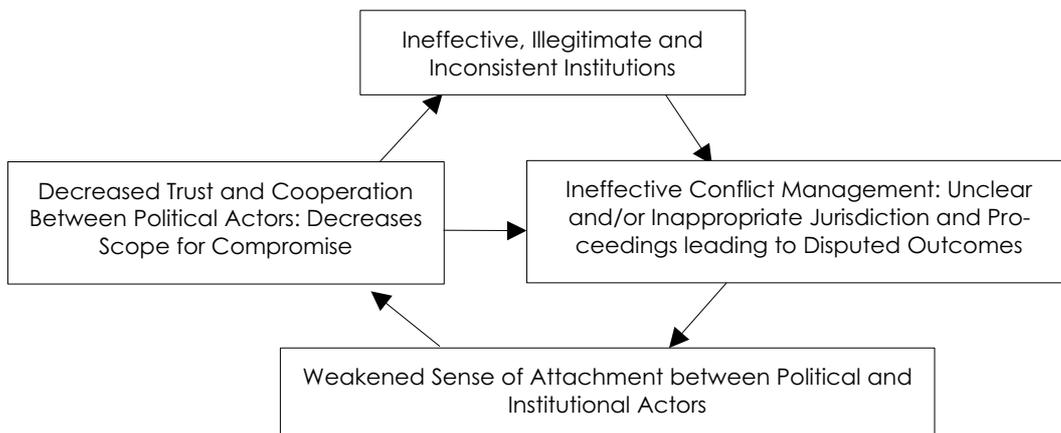


Figure 2. Institutions and Political Community: Vicious Circle of Ineffective Conflict Management



The 1998 study identified such problems at the local as well as the national level. Significantly, the study found that poor communication between different actors at the local level frequently led to conflicts being passed upward to the national level, for resolution. This increased tension between national actors, and placed a heavy burden on national institutions seeking to investigate, manage and resolve thousands of small scale conflicts across the country.

In framing the agenda for the present study, a review of key political developments since 1998 revealed a number of changes which may have had significant impact on conflict escalation and conflict resolution practices at the national and local level. The key developments identified by this review were as follows:

- an advocacy campaign conducted by civil society actors regarding the legal and institutional framework for elections in Cambodia;
- a programme of institutional reform at the national level pursued by the Royal Government of Cambodia, primarily comprising reform of the National Election Committee (NEC), the state agency charged with organising elections;
- a programme of institutional reform, designed to decentralise and deconcentrate power from central to local levels, beginning with the election of commune councils in February 2002; and
- change in the system of voter registration, to a permanent voter registration system implemented by commune authorities.

These developments are discussed in greater detail in Chapter 2.

1.1 Aims of the Present Study

In the light of the above, the present study has four aims:

- to compare the management of conflict in the 2003 elections with the management of conflict in the 1998 elections, in order to issue recommendations for the further strengthening of conflict management mechanisms;
- to focus more closely than in the previous study on conflict management at the local level, in the light of findings in 1998 which suggested that escalation of conflict from local to national level was a significant source of instability during and after the elections;
- to focus particularly on changes that have taken place since 1998 – namely, civil society advocacy, the decentralisation policy, changes in voter registration procedures, and NEC reform – to evaluate their impact on the two key factors for effective conflict management identified in 1998 – a strong sense of political community and effective and legitimate institutions for conflict management; and
- to also examine areas where limited change has taken place, notably in the structure of access to the media, and to analyse the impact of ameliorative programmes sponsored by international agencies to address this problem.

1.2 Research Method

Field research took place from the start of the election campaign period on 26 June to the Constitutional Council's final decision on election complaints, on 27 August 2003. Research was undertaken at two levels, the national level and the local level.

1.2.1 National Level Research

At the national level, a research agenda was designed to examine three aspects of conflict management in Cambodian elections. First, the research aimed to identify sources of conflict as they emerged in the ongoing election process. Second, the research aimed to compare these conflicts to conflicts emerging in 1998, to evaluate the political changes that had taken place in the meantime. Of particular concern were processes of change associated with decentralisation policies, advocacy within civil society, and institutional reform. Third, the research aimed to assess conflict escalation and conflict management in the light of these changes. These investigations were pursued by means of qualitative research methods, primarily interviews with key political actors, surveys of documents and statements produced by them, and observation of events as they unfolded. Unlike the 2000 study, for which data collection was conducted in early 1999 between six and ten months after the election, this study was undertaken as the election was ongoing, during July and August 2003. For this reason, survey work

was kept to a minimum, as the unfolding of events would mean that answers offered in early July might differ sharply from answers offered in late August, and consequently, that responses to surveys could not be meaningfully compared. As a consequence, the researchers relied upon in-depth interviews with key actors as the major research strategy. Where possible, these were repeated two or three times, so that the researchers could gauge actors' responses to unfolding events. Whereas the 2000 study offered an evaluation of the elections with the benefit of hindsight, this study offers an in-depth account of the changing activities, actions and concerns of political actors through the election process.²

1.2.1.1 Sources of conflict

Pre-election sources of conflict were identified via a survey of English and Khmer language newspapers from the preceding six months, and from minutes of the monthly COPCEL meetings – a forum in which political actors raised complaints, grievances or issues for discussion with representatives of the state, political parties and NGOs. In addition, exploratory interviews with selected political actors, from political parties and NGOs, were undertaken. From these initial steps, areas of conflict were found to be over the role of village chiefs, ease of access to the media, and the authority of the NEC vis-à-vis other state agencies.

This initial survey suggested that the role of the commune level of government was perceived to be less problematic than previously, largely due to the changing structure of commune government. It also suggested that voter registration was not perceived to be a potential source of conflict at this time, although COMFREL noted its concern over the low rates of registration for new voters in February.³ EMOs also expressed concerns over the activities of local officials, reporting complaints of intimidation and vote-buying, and over the neutrality of local election committees.⁴

The rejection of results by the SRP and FUNCINPEC, shortly after the election highlighted problems of voter registration, the role of village chiefs, and an alleged failure of polling station officials to provide the appropriate forms to party scrutineers, to enable them to check the results, as the main issues of concern. The issue of media access had dropped out of the list of complaints, suggesting that this issue was effectively managed before election day. Subsequently, the Sam Rainsy Party (SRP) and FUNCINPEC, who after the elections formed an Alliance of Democrats, complained also about the neutrality and transparency of the NEC and the Constitutional Council in addressing complaints.

It is significant that complaints about political violence did not feature very prominently in protests over the election from political party members. However, it did feature in reports by local and international observers.⁵

The role of village chiefs was explored in conjunction with the analysis of local level conflict management, by means of commune case studies (see below). The question of access

² To preserve confidentiality, we have not named specific interviewees in the research report, although we have named the organisation they represent. However, all interviewees have been allocated a number, so that the various comments of a particular individual can be traced throughout the report, even though that individual has not been identified by name.

³ COMFREL, "Concerns over the Low Rate of Registration for New Voters and an Increase in Irregularities Reported in the Registration Process," Press Release, Phnom Penh, 7 Feb 2003.

⁴ COMFREL, NICFEC, "Concerns over the Increase of Cases of Violence, Threats, Intimidation, and Vote Buying during the First Two Weeks of the Electoral Campaign," press release, Phnom Penh, 19 July 2003; COMFREL, "Report on the Irregularities of Provincial Electoral Commission's Recruitment Procedures," press release, Phnom Penh, 23 May 2003.

⁵ COMFREL, "COMFREL Urges Government to Open Up the Political Environment and Requests NEC to Review the Interpretation of the Election Law's Vote Counting Process," press statement, Phnom Penh, 19 June 2003;

to the media was explored primarily through in-depth interviews with media officers from the major political parties regarding the place of the electronic media in their electoral campaign strategies, and on their perceptions of the various programmes organised to facilitate equal and equitable access. A survey questionnaire of smaller political parties regarding their perceptions of the accessibility of the media was conducted during the second two weeks of July, and 11 of the 18 smaller parties participated in this. These activities were supplemented by interviews with key media players, namely representatives of international organisations involved in media projects related to the elections and directors and reporters from selected media organisations.

Perceptions of the changing role of the NEC were explored by two major means: interviews with political party representatives at national, provincial and commune level to gauge their perspectives on the national, provincial and commune committees; and observation of the NEC's working practices, including analysis of the new legal framework within which the NEC operates; regular visits to the NEC media centre and attendance at NEC briefings; collection and analysis of NEC documentation; and observation of NEC engagement with COPCEL meetings. These were supplemented by interviews with selected NEC members and staff, conducted six weeks after the end of the election period, immediately after the NEC's own self-assessment exercise had taken place.

1.2.1.2 Evaluating change

At the national level, the main changes taking place between 1998 and 2003 were the reform of national institutions and the advocacy of civil society. National institution reform was investigated through research interviews with National Election Committee members, political party activists and election monitoring organisations. It was further investigated through observation of NEC public relations and a documentary survey of NEC information. A further concern at national level was to ascertain the impact of civil society advocacy on perceptions of conflict and conflict management. Civil society advocacy was investigated through three major research strategies: interviews with key players; surveys of documents produced by civil society organisations; and observation, through the electoral period, of the impact of civil society pronouncements. Interviews included in-depth interviews with the directors and staff of the two major election observer networks, COMFREL and NICFEC, accompanied by in-depth interviews with their staff in the four case study provinces.

Interviews were also conducted with 14 members of the COPCEL process. Interviewees were selected who had attended COPCEL regularly over recent months. It is acknowledged that this may offer a more positive assessment of COPCEL than a random selection might produce, in that regular attendees can be expected to hold the process in higher regard than regular absentees. However, there may also be many other reasons for non-attendance or irregular attendance, including poor organisational structures, under-staffing or rapid staff turnover in sending organisations. Given constraints of time and resources, it was considered that attempting to locate and interview disgruntled non-attendees was less important than ascertaining the views of those who *were* committed to the process as to how it could be improved and what it had achieved. Consequently, a selection of interviewees was made reflecting the three major types of organisations represented at the COPCEL meetings – political society, civil society and state agencies. Interviews were conducted with COPCEL representatives of the SRP, FUNCINPEC and Cambodian People's Party (CPP) in the first category; from ADHOC, KID, the Centre for Social Development, the Cambodian Centre for Human Rights, Women For Prosperity, COMFREL, and NICFEC in the second category; and from the Ministry of National Defence and the National Commission for Human Rights in the third category. Interviews were supplemented by a documentary analysis of minutes of COPCEL meetings.

A major concern of this aspect of the research was to identify the key parties to conflict, and any parties who attempted conflict management; to investigate their attitudes to conflict and approaches to conflict management; and to assess the success of conflict management strategies by investigating specific cases at local level, their handling and outcomes, and then tracking the emergence of these complaints in national statements and complaints after the elections.

1.2.2 Research at the Local Level

The present study seeks to build upon the insights of the study of the 1998 election by pursuing investigations at provincial and commune levels, as well as at national level. To this end, fieldwork sites were selected in four provinces; namely, Battambang, Kompong Cham, Kampong Speu and Takeo. Within each province, detailed case studies of one commune (two in the case of Battambang) were conducted, supplemented by interviews with political actors at the provincial level.

The local level fieldwork conducted for this study must be viewed as preliminary rather than conclusive. The sample size was not sufficiently large to draw generalisable conclusions; however, given a dearth of knowledge about the interactions between national and local politics in Cambodia, the insights generated, while they are site specific, offer indications for future research directions. Furthermore, the amount of time available for the study limited the ability of the researchers to develop close links with the fieldwork sites. This engendered a number of problems – sometimes interviewees identified as important for the study could not be found, often because they were busy campaigning or had been called away suddenly on election business; where interviewees could be found and re-contacted on subsequent visits, there was insufficient time to build up the kind of rapport that would permit a more far-reaching examination of attitudes and perceptions. The researchers made every effort to locate, interview, and revisit state, governing party, opposition party and civil society representatives to elicit their perceptions of unfolding events, but sometimes this was impossible and substitutes from within these broad categories had to be found. These limitations will be acknowledged and discussed in the section on limits to the study and suggestions for future research. It will be strongly recommended that the foundations laid by this study should be developed further in order to gain a deeper understanding of the issues at stake.

1.2.3 Links between National Level and Local Level Conflicts

The research team compared findings from local and national levels to investigate the ways in which local events are transformed into the sources of conflict escalation at the national level. The post-election phase was particularly crucial for this, and was investigated by analysis of statements of political parties; interviews with political party representatives at local and national level; analysis of statements made by local, national and international observers.

By these means, the escalation of conflict – ie. the mobilisation of outstanding grievances from earlier phases of the election, and of new conflicts emerging locally, by national level actors – can be traced. Of particular concern will be to note the intervention of conflict managers – in particular, official conflict managers such as the NEC and the Constitutional Council, but also unofficial conflict managers such as election observer networks, other civil society actors, diplomats, and external organisations.

Chapter 2: 1998 and 2003 Compared

2.1 Legal reforms

Arrangements for the 1998 national elections suffered from a lack of confidence, on the part of FUNCINPEC and the Sam Rainsy Party, in the parliament that had enacted the Election Law in December 1997. Lack of participation by leading members of FUNCINPEC and the SRP led to crises close to the election when these parties returned and disputed both the overall legitimacy of the law, and its specific arrangements. These disputes led to a boycott of parliament in May 1998 by FUNCINPEC and Buddhist Liberal Democratic Party (BLDP) deputies, blocking a vote to pass important amendments to the Election Law. One dispute focused on the level of vote counting – in 1993 this took place at the provincial level, whereas the 1997 law proposed counting the ballots at the polling station. Eventually a compromise was brokered to permit counting at the commune level. A more intractable dispute emerged over the timing of the election. FUNCINPEC and SRP demanded a delay in the election to allow more time for them to rebuild their damaged party networks following the July fighting of 1997. The CPP and its allies argued that delaying elections was damaging to the national interest, given Cambodia's exclusion from the UN and ASEAN following July 1997. This conflict was not resolved before the elections, and came to light again following the release of results.

In 2002, when the Election Law was amended, the situation was rather different. The amendments to the law were formulated by the Ministry of Interior, and took account of a number of criticisms of the 1998 elections. For example, the Election Law reformed the composition of the National Election Committee, and in doing so responded to advocacy by political parties and non-governmental organisations that had been ongoing since 1998. The Election Law also included more detailed provisions on questions that had been contentious in 1998. For example, following the 1998 elections there was a protracted dispute over the question of which mathematical formula should be used to convert numbers of votes received by each party into numbers of seats in the National Assembly. Different Ministry of Interior documents showed different formulas, leading to allegations of foul play by the opposition parties. In 2003, the seat allocation formula was inserted into the election law.

In addition to responding to the concerns of 1998, the amended election law was passed in 2002 by a National Assembly that had a great deal more legitimacy than that of 1998. Although broad concerns regarding the ability of the National Assembly to act as an effective scrutineer of government policy and action remain in Cambodia, the passage of amendments to the 2003 law was relatively uncontroversial and the parliamentary debate included all parties. All the major political parties agreed that the amended election law was better than the original version.

The main criticism of the process of legal reform was that there was little consultation with interested parties outside the government before the bill was introduced in parliament. This is a longstanding criticism of government operation in Cambodia, often voiced by non-governmental organisations and international organisations and donors. Even here, some po-

litical actors praised the governments for the attempts it did make to open the draft amendments for discussion before the parliamentary debate took place. The major opportunity for interested parties to comment on the draft was through a COPCEL meeting held in July 2002, at which Sak Setha, Director General for Administration of the Ministry of Interior, reported on behalf of the Ministry of Interior on the draft amendments.

Discussion of the draft amendments at the COPCEL meeting focused on the continuing controversy of NEC composition (see section 2.2 below). The Ministry of Interior representative agreed to take COPCEL members' views back to the Ministry of Interior for discussion. Individuals who participated in that meeting had different views of the significance of this consultation process. One representative of an election monitoring organisation regarded this as too limited a form of consultation, leaving little room for participation and permitting only reaction from interested parties outside the government:

*"It is still difficult to communicate between NGOs and government. That depends on experience – I work for external relations and I find it difficult to communicate with government, for example the MOI, and the National Assembly also. When I want some draft of the election law – we wanted to give our opinion on the election law – we find it very difficult to get. They always say we cannot give before we have the official draft – but we want it before that, we want to have influence at an earlier stage."*⁶

In the opinion of this political actor, the unwillingness of the government to open the policy process more widely to the input of non-governmental organisations was a symbol of the difficulties in communication between governmental and non-governmental players. However, another interviewee – a staff member from UNDP – regarded even the limited consultation process conducted as a step forward in terms of transparency in government:

*"In 2002 when the law was being amended, it looked as if there would be no consultation. Then at the last minute, the amendments were presented at COPCEL by the Ministry of Interior. It wasn't a good consultation process, but it was something. ... To get the Ministry of Interior to come and explain the new law – that was new."*⁷

While criticisms of the process of formulating legislation remain, the legal framework of the election benefited greatly from a more open legislative process in 2002 as compared to 1997. Criticisms of particular aspects of the law remained and are discussed in appropriate sections below, but the overall process by which the law was enacted was not condemned as wholly illegitimate. This represented an improvement as compared to 1998.

2.2 Institutional reforms: Reform of the NEC

In 1998, institutional weakness was an important cause of conflict escalation during elections. CDRI's study of conflict escalation in that year found that a number of factors contributed to institutional weakness. Institutions were defined as "unquestioned regulators of expectations and behaviour."⁸ In 1998, the main state agencies involved with the election, from the National Assembly that passed the election law, the National, Provincial, and Commune Elections Committees that implemented it, and the police and judicial agencies that enforced it were distrusted by a significant number of political actors. The National Assembly that passed the election law lacked the representatives of FUNCINPEC who had left the country following the 1997 fighting, including the party's parliamentary leader and the government's First

⁶ COMFREL national representative (1), personal interview, 6 Aug 2003.

⁷ UNDP representative (2), personal interview, 4 Aug. 2003.

⁸ Guillermo O'Donnell, "Illusions About Democratic Consolidation." *Journal of Democracy* 7.2 (1996): 36.

Prime Minister Prince Norodom Ranariddh. This undermined the legitimacy of the Assembly in the eyes of many political actors. Assertions of political bias, rumours of corruption and threat, and complaints of exclusion surrounded the creation of the National Election Committee and its subordinate agencies. Subsequently, they were regarded as lacking in the competence and authority necessary to render them independent of local authorities, particularly at the commune and village level. These authorities were themselves regarded by many political actors from the opposition and from NGOs as highly partisan, in favour of the Cambodian People's Party. The Constitutional Council, responsible for acting as a court of final appeal for complaints, had only recently been established and a number of disputes surrounded the appointment of individuals to the Council.

Between 1998 and 2003, some of the key electoral institutions were reformed, and many had manifestly increased their technical capacities. However, difficulties remained in 2003, as this report will document. Institutions were better established, through more participatory procedures; they had had time in some cases to consolidate their position, and were much more competent and efficient in their operation. Nevertheless, three major factors continued to weaken institutions:

- a lack of distinction between party and state and/or person and position, either in the actions of officials themselves, or in perceptions of these by other political actors;
- a tendency of institutions to act as facilitators, mediating in the negotiation of outcomes between political parties, rather than as authorities, imposing decisions made according to law; and
- continuing widespread distrust in the broader institutional framework for government, particularly the police and the courts.

This study focuses on the reform of the NEC as a case study of institutional development from 1998 to 2003. The process of reform and continuing problems in establishing the NEC as an authoritative manager of conflict, rather than a cause of it, is documented below, while the impact of this on the overall outcome of the election is discussed in Chapter 5.

In 2003, the structure of the NEC was changed, new procedures were instituted for the appointment of NEC, PEC and CEC members, and new working practices for the election committees were drafted. Given the widespread view in 1998, amongst both civil and political society actors as documented in CDRI's study of the 1998 elections, that the NEC at that time was partisan rather than neutral, and the importance of this in limiting the NEC's capacity to manage conflict at that time, the reform of this institution is highly significant. Conflicts surrounding the NEC – and its subsidiary organisations, the PECs and CECs – focused on three issues: impartiality, autonomy and technical competence. Many critics of the 1998 elections complained that the NEC was dominated by individuals who had links to the ruling party; that it lacked the authority to assert its control over the electoral process and accepted undue assistance and direction from both central and local government; and that it suffered in terms of its technical capacity from a lack of human and material resources. To make the NEC more authoritative in managing electoral conflicts, therefore, reforms should aim to resolve these issues.

2.2.1 Reform of NEC membership

Under the terms of the 2002 amendments to the Election Law, the NEC's composition and operations were altered in a number of ways. The number of NEC members was reduced from eleven to five. This entailed the removal of some of the members whose appointment provoked controversy in 1998. The amendments also simplified appointment procedures, and aimed to delink NEC membership from representation of political parties. Unlike in 1998, when NEC members joined the NEC as party representatives, in 2003, NEC members were chosen "from among Khmer dignitaries who are competent in politics, have work

experience and have good reputations.”⁹ Both coalition partners, the CPP and a reunited FUNCINPEC, participated in appointing members to the new NEC. Proposals for the new appointments were drafted by the Ministry of Interior, which is led by co-Ministers representing both parties, and approved by the National Assembly and Council of Ministers.

The chair of the NEC also changed, and provincial and commune election committees were reselected. The amended election law increased the number of categories of individual who were excluded from applying for positions on these committees. The 1997 Election Law had stated that members of the military and police, officials of the court, monks, and commune chiefs and deputy chiefs were excluded from appointment to CEC positions, even if they resign from their positions. In the amended law, some further groups were added to this list of exclusions, including district chiefs and deputy chiefs; members of commune councils; village chiefs and deputy chiefs; and members of village committees. In the appointment of NEC staff and provincial and commune election committees, the NEC established three meritocratic criteria for selection: experience, qualifications and performance at interview.¹⁰

There were, however, a number of substantial criticisms of these reforms. The process of selection of NEC members continued to be a bone of contention, as some NGOs and political parties argued that a process whereby members were selected by the Ministry of Interior compromised the neutrality of the process. For example, during the COPCEL meeting where these reforms were put forward, delegates from the SRP and FUNCINPEC argued that putting the MOI in charge of the selection process entailed that the appointments would “lose independence and neutrality.”¹¹ A representative of the SRP, commented that reducing the number of members was irrelevant if the selection process remained under control of the MOI, “because we know that the MOI is under the control of the ruling parties.”¹² The SRP and COMFREL, among others, suggested that an independent Selection Committee should be established comprising representatives from all political parties represented in the National Assembly, and appointees of the King.

Furthermore, the decision to move to independent members, rather than representatives of political parties, was also a source of dispute. Although the selection of independent members was supported by civil society groups, both FUNCINPEC and the SRP preferred a format whereby political parties with seats in the National Assembly put forward members. While the final formula of selection of independent NEC members, implemented by the Ministry of Interior, gave FUNCINPEC, as a member of the coalition government, a greater say in the formation of electoral institutions, the opposition SRP remained dissatisfied. Early in the election campaign, one SRP official commented that NEC reform had made the situation worse for the SRP:

*“In the first NEC, we had one member out of eleven. In the second NEC we have no members out of five. Which is better? With one member out of eleven, you can’t influence decision making, but at least we have someone on the inside, so we know how the decisions were made. With the reformed NEC, we know nothing.”*¹³

NEC members, however, declared that they were hired as “independent professionals” who work according to the law:

⁹ Law on Election of Members of the National Assembly, 2002, Art. 13.

¹⁰ NEC Regulations, §3.9

¹¹ Thaom Bunsrun, FUNCINPEC, qtd in COPCEL minutes, 36th Conflict Prevention in Cambodian Elections (COPCEL) Meeting, 25 July 2002, trans. Sen Sina, 8

¹² Meng Rita, SRP, qtd in COPCEL minutes, 36th Conflict Prevention in Cambodian Elections (COPCEL) Meeting, 25 July 2002, trans. Sen Sina, 7.

¹³ SRP national representative (3), personal interview, Phnom Penh, 10 July 2003.

“We were able to agree because we have common ground, and that common ground is the law.”¹⁴

NGO groups, including the two major election monitoring organisations, COMFREL and NICFEC, complained that the process of selection of NEC members by the Ministry of Interior was not transparent, in that there was no process of consultation. They concluded that “serious questions remain as to the criteria and procedure that was used in the selection process.”¹⁵

Complaints of political bias with regard to provincial and commune election committees also continued to be heard. CDRI’s study of the 1998 election found that many political actors were concerned that the local election committees were reliant upon local authorities for assistance and support, thus compromising their independence and neutrality. In 2003 this complaint was less often heard. However, the election monitoring organisation COMFREL criticised a number of aspects of the reselection process. First, they complained that the process of reselection of PEC officials had been poorly implemented, lacking in transparency, and suggested that a failure to widely advertise the selection procedure entailed that the number of candidates applying decreased by 50 per cent as compared to 1998. Second, they criticised the fact that the outcome of the reselection procedures was frequently the reselection of the same individuals. This was particularly the case for PEC chairmen, of whom 83 per cent, according to COMFREL, had served on PECs in 1998. COMFREL cited particular concern over the fact that PECs in the past had failed to exercise control over the election process, and to punish offenders, and that reselecting the same officials could lead to a repetition of past mistakes. COMFREL commented:

“We acknowledge that the ex-PEC officials are competent and experienced in election process. Yet, our concern is that the performance of ex-PEC officials had not provided a credible aspect in solving complaints that break the law or regulation and procedures of the NEC. In particular, no punishment was used over the perpetrators related to threat, intimidation, vote buying, even if there was enough evidence and names of the violators.”¹⁶

Third, COMFREL claimed that appointments to PECs were overwhelmingly affiliated to the political parties of the ruling coalition, CPP and FUNCINPEC. They concluded that, among 126 PEC members in seventeen provinces who had been reselected, following prior service on PECs, 58 per cent were affiliated with the CPP, 3 per cent with FUNCINPEC and 2 per cent with the SRP. COMFREL also claimed that further research into the affiliations of PEC members overall, including new and reselected members, in 11 provinces, showed that 79 per cent were affiliated with the CPP and 21 per cent with FUNCINPEC. Finally, COMFREL noted that specific NEC provisions aimed at encouraging at least one woman to be appointed to each PEC had apparently failed, with 14 out of 24 PECs containing no women members, and the percentage of female members overall having decreased, from 8 per cent in 1998 to 6 per cent in 2003.¹⁷ Although the basis upon which COMFREL made this assessment, and their linking of this to the question of the “neutrality” of PECs, was contested by other actors, and unclear in COMFREL’s own public statements, COMFREL’s concerns were echoed by the authors of a report issued after the election by the Community Legal Education Centre on the complaints process in the elections. The authors maintained that:

¹⁴ NEC member (4), personal interview, Phnom Penh, 8 Oct 2003.

¹⁵ COMFREL, “Annual Narrative Report for the Period 1st Jan-31st Dec 2002,” Phnom Penh Mar 2003, 20.

¹⁶ COMFREL, “Report on the Irregularities of Provincial Electoral Commission’s Recruitment Procedures,” press release, Phnom Penh, 23 May 2003.

¹⁷ COMFREL, “Report on the Irregularities of Provincial Electoral Commission’s Recruitment Procedures,” press release, Phnom Penh, 23 May 2003.

“Recruitment at all levels was not transparent, not just, not fair. This causes a loss of trust and the operation can’t work well.”¹⁸

One Provincial Election Committee chief, interviewed for this study, commented on his own selection:

“We are chosen according to experience – also people who have a high level of knowledge, people who are popular. Most have experience. But anyone who was strongly for a political party, they didn’t take. Actually they take people that they know – people who worked in 1998 and 2002 – people that they know. And they know if they are in a political party or not.”¹⁹

At commune level, also, some criticisms remained. For example, a COMFREL representative in Kampot province commented that CECs were much better in 2003 than in previous elections, and raised examples of successful cases where the CECs had facilitated conflicts “without forcing”. However, she added that issues of politicization and intimidation were still present:

“Generally, the CEC is 50 percent people who support the CPP... But 30 percent are better. The CEC members are mostly teachers. But the problem is that teachers are often scared to go against the CPP. The CPP can cut salary, can force them to do something. They see that they are doing wrong, but they are scared. Most have a good will. They want to say something but they don’t dare. This comes from our society. About 50 percent of the CEC are good. In those 50 percent, maybe 30 percent are not afraid.”²⁰

Overall, COMFREL and NICFEC criticised the facilitation role of the CECs, commenting:

“The resolution process at the commune level appears to lack a common standard and it has been reported that complainants are always encouraged to stop or abandon their complaints.”²¹

Allegations that CEC members were under pressure from political parties – like allegations that CEC members were supporters of political parties – undermined trust in the CECs. The issue of CEC neutrality continued to smoulder until after the election, and was then put forward in complaints by the losing parties as a fatal flaw in the election process.

2.2.2 Promotion of Transparency and Accessibility

Once appointed, individual members were expected to serve in a neutral capacity, rather than as representatives of political interests. All election officials were sworn to neutrality, non-violence and to a commitment to providing a sympathetic service to voters, through a new Code of Conduct for election officials, drafted by the NEC. Decision making at the centre was by consensus, and the previous system, whereby different NEC members had responsibility for different aspects of the election, was replaced by a system where members assumed responsibility for geographical areas instead. The mode of operation of the NEC was spelled out in more detail in the amended Election Law and in the Rules and Procedures produced by the NEC themselves.

Aside from reforming the structure of the NEC, the NEC also instituted reforms to its working practices, intended to increase the perception of transparency and accessibility on the

¹⁸ Sek Sophon, Community Legal Education of Cambodia, presentation, Workshop on the Process of Complaints Resolution in the 2003 Election, Phnom Penh, 9 Oct 2003.

¹⁹ PEC Chief (5), Kompong Cham, personal interview, Kompong Cham, 9 July 2003.

²⁰ COMFREL provincial representative (6), Kampot Province, personal interview, 16 July 2003.

²¹ COMFREL-NICFEC, “Pre-Election Assessment Joint Statement,” Phnom Penh, 25 July 2003.

part of parties and election monitoring organisations. The NEC held a process of consultation over the drafting of regulations. Monthly meetings were held with political parties, NGOs, and media organisations from January 2003, in order to discuss issues related to the election. In addition, representatives from political parties, media organisations and NGOs could request individual meetings with the NEC, and these opportunities were taken up by political parties and NGOs. This pattern was repeated at provincial and commune levels. The NEC also engaged with civil society initiatives, particularly through regular participation of the secretary-general in monthly COPCEL meetings.

Even critics of the NEC acknowledged that the NEC's own schedule of meetings was helpful and that attempts were made by the NEC to address constructively the issues raised in them. For example, the SRP had an early meeting with the NEC to raise an issue connected with voter registration. The technical arrangements for photographing voters for their voting cards had been changed – whereas, previously, Polaroid cameras provided instant pictures, a new system using camera film which needed to be developed, had been brought in. However, according to the SRP, large numbers of films turned out, after they had been developed, to be defective, and in some places voters were told that they would have to come back with their own photographs if they wanted to get an ID card. The SRP complained that this placed an unfair financial burden on voters and represented an abdication by the NEC of its responsibilities to provide voting cards. A representative of the SRP commented, after meeting the NEC to raise the issue:

“I have to say that after we made a presentation to Im Suosdei, he responded immediately. I was impressed at how he responded – he issued a statement etc.”²²

However, the representative went on to claim:

“The problem, as Im Suosdei told us – he was quite frank, at an individual level he is a good man to deal with – he wants to the right thing, but it is difficult to get cooperation at local level. For example, if the village chiefs threaten the villagers – he admits he is not capable of getting those people to cooperate with the election law.”

This perception of the NEC as well-intentioned but disempowered, to a significant extent, by political interests at local level, represents a change from opposition perceptions of the NEC as a willing tool of the ruling party in the 1998 elections. A similar view was put forward of the NEC's stance vis-à-vis the CPP at national level, by an SRP representative:

“Tep Nytha is very simple and accessible – he'll answer all your questions, but within a limited horizon. A horizon limited by the group, by Im Suosdei... If I put a question if he cannot answer, he can say I will take your question and submit it to my superior and then give an answer. At least he can do this. Most of the time the Ministry representatives just sit quiet and don't make any comments... Sometimes they don't come at all... The NEC is more accessible but the NEC also does bad things.”²³

In particular, there was a widespread view that the position of the NEC was inhibited by the power of the Ministry of Interior, widely believed by opposition politicians to be under the control of the ruling party. Where the NEC needed the cooperation of the Ministry of Interior to ensure a fair election, a number of political actors were sceptical of the outcome. For example, some NGO interviewees maintained that political violence continued to be a serious issue marring the integrity of the elections, but that the Ministry of Interior blocked all discussion of this issue between political actors and the NEC, by simply declaring cases of possible political killing to be ordinary crimes. Some NGOs tried to push the NEC to adopt the pre-

²² SRP national representative (3), personal interview, Phnom Penh, 10 July 2003.

²³ SRP national representative (7), personal interview, Phnom Penh, 7 Aug 2003.

sumption that the murder of a political party member was a political act, unless proved otherwise, but this was not successful. Incompatible stances on the issue entailed that little could be done to resolve issues of distrust and antipathy emerging from acts of political violence.

CECs also held weekly meetings for representatives of all political parties in our field-work communes. These were well-attended (see Chapter 3). However, there were criticisms of the mode of operation of these weekly meetings also. It was argued by election observers and members of the opposition that the method of conflict management used at these weekly meetings – known as *somros somruol* or “facilitation” – represented, often, a failure of the CECs to exert authority over the election process. Through the process of facilitation, CECs encouraged political parties to find compromise solutions to conflicts arising over the election, in order to maintain peace and order within the commune. A number of observers argued, however, that such solutions were inappropriate in cases where serious violations of the election law had been violated. A representative of COMFREL commented: “The NEC focuses too much on the codes of conduct, but they should also implement the law.”²⁴

Adopting such a mediation role entailed that the CEC encouraged the parties to come to terms themselves over issues of conflict. Doing so, however, also entailed that the CEC took up a position as a mediator in political negotiations, rather than the authoritative adjudicator of the dispute. Where criminal activities had taken place, some observers argued, it was inappropriate for the NEC to allow solutions to emerge as a result of the relative bargaining positions of the major parties. Rather, where issues of law were at stake, the NEC itself should exercise power over the parties.

2.2.3 Promotion of Technical Capacity

The performance of the NEC at national level was widely perceived to be more effective than in 1998, amongst interviewees for this study. However, at local level performance was viewed as less impressive. The NEC’s own assessment of its performance called for more attention to training of staff members, and the strengthening of supervisory arrangements to monitor their work.²⁵ A senior representative of the Department of Training and Information at the NEC, commented that training in 2003 was better than in 1998. He said that more documents were prepared, in more detail, that covered the specifics of the job. However, the Community Legal Education Centre criticised the handbooks sent to PECs, CECs and PSOs as inconsistent and difficult to understand, with few factual examples to illustrate the process. The CLEC commented that problems were greater at local level, and said that PEC staff members in six of the twenty provinces surveyed for the CLEC study reported that they had received insufficient training.²⁶ The NEC representative saw difficulties as arising in particular from the inexperience and variable capacity of commune councils, which rendered registration much more difficult than in 1998. He added that a shortage of time and resources, especially at the CEC level, caused problems. Lack of funds to pay CEC officials entailed that well-educated people could not be recruited, he said, and the late completion of the rules and regulations as well as the remoteness of some communes meant that training could not be completed thoroughly.²⁷

CECs were also responsible for disseminating information from the NEC to political parties and other electoral players, particularly with regard to NEC directives and arrangements for campaigning and polling. In a training session we observed in Thnaot Commune,

²⁴ COMFREL national representative (1), personal interview, Phnom Penh, 6 Aug 2003.

²⁵ Tep Nytha, NEC, presentation, Workshop on the Performance of the NEC in Implementing the 2003 National Elections, Sihanoukville, 3 Oct. 2003.

²⁶ Community Legal Education Centre, “The Implementation of the Complaints Process during the 2003 National Assembly Elections,” draft, Phnom Penh, 9 Oct. 2003.

²⁷ NEC representative (8), personal interview, Phnom Penh, 6 Oct 2003.

Bati District, Takeo, training consisted of the CEC chief reading out a long list of NEC regulations, while interested parties sat and listened. At the end the CEC chief asked if there were any questions, and none were asked. Although listeners appeared attentive, the researchers considered it unlikely that this mode of training resulted in a clear understanding of the complexities of the process.²⁸

2.2.4 Overview of Conflicts over NEC in 2003

Compared to 1998, the NEC was better organised, more accessible, more transparent, and its duties and procedures were more clearly specified in law and regulation. However, problems still remained. In particular, the membership of the NEC was still regarded as partisan by NGOs and by the SRP. The reselection of PECs was considered by NGOs to have been undertaken in a manner that ensured the return of many of the same faces, and the carving up of positions between political parties. It was presumed that the selection of individuals associated with political parties would result in a biased manner of working. The weakness of the NEC vis-à-vis more powerful state agencies, such as the Ministry of Interior, was still seen as a major weakness. The conflict over the media also underlined this view. Finally, where the NEC, PECs or CECs did have a clear mandate to exert authority over individuals and institutions, and penalise them for electoral infractions, they rarely did so, preferring to mediate in bargained solutions that, often, left power in the hands of the aggressive party.

In these respects the problems faced by the NEC reflected the three kinds of institutional weakness summarised above. The continued disputes over neutrality of members reflected the continued presumption that personal political preferences entailed political bias in conducting official duties. There remained a deep distrust, on the part of opposition political actors and many NGOs, of wider institutions of state, particularly the Ministry of Interior, the courts and the police, that made the NEC's cooperation with these agencies problematic particularly in the area of political violence. Finally, a tendency by the NEC to act as a mediator rather than an adjudicator of conflicts permitted power to remain a bargaining resource for political parties, rather than representing the expression of the NEC's legal and legitimate authority over the election process. All these factors had an impact on the ability of the reformed NEC to manage conflict successfully during the election period.

2.3 Civil Society Advocacy

As stated above, CDRI's report on the 1998 elections identified institutional weakness and lack of political community as the key sources of problems in the 1998 elections. A review of political developments since 1998 revealed that civil society advocacy programmes had emerged addressing these issues. Civil society advocacy on the legal and institutional framework for elections in Cambodia has been led by the three election monitoring networks, COFFEL, COMFREL and NICFEC. Beginning in 1999, these networks organised extensive public consultation exercises throughout Cambodia, to gauge public perceptions of the institutional and legal framework that existed in 1998. Based on the results of these consultations, the three networks launched a joint advocacy programme in 2000, calling for reform in three major areas: the composition of the NEC; the level of participation of women as candidates for political office; and a move to a majority-based electoral system, rather than a proportional representation system, for the commune elections. These reforms were intended to enhance the legitimacy of electoral institutions by distancing them from sectional, particularly political party interests, and thus rendering them more representative of the political community as a whole. By this means, the EMOs argued, the capacity of the electoral institutions to manage conflicts arising from mutual distrust between political actors, and to produce a universally acceptable election result, would be enhanced.

²⁸ Research team observations, Thnaot Commune, 15 July 2003.

Although reform of the NEC did take place, the other points of the advocacy programme were not adopted by the government, suggesting that there is still a considerable gap between the EMOs and the government in their perceptions of how both conflict management and the quality of democracy in Cambodia can be improved. EMOs were also unhappy with the plans for reform of the NEC, which left the power to nominate candidates in the hands of the Ministry of Interior. EMOs, along with opposition parties, advocated for the formation of an independent selection committee to select candidates.

Aside from their advocacy programme, the EMOs considerably broadened their programmes between their first election in 1998 and their third election in 2003. COMFREL, the largest organisation, has established a database of activists so that experienced observers can be re-contacted for service at subsequent elections. Programmes have expanded to include a more extensive monitoring of the media; follow-up programmes to assess the extent to which politicians keep their promises; the organisation of forums to bring villagers to meet commune authorities, and so on. The two major EMOs, COMFREL and NICFEC, also appear to have moved closer together, issuing separate reports but frequently making joint statements and almost always sharing a platform to express their views and concerns to the media. Both also have extended their links with international agencies, such as the Asian Network for Free Elections, and frequently issue joint statements with these also. Indeed, a noticeable difference between 1998 and 2003 was that the international observer groups avoided giving definite appraisals of the election process until COMFREL and NICFEC had made their own statements. This contrasted with 1998, when an early positive assessment from the Joint International Observer Group undermined the force of criticisms from Cambodian EMOs, and was widely criticised by Cambodian NGOs as a result.

The growth in the size and capacity of these organisations has led to a greater recognition of their position as legitimate political actors. In 2003, COMFREL and NICFEC were invited to regular meetings with NEC members. NEC members interviewed emphasised their concern to take recommendations from EMOs seriously, and to adopt them if possible. Such assertions, whether or not they lead to greater cooperation in practice, reflect the growing status of civil society associations as political players with influence.

A civil society initiative aimed at promoting a greater sense of mutual trust and attachment to a sense of political community among high level political actors was CDRI's own COPCEL process. Following a conference to discuss these issues, COPCEL was formed in 1999. It comprises a monthly roundtable meeting, at which key political actors are invited to share information, exchange ideas, and discuss issues identified as contentious with respect to forthcoming elections. Among the participants are representatives of political parties, including the three major parties; state agencies, in particular, the secretary-general of the NEC attends regularly; non-governmental organisations, including the EMOs; and international organisations. Agendas are determined through consultation and circulated in advance. Depending upon the nature of the topic under discussion, senior officials from different state agencies may be invited to brief the meeting. At each meeting, participants are given the opportunity to raise other matters of concern. As each topic is introduced, the floor is opened for participants to make comments or ask questions, and other participants are given the opportunity to answer or to make suggestions. Sometimes participants are asked to refer back to their organisations for further information, and to report back to the next meeting. Proceedings are recorded and transcribed, and minutes in Khmer and English are circulated to a wide audience of international organisations, state agencies, political parties and NGOs.

COPCEL's aims were formulated in response to the issues raised by the 1999 study. To address questions of institutional weakness, COPCEL promoted discussion of substantive issues of electoral organisation, between key political actors. In doing so, COPCEL aimed to facilitate exchange of information amongst key political actors, during the period when reforms were being drafted. Such facilitation had four objectives: to permit early identification

of areas of potential conflict; to foster a sense that institutions were becoming more transparent and accountable; to promote a greater sense of participation, and hence, ownership, on the part of all actors in the reform process; and to allow greater awareness, on all sides, of the kinds of practical and political difficulties faced by other actors.

To address questions of weakness of political community, COPCEL had four further objectives: to constitute a safe and neutral space for political discussion, in the hope of promoting trust amongst political actors; to develop personal links between members from institutions and organisations commonly seen as politically opposed; to foster a culture within which conflicts of interest were seen as legitimate and manageable; and to develop, as a consequence, amongst members a preference for the use of negotiation to manage conflict, rather than resort to strategies of conflict avoidance which fuel distrust. COPCEL provided the only forum in which all the major political stakeholders could meet together, and this was viewed by a number of COPCEL's participants as significant.

These two civil society initiatives thus represent responses to the two key sets of problems identified in CDRI's report on the 1998 elections, as well as comprising major foci of activity for the agencies involved. For these reasons, they are selected as case studies of political change, and their impact on the tendencies of electoral conflicts to escalate, and on the ability of institutions to manage such escalation, will be assessed in the present study.

2.4 Political Developments

Aside from institutional weakness, CDRI's study of the 1998 Election found that a lack of a sense of political community between key political actors – particularly political parties, but also, to an extent, in the form of distrust between government and NGOs – had promoted distrust and further undermined already feeble institutions. While levels of trust are not directly measurable some salient points suggest that the political atmosphere was at least less highly charged in 2003 as compared to 1998. Some interviewees viewed distrust as embedded in Cambodian politics as a legacy of history or culture, for example:

“In Cambodia, since the Pol Pot regime, the legacy of lack of trust remains. We have the spirit to change, but we don't have much unity. It is difficult to reach a consensus. People try to take one side strongly, and fight strongly to win. If there is no meeting to mediate tension, there will be a problem... political tension will increase and political instability will occur.”²⁹

However, current political events are significant in facilitating or blocking efforts to improve political relations. Perhaps the most important ongoing determinant of the level of political trust is the number of political killings reported. This number has been declining, but opposition party members and NGO activists continue to report cases of political killing which clearly have reverberations throughout the polity. In the 1993 elections, more than 200 people were killed in election-related murders. Between July 1997 and September 1998, estimates of the number of political killings range from 91 to 133. Forty to 60 estimated deaths surrounded the military battle in Phnom Penh, in July and August 1997. These particularly affected FUNCINPEC officials and military officers. They included one military general, Chea Sambath, whose body bore the marks of torture; and one secretary of state, H.E. Ho Sok, apparently shot dead inside the Ministry of Interior. A further 33 politically motivated murders were recorded by the COHCHR between August 1997 and April 1998; 16 to 22 murders between May 1998 and August 1998; and two deaths of demonstrators as well as the discovery of 16 bodies, which may have been the victims of extrajudicial execution, in September 1998.³⁰

²⁹ Ministry of National Defence representative (9), personal interview, Phnom Penh, 11 July 2003.

³⁰ Hughes and Real, 55/6.

In the run up to the commune elections of February 2002, political violence apparently continued, but at a lower rate. Seventeen election related killings were noted by the United Nations in the period surrounding the commune elections. Following the commune elections, murders of political party members continued. From January 2003 to election day, 31 deaths in 28 attacks were recorded by COMFREL as potentially politically motivated, involving 11 SRP members, 9 FUNCINPEC members and 11 CPP members.³¹ The UN recorded 13 deaths of political activists between February 2002 and the start of the election campaign in June 2003. During this period, a senior FUNCINPEC politician, Om Radsady, was shot dead in Phnom Penh, and the UN criticised the swift release of a statement by the Ministry of Interior declaring that theft was the motive for the attack, “thereby prejudging the outcome of its own investigation, and damaging the credibility of the investigation and the Ministry's neutrality.” The UN's Special Representative for Human Rights in Cambodia reported that he “remains concerned by the continuing tendency of Cambodian law enforcement and government officials to publicly declare such cases as being non-political before investigations have been concluded.”³²

The UN reported that the election campaign period was relatively free of violence³³, although COMFREL recorded a further seventeen deaths of political party members or activists during the election campaign, and 213 cases of intimidation and threats.³⁴ More murders of politically affiliated individuals, including the shootings, a week apart, of a pro-FUNCINPEC singer and a journalist from a FUNCINPEC radio station, occurred following the election.³⁵

A particular cause for concern is the fact that witnesses to shootings and murders frequently claim that the perpetrators were dressed in uniforms of the security forces. COMFREL's analysis of cases of threat, intimidation and violence during voter registration, in January and February 2003, indicated that 35 per cent of cases were perpetrated by members of the security forces, and another 35 per cent by members of the local authorities.³⁶

Equally, large numbers of cases of intimidation and threats were recorded. A Human Rights Watch report documented alleged intimidation of FUNCINPEC voters by the CPP, in which FUNCINPEC voters were invited to meetings at CPP offices, given gifts and then forced to swear to vote for the party. COMFREL also documented cases of individuals being asked to drink “oath water” while promising to vote for the CPP.³⁷ A report by the Special Representative for Human Rights criticised the NEC's record on these issues, commenting:

³¹ COMFREL and NICFEC, “Pre-Election Assessment Joint Statement,” press release, Phnom Penh, 25 July 2003.

³² Peter Leuprecht, “Situation of Human Rights in Cambodia,” Report by the Special Representative for Human Rights in Cambodia to the General Assembly, 22 Aug. 2003, para. 18.

³³ Peter Leuprecht, “Situation of Human Rights in Cambodia,” Report by the Special Representative for Human Rights in Cambodia to the General Assembly, 22 Aug. 2003, para. 19.

³⁴ COMFREL and NICFEC, “Pre-Election Assessment Joint Statement,” press release, Phnom Penh, 25 July 2003.

³⁵ Cheang Sokha and Caroline Huot, “Actress Shot After Journalist Slain,” Phnom Penh Post, online edition, 24 Oct –6 Nov 2003, available online at www.phnompenhpost.com, accessed on 7 Nov 2003.

³⁶ COMFREL, Assessment Report on Voter Registration Process for the July 2003 National Assembly Elections, Phnom Penh, 7 Mar 2003, appendix 3.

³⁷ Human Rights Watch, “Don't Bite the Hand that Feeds You, a Human Rights Watch Backgrounder Report,” available online at www.hrw.org/backgrounder/asia/cambodia/elections.htm, accessed on 7 Nov 2003.

*“In confronting electoral fraud, vote-buying, intimidation and violence, the National Election Committee failed in almost every case to use its considerable power to impose fines and other sanctions. Although law enforcement officials took some steps to investigate killings of political party activists, the investigative and judicial processes of bringing the culprits to justice remained flawed and ineffective in the majority of cases.”*³⁸

The NEC itself claimed that investigation of criminal cases was the role of the police and courts, rather than the NEC, and also asserted that forced oaths and collection of voting cards by village chiefs and party officials “are considered as internal affairs of the party” if they occurred inside party offices, outside of working hours.³⁹ The NEC also asserted that “The NEC does not have any means other than mediation,” when dealing with infringements of the rules by local authorities.⁴⁰ These responses were seen by some international and local observers as an abdication of the NEC’s responsibilities; opposition parties tended to see them as evidence of NEC bias towards the ruling party, alleged to be responsible for most of the violations.

A further dispute was over the status of particular acts of violence as political or criminal. The Ministry of Interior frequently alleged personal or criminal motives were to blame, denying any connection between violence and politics. Many NGOs and opposition activists, along with international organisations, took a different view. This rift in understanding was highlighted at CDRI’s workshop on conflict management during elections, held in November 2003. At a panel on the security situation, two presenters – General Mao Chandarith of the National Police and Koy Chandarith of COMFREL – presented assessments of the security situation which were completely contradictory. While Gen. Mao Chandarith praised the lack of violence during the election, Koy Chandarith reported his organization’s concern at increased numbers of attacks.⁴¹ In itself, such a profound difference in perceptions of the situation considerably heightens distrust between the parties. This was exacerbated because the state agencies responsible for investigating the violence and punishing perpetrators – the police and justice system – are themselves institutions that function poorly, are viewed by the opposition as highly politicised, and inspire little confidence from the public.

Furthermore, severe limitations of resources prevent effective action on the part of the police to investigate complaints. One military official, a representative of the Ministry of National Defence who attended COPCEL meetings, described the problems faced by Ministry officials in investigating reports of political violence:

³⁸ Human Rights Watch, “Don’t Bite the Hand that Feeds You, a Human Rights Watch Backgrounder Report,” available online at www.hrw.org/backgrounder/asia/cambodia/elections.htm, accessed on 7 Nov 2003.

³⁹ Tep Nytha, NEC, statement to COPCEL meeting, minutes of 44th COPCEL Meeting, trans. Sen Sina, Phnom Penh, 26 Mar 2003, 8.

⁴⁰ Tep Nytha, NEC, statement to COPCEL meeting, minutes of 44th COPCEL Meeting, trans. Sen Sina, Phnom Penh, 26 Mar 2003, 3.

⁴¹ Panel on “Security”, Workshop on the Evolution of Conflict Management over Three Cambodian Elections, Phnom Penh, 24 Nov 2003.

“My institution has no resources, very low salaries. If research is needed, I have to go myself. This is a problem, but I feel under pressure if I come back to COPCEL and I don’t have anything to report. Organisations have big salaries – hundreds of dollars a month. We don’t... We are supposed to have a per diem to cover investigations, but in reality we don’t get it. For example, in the regulations, if we go to Battambang... we are supposed to get 30 dollars a day. But in reality the money is not there. They take it to use for other things. So as a result, when someone has to go down to the field they don’t want to go.”⁴²

These problems, noted also in 1998, do not appear to have significantly changed in the intervening five years.

The dispute over the nature of the violence that occurred during the election period is a symptom of a broader conflict of perceptions of the level of peace underlying the surface calm of the election. Opposition parties and some NGOs claim that villagers live in a state of perpetual fear of pro-CPP local authorities and armed forces. The ruling party, by contrast, claims relations of solidarity with the Cambodian public. This continues to represent the most intractable conflict of perceptions within Cambodian society, and underlies assessments of the significance of a large number of the issues outlined below.

A particular source of concern in 2003 was the violent anti-Thai riots that took place in January. These were of concern to the election because they quickly became linked to political parties in the speeches of politicians, with opposition leaders blaming the CPP for instigating the violence, and the CPP blaming the opposition for the same. While there is little evidence to support either scenario, the weak response of the security forces, which appeared either unwilling or unable to control the situation must certainly have raised fears in the minds of Phnom Penh citizens. Subsequently, the security forces reacted strongly to peaceful demonstrations in the capital city, and in one case, two people were killed during a demonstration by factory workers. This inconsistent action by the security forces, which seems to have failed to contain violence in the first case, and provoked it in the second, was unhelpful to the promotion of a calm atmosphere for elections.

COMFREL commented, following the assassination of Om Radsady and a leading monk, the Ven. Sam Bunthoeun, in February 2003, that:

“The effects of these incidents have created a sense of fear threatening to politicians, political activists, non-governmental organisation activists and especially voters in expressing their opinion and will and to participate in the election process in a free manner. These fears are of equal concern when compared to the pre-national election situations in 1998... This fear is in fact hindering the freedom of expression of opinion, demonstration and assembly during the election period.”⁴³

Even so, compared to 1998, the senior leaders of Cambodia’s political parties now have much greater experience of accommodating one another and working together. In 1998, the leaders of FUNCINPEC and SRP were just returning from Bangkok under the surveillance of UN monitors, having relocated there following the military battle of 1997. Prince Ranariddh had been tried, convicted and pardoned for weapons smuggling offences, in the aftermath of the fighting, and his return was greeted by riots outside his hotel between supporters of rival political parties. By contrast, in 2003, FUNCINPEC and the CPP had existed peacefully in a

⁴² Ministry of National Defence representative (9), personal interview, Phnom Penh, 11 July 2003.

⁴³ COMFREL and NICFEC, Cambodian Human Rights Action Committee, Advocacy Commission of Star Kampuchea and Youth Council of Cambodia, “Joint Statement on Concerns over Assassination and Intimidation Related to the Political Environment of the 2003 National Assembly Election Process,” Phnom Penh, 22 Feb. 2003.

coalition government for five years, and this experience was in stark contrast to the troubled and tense relations between the coalition partners of 1993 to 1998.

Higher levels of distrust remained between the SRP and the CPP. From 1998 the SRP maintained its insistence that the 1998 election had been rigged, and that Prime Minister and CPP leader Hun Sen was unfit to participate in Cambodian politics. Yet at the same time, the SRP successfully performed the role of opposition party between 1998 and 2003, and saw its party gain in strength and support consistently over the period. Although the SRP frequently denounced the operations of the government as illegitimate and unconstitutional, it nevertheless cooperated in maintaining the functioning of the National Assembly, and since 2002 has taken an active role in local government.

Since 2002, also, delegates from different political parties have coexisted on commune councils across the country, as a result of commune elections staged as part of the RGC's decentralisation policy. Prior to the 2002 commune elections, the commune chiefs in place throughout most of Cambodia were those that had been appointed during the early 1980s, under the auspices of the one-party state of the People's Republic of Kampuchea (PRK). They were widely perceived to be politically loyal to that party's political successor, the Cambodian People's Party. Disputes over the political loyalties of commune chiefs was a key source of contention in the troubled first parliament of the Kingdom of Cambodia, from 1993-1998, and has been viewed as a major source of the breakdown of the coalition between the CPP and FUNCINPEC in violence in July 1997. The need to make this level of government more accountable to the electorate, more legitimate in their eyes, and more reflective of the new plurality in Cambodian political society after 1993 has long been viewed both domestically and internationally as paramount.

The 2002 commune elections replaced the old commune chiefs with a new system of multi-member commune councils, representing different parties through a system of proportional representation. Although the CPP scored a decisive victory in the commune elections, with the result that many of the old commune chiefs retained their position, they now share power in most communes with mixed councils comprising representatives from the three main parties. The record of commune councils is mixed, in terms of the promotion of a spirit of plurality and peaceful co-existence between political parties. In Kompong Cham, one election monitor offered a particularly bleak assessment:

*"The commune chief is the head of the party – FUNCINPEC – and SRP don't have any power. They only have a name. They are afraid of intimidation... They don't have power in the commune. They work for profit for their family, but they don't resolve problems."*⁴⁴

Similarly, an SRP provincial activist in Kampot province commented, "We don't have power in the commune councils. Only the commune chief has power. They don't give power to the first and second secretaries."⁴⁵ Despite these complaints, and although the level of activity of commune councils remains low, there have been no reports of power sharing arrangements within communes breaking down completely. The fact that opposition parties have a position within the local authorities, even if it is in name only, legitimates them as participants in political life. In comparison to the period from 1993 to 1998, when political party signboards were regularly and openly attacked and when political parties were forcibly prevented by local authorities from opening offices in the countryside on the grounds that such offices were not authorised, the period from 2001 to 2003 in particular has seen a much greater extension of party pluralism across the country. A senior official in the SRP campaign noted:

⁴⁴ COMFREL provincial representative (10), Kompong Cham, personal interview, 9 July 2003.

⁴⁵ SRP provincial activist (11), Kampot, personal interview, 16 July 2003.

“In the 1998 election campaign, we had 700-800 signposts throughout the country. Now we have 8,000. There is intimidation and violence, but there are still people prepared to put up signs. There are more people who dare to stand up and be counted.”⁴⁶

This translates in the 2003 election campaign, into much greater freedom on the part of individuals from all political parties to openly show their political affiliations and campaign on behalf of their parties.

CDRI’s study of the 1998 elections indicated that the role of local authorities was a deep source of concern to a number of political and civil society actors, and was referred to time and again as a major cause of conflict in those elections. Equally, CDRI’s study, published in 2002, of the state of knowledge regarding conflict management practices at local level suggested that commune-level officials were the most important managers of conflict. Consequently, the far-reaching reform of this level of institution promised by the commune elections of 2002 constitutes an extremely important aspect of political change.

2.5 Areas of Limited Development: the Media

A review of political developments from 1998 to 2003 also suggested that, of the sources of conflict identified in the study of the 1998 elections, one major area had not been significantly addressed by Cambodian political actors; namely, access to the electronic media. It is widely accepted by observers of Cambodia that in 2003 state and private electronic media predominantly continue to exhibit an editorial line strongly sympathetic to the CPP. Requests by the opposition Sam Rainsy Party for a license to open its own radio stations continue to be denied. With one or two exceptions, the ability of parties aside from the CPP to gain access to news programmes or to purchase time for political advertising on Cambodia radio and television is extremely limited.

In 2003, this issue was addressed by international organisations through a variety of programmes. These prominently included the UNDP’s equity access programme, which sought to open access to all parties to the news bulletins broadcast by state radio and television; the NEC’s equal access programme which allowed equal slots to all political parties for campaigning on television and radio; and a programme of radio and television debates organised by the National Democratic Institute, which provided opportunities to all parties to engage in campaigning, broadcast on Channel 9 and on radio. A further development was the beginning of relay broadcasts of Radio Free Asia and Voice of America election coverage, via the local Beehive Radio Station. At the same time, problems persisted with official attempts to prevent the relay of Radio Free Asia and Voice of America; complaints by political parties regarding the UNDP’s equity access programme; and a row developing between the NEC and Cambodian private television and radio stations over the roles and responsibilities of the latter with regard to election coverage. The special programmes organised for the election opened the media much more widely than in any previous election; however, these special provisions for the elections were halted as soon as the elections were over and there was little sense of underlying reform in the structure of the media as a consequence of them.

⁴⁶ SRP national representative (12), personal interview, Phnom Penh, 4 July 2003.

Chapter 3:

Conflict Management at Local Level–Comparative Case Studies

3.1 Selection of Case Studies

3.1.1 Selection of Provinces

Selection of provinces was informed by a number of criteria. The provinces selected varied in terms of their location, population, level of political contestation, and history of violence. Provinces were selected from the northwest (Battambang), southwest (Kampot), east (Kompong Cham) and southeast (Takeo). The northeast was excluded due to the practical difficulties of reaching the region on a regular basis. The selection includes both medium and high levels of population, with Kampot and Takeo fielding 6 and 9 national assembly representatives respectively, and Battambang and Kompong Cham fielding 12 and 18 respectively. The level of political contestation varied also, in part due to the differing political histories of these provinces. Voting patterns in the four provinces are shown in Appendix A, Table 1, and the performances of the major parties in these provinces are compared with their national average performance in Appendix A., Figs. 1-4.

Comparisons of the parties' performances in each of the case study provinces in successive elections, set against the national average (Figs. 1-4), show the contrasting nature of these provinces. Kompong Cham has remained consistently pro-opposition, with opposition parties consistently gaining a higher percentage of the vote within this province than they gained in the nation as a whole. The CPP's share of the vote in this province has been consistently well below its national average. Despite the apparently "safe" nature of this constituency, the fact that it fields the highest number of seats in the country entails that it is always hotly contested. Takeo, by contrast, has seen a consistently strong performance by the CPP at the expense of opposition parties grouped together – although FUNCINPEC's fortunes in this province have declined less steeply than on average, the poor showing of the SRP here has permitted the CPP to remain ahead of the combined opposition in this province. Historically, Takeo has rarely figured as a province in which electoral tensions run particularly high, in comparison with other parts of the country, so this province was selected as an area where we would not expect to see major conflicts occurring.

By contrast, Battambang – traditionally a "resistance" province – has seen a highly varied performance, with a drastic decline in FUNCINPEC's share of the vote, and wide swings in the SRP's performance. The CPP was able to dominate the province in the 2002 election for the first time. The magnitude of the swing, in a province which fielded a large number of seats, entailed that this province was viewed as a very important battleground in the 2003 elections. Similarly, Kampot province, long a CPP stronghold, saw an improvement in the fortunes of the opposition parties combined for the first time in 2002, where they exceeded their national average to take almost 45 per cent of the vote. The CPP's vote in this province, by contrast, sank to well below its national average performance for the first time in 2002. Kampot was a province that saw a high level of violence surrounding the 2002 and 2003 elections, and for this reason, it was considered to be a highly contested province.

A further criterion applied in the selection of case study provinces was the status of the various provinces with respect to the civil war. The sample included two provinces that had

seen significant levels of fighting well into the 1990s – Battambang and Kampot – as well as two provinces that had seen much less warfare since the Paris Accords of 1991 – Kompong Cham and Takeo. However, it should be noted that significant levels of violence, in the form of extra-judicial killings, were noted in Kompong Cham surrounding the military battle in Phnom Penh in 1997.

At the provincial level, investigations comprised semi-structured interviews with interviewees in a position to take a view of the situation in the province as a whole. These included election observers manning the provincial offices of the main election observer network, COMFREL; officials in political party provincial offices; representatives from national party offices charged with responsibility for organising campaigning in the province; and members of the Provincial Election Committees. These interviewees were selected as representing the three major political parties, civil society, and the state.

3.1.2 Selection of Communes

Within the provinces, individual communes were identified as detailed fieldwork sites. The communes selected were

- Thnaot Commune, Bati District, Takeo Province;
- Takhaen Commune, Chhouk District, Kampot Province;
- Veal Vong Commune, Kompong Cham District, Kompong Cham province;
- Paem Ek commune, Ek Phnom District, Battambang Province; and
- Wat Tamim commune, Sanke District, Battambang Province.

The first criterion chosen to select the communes reflected the concern of the study to examine the impact of commune councils on conflict escalation and conflict management. Consequently, communes were selected with regard to the different degrees of plurality in their elected councils. Thnaot Commune and Veal Vong Commune both showed a high degree of plurality; Thnaot Commune has 7 commune councillors, of whom three represent the CPP, three represent FUNCINPEC and one represents the SRP. In Veal Vong Commune there are 11 commune councillors, of whom five represent the CPP, five represent the SRP, and one represents FUNCINPEC. Both the communes studied in Battambang province had the same commune council composition, and were dominated by the CPP, with each council comprising 7 CPP representatives, 3 FUNCINPEC representatives and one SRP representative. In all our case study communes, the CPP was victorious in 2002, reflecting its surge of popularity throughout the country in that year. However, in two of the case study communes (Veal Vong and Paem Ek), the SRP had won the 1998 elections, and in another two, (Wat Tamim and Thnaot) FUNCINPEC had won in 1998. These four communes consequently represented cases where the CPP faced strong competition from other parties.

The fifth commune, Ta Khaen commune, has a commune council comprising 5 CPP members and one FUNCINPEC member. The CPP members in this commune are, however, recent converts to the party, the commune being located in an area controlled by the National Army of Democratic Kampuchea from 1970 until 1996. In 1996, the NADK commanders in the area defected to the government, and were retained in place. The CPP members on the commune council are thus former NADK military commanders, who have long held power in the area. This case study offered an opportunity to examine the politics of elections in a recently integrated area.

Aside from political allegiances, the five communes differed sharply in their socio-economic characteristics. Ta Khaen commune is an extremely poor rural commune located in a very remote area of the country. It has experienced little impact from processes of consolidation of state power and capitalist penetration, due to its political history and geographic location. The commune was under the control of the National Army of Democratic Kampuchea

from 1970 to 1996, effectively cutting it off from the rest of the country until its reintegration at the end of the war. Because of this, the commune did not vote in 1993 or 1998, and villagers thus had only the experience of the 2002 election to prepare them for the national elections of 2003.

Thnaot Commune is also a rural commune, but it is observably more prosperous than Ta Khaen. Situated close to Phnom Penh and to major highways, the commune is an important centre for silk weaving. The commune is small but densely populated, comprising a population of 6,618 concentrated in a land area of only 1401 hectares. Similarly, Peam Ek Commune is located about 15 km from Battambang provincial town, and is a highly populated commune with easy access to markets. The area is rich in fruit tree plantations, and villagers also engage in rice cultivation, in petty trades such as rice milling, fishing and fruit hawking, as well as in frequent migration for work in Thailand. The population of the commune is around 15,000. Wat Tamim is located about 18 km from Battambang town, in a particularly fertile area of alluvial soil which benefits from the flood cycle of the Sanke River. The land area is 32 square kilometres, and economic activities include rice cultivation, orange and fruit tree plantations, small business and migration to Thailand for work. The final case study commune, Veal Vong, is an urban area, on the outskirts of Kompong Cham provincial town. The commune comprises 15,000 people and six villages. Most of the population are engaged in small enterprise in Kompong Cham town, mainly as market traders. As part of a major urban centre, the population has very easy access to information, including daily newspapers on sale in the town, and to provincial human rights and political party offices. A number of major political rallies by party leaders were held in the town during the election campaign, and these would have been easily accessible to the people of this commune.

The research team visited each commune three times during the course of the election campaign and vote-counting period. In each commune, efforts were made to locate and interview all major political actors; namely, campaign activists from each of the major parties; representatives from each of the parties on the commune council; the commune chief; village chief; and members of the commune election committee. Topics for discussion in interviews included: each actor's perception of his or her role in the election process; each actor's perception of the meaning of the term 'conflict'; actors' concerns regarding conflicts that either had arisen or might arise during the election process; actors' perceptions of conflict management strategies being employed, and role in these; and beliefs regarding the development of conflict management processes since 1998. Of particular concern were perceptions of the changing roles of institutions; perceptions of access to information and the media; and perceptions of the quality of the voter registration process.

3.2 Case by Case Presentation of Findings

3.2.1 Veal Vong Commune, Kompong Cham District, Kompong Cham

3.2.1.1 Commune Government and Politics

Veal Vong Commune is an urban commune on the outskirts of Kompong Cham town in Kompong Cham Province. This commune has six villages and 15,000 people. There are 11 seats on the commune council, of which the CPP and SRP each have five, and FUNCINPEC has one. The commune chief is CPP, the deputy chief is SRP, and the second deputy is FUNCINPEC. Kompong Cham is a strongly pro-opposition province, and Veal Vong commune is no exception. In 1998, the SRP won easily in the province, with 42 percent of the vote, compared to FUNCINPEC's 29 percent and the CPP's 21 percent. In 2002, however, the CPP beat the SRP into second place by a mere .53 percent of the vote. Voting patterns over the last three elections are as follows:

Voting History: Veal Vong Commune⁴⁷

| | |
|------|---|
| 1998 | 1 st SRP, 2 nd FUNCINPEC, 3 rd CPP |
| 2002 | 1 st CPP, 2 nd SRP, 3 rd FUNCINPEC |
| 2003 | 1 st SRP, 2 nd CPP, 3 rd FUNCINPEC |

Accounts of relations between the parties within the commune differed. According to the commune chief, a representative of the CPP, relations were smooth:

“There is no problem between the CPP and the SRP on the commune council. We have different opinions about what can be done. But for most things we look at the law and do things according to law. We try to facilitate. We look at the different regulations to see if something is against the law. And we go to meetings with CEC and talk about what we are going to do, according to the code of conduct. This is the most important thing.”⁴⁸

The second deputy chief, a member of FUNCINPEC, agreed with this view. However, the SRP first deputy chief had a different perspective:

“Although we have elected commune councils, the district and the Party still control everything. Among commune councillors, the opposition party members are still by-passed.”⁴⁹

The deputy chief also claimed that, “All village chiefs still belong to the CPP, and they are very likely to cause conflict in local areas.” He argued that problems escalated from the local level because “people in the commune and village authority are still affiliated to the party and they work for the party, not for the government.”⁵⁰

One interview with a village chief in Veal Vong commune appeared to bear out this view. The village chief in question commented: “We work hard to explain to people about the political agenda of the CPP, but other parties have the right to express their political agenda as well.” He added,

“Now I work for the state and not the party, but the party and the state are the same. Now there are two sectors – one is state and one is party. I work for both... In some places, we do call people to vote for this or that party but in my village we don’t. Nobody told me what happens if something goes wrong. The state hasn’t told me. The party should tell me what to do.”⁵¹

The same village chief acknowledged the influence of the party on questions of development within his village. He explained that most development assistance came from the CPP, and that he reported to the CPP district office about the needs of his village, after consultation with five other CPP members in the village. He commented further that he knew who belonged to which party in his village, but could not always be sure that everyone voted for the party they belonged to. He also commented that he didn’t know whether young people, newly registered as voters, would always support the same party as their fathers:

⁴⁷ Outcomes for 1993 are not noted, because in 1993 votes were counted at the provincial level, and individual results for each commune were not released.

⁴⁸ Commune Chief, Veal Vong (13), personal interview, Kompong Cham, 9 July 2003.

⁴⁹ SRP First Deputy Commune Chief, Veal Vong (14), personal interview, Kompong Cham, 9 July 2003.

⁵⁰ SRP First Deputy Commune Chief, Veal Vong (14), personal interview, Kompong Cham, 9 July 2003.

⁵¹ Village Chief, Veal Vong Commune (15), personal interview, Kompong Cham, 9 July 2003.

“Sometimes a family might have grown-up children. The father might be CPP, but the children not. It’s difficult to tell. But we listen and say that if you enter that party there will be no development.”⁵²

The various roles of this individual – as state official, representative of village development needs, party worker, and also in this case as the head of the wat committee in the village – seemed to be closely intertwined. It should be noted that in our other interviews with village chiefs, in Kompong Cham and elsewhere, respondents gave considerably clearer accounts of the distinction between these various roles. Most village chiefs interviewed said they did not try to persuade villagers to vote for the CPP.

However, SRP representatives and COMFREL observers at provincial level both claimed that village chiefs throughout the province had been engaged in activities that were against NEC regulations and could be perceived as intimidating to voters. An SRP party official, interviewed in Kompong Cham SRP Provincial Office, claimed that village chiefs in Kompong Cham had confiscated voter registration cards belonging to SRP members, had prohibited the SRP from raising signs in some areas, and intimidated people to prevent them from going to listen to Sam Rainsy Party campaigning. He claimed that former militia members were being used to intimidate people within the communes, and the CEC and PEC represented the CPP and FUNCINPEC. He agreed with the First Deputy Chief of Veal Vong Commune that SRP members were bypassed on commune councils by pro-CPP chiefs, and had “no power at all.”⁵³

The SRP party official reported a complaint made by the SRP to the PEC over the confiscation of voter cards from SRP supporters by a commune chief in Stung Trang District. He said that attempts to complain to the PECs had been fruitless as the PEC had ordered the CECs to facilitate a solution, and as a result, the complaint “went back and forth and costs us a lot of money. It is a big obstacle to our activity.” The SRP representative attributed this lack of success in resolving the conflict to the fact that the SRP was not allowed to be represented on the CEC or PEC, and that these groups, and the local authorities, “come from the CPP, so they don’t resolve fairly.”⁵⁴

A COMFREL monitor in the province commented that attempts by local authorities to control the electorate were more far-reaching than in previous elections. He commented:

“Before, the campaign was organised into villages or groups. Now it is organised into four or five families, like in Pol Pot. One watches four or five families – this is the Pol Pot system.... The government officials are 80 per cent CPP, they intimidate and they ill treat one party. There was no public selection of the PEC, so the election doesn’t have transparency. They dare to do anything. There is no separation between the local authorities and the PEC.”⁵⁵

The PEC chief of Kompong Cham Province said that he had received reports of intimidation by village chiefs, but said that he had not received “any particular complaint.” The only complaint he said he had received was a complaint from the SRP that a village chief had “called people together to prevent campaigning.” The PEC chief said that he attended a CEC weekly meeting, at which the issue was dealt with, along with international and national election observers. He described the discussion:

⁵² Village Chief, Veal Vong (15), personal interview, Kompong Cham, 9 July 2003.

⁵³ SRP Provincial Representative (16), personal interview, Kompong Cham, 9 July 2003.

⁵⁴ SRP Provincial representative (16), personal interview, Kompong Cham, 9 July 2003.

⁵⁵ COMFREL provincial representative (17), personal interview, Kompong Cham, 9 July 2003.

“They said that the local authorities serve the party. I said they must be neutral. The SRP didn’t dare to reply.”⁵⁶

The PEC chief added that there were limits to the extent of the PEC’s authority over village chiefs:

“We can’t do anything to the village chief. We sent out a letter to the village chiefs, saying please, you are local authorities, you should be neutral. Don’t make difficulties for the SRP.”⁵⁷

This account of the facilitation process perhaps highlights two issues that caused serious concern more widely during the election. First, the brevity of the discussion as described here, and the way it was concluded – “The SRP didn’t dare to reply” – highlights the difficulty, in a climate of intense distrust, of creating a forum within which conflicts can be openly discussed, rather than merely suppressed. Second, it highlights the self-perceptions of the election authorities as lacking in authority over local government.

It is interesting to note that, at the provincial level also, electoral conflicts are viewed in very different ways by different actors. For example, in interviews at the provincial level, different perceptions of the problem were offered by the COMFREL representative in Kompong Cham and by the Provincial Election Committee Chief (who was a member of FUNCINPEC). For the COMFREL representative electoral conflicts arose from a lack of “differentiation between the role of the state and the party, especially at commune and village level.” These led to attempts by the electoral and local authorities to facilitate conflicts, rather than resolve them according to law. He commented: “They are all in the state together – the people who resolve are the CPP. If it’s a question of human rights they should use law – but they are lazy or afraid, or they don’t know the law.” For the COMFREL representative, the issue was a political issue, of a lack of political will to punish wrongdoers who are presumed to be loyal to the CPP. He alleged that the NEC and PEC were selected according to a quota system between CPP and FUNCINPEC, and consequently was not neutral, and added that in any case, “The parties don’t really respect the function of the NEC and PEC.”⁵⁸

The PEC chief had a different perspective. While he agreed that problems had arisen in 1998 because the NEC and PEC staff were politically affiliated, he said that in 2003, the selection procedures had ruled out “anyone who was strongly for a political party” and consequently the new PECs behaved in a neutral manner. He added that better standards of observation in 2003 had reined in the behaviour of the parties, who were “afraid of punishment”. In addition, he commented, better general security in the province following the improvement of relations between FUNCINPEC and the CPP and the end of the war against the “Khmer Rouge,” had also improved the general atmosphere for elections. But he agreed that local authorities remained “partisan” and “politicised” and that this had made the situation difficult with regard to voter education in particular. The PEC chief commented that in some places people place little faith in voter education delivered by partisan local authorities, but that education through the broadcast media was insufficient to get the message across. He commented:

⁵⁶ PEC Chief, Kompong Cham Province (5), personal interview, Kompong Cham, 9 July 2003.

⁵⁷ PEC Chief, Kompong Cham Province (5), personal interview, 9 July 2003.

⁵⁸ COMFREL provincial representative (17), Kompong Cham province, personal interview, 9 July 2003.

“People like to watch TV and radio but the time for broadcasting is too short. They need education in person – educate the people to know. When people understand well about the election it will be better because some people are still afraid. They are afraid the parties would know who they voted for. Because they don’t understand about the secret ballot, and there is a culture of fear.”⁵⁹

For the PEC chief, the main problem for the election lay not in the lack of political will on the part of election authorities to resolve conflicts according to law, but in the fearfulness of the public, who did not understand the procedures put in place by the election authorities to protect them. This fearfulness was a consequence of limited sources for voter education. The fact that voter education is reliant upon local authorities – identified with the political parties – means that voters are left without sources of information that they trust.

3.2.1.2 Election Institutions

Within Veal Vong, the CEC comprised five staff members, all school teachers. The main problem reported by CEC staff members interviewed was a lack of funding. They said that they found it difficult to hold sufficient numbers of round table meetings because of a lack of funds. They had had a number of cases of conflict to deal with. One prominent case included a complaint against Prince Norodom Ranariddh for “libelling Hun Sen.” This complaint was raised by a CPP member in the commune and discussed at the CEC weekly meeting on 11 July 2003. However, according to CEC officials interviewed, it had been decided in advance that the case was beyond their capacity for facilitation, and the complaint was sent to a higher level for resolution.⁶⁰

A second complaint dealt with by the CEC in Veal Vong was a complaint from the SRP over the switching of the location of a polling station. The SRP first deputy chief of Veal Vong Commune commented in an interview that this change was made without consultation, and had not been well-publicised. He said, “They did not consult with us, just with their party superiors at the commune and district level. They have not informed people well about this issue. Many voters will be confused about the polling station, and I am afraid that people might not care to vote, if you make things so complicated like that.”⁶¹

The SRP representative said he had filed a complaint with the CEC, PEC and NEC, but that there had been “no legal solution yet.”⁶² However, CEC staff interviewed on the same day commented:

“There is a controversial issue of reducing the voting stations... SRP was not happy because the CEC did not inform people widely. But the CEC has informed NGOs and put up posters, and now the SRP has agreed to the change.”⁶³

This difference of perceptions suggests that facilitation processes intended to resolve the problem had been less than effective, again raising the question of whether such processes promoted suppression of conflict rather than conflict resolution.

3.2.1.3 Voter Registration

In Veal Vong Commune, all interviewees agreed that the percentage of voters registered was high, and that the process had been conducted efficiently. The commune chief commented

⁵⁹ PEC Chief, Kompong Cham Province (5), personal interview, Kompong Cham, 9 July 2003.

⁶⁰ CEC member, Veal Vong (18), personal interview, Kompong Cham, 9 July 2003.

⁶¹ SRP First Deputy Commune Chief, Veal Vong (14), personal interview, Kompong Cham, 9 July 2003.

⁶² SRP First Deputy Commune Chief, Veal Vong (14), personal interview, Kompong Cham, 9 July 2003.

⁶³ CEC member, Veal Vong (18), personal interview, Kompong Cham, 9 July 2003.

that because the commune covered a small area, there were no problems for residents in getting to the commune office to register at the appropriate time.

3.2.1.4 Election Campaign

Election campaigning was organised by the CEC, and a lot of small parties, as well as the three main parties, campaigned actively in the area. The commune chief commented on the situation:

“Compared to 1998 there are no problems, everything is fine. Like 2002, there were no problems. We meet together frequently with the CEC. They organise the campaign so that the parties don’t cross.”⁶⁴

The main parties reported no difficulties in conducting their campaigns. Voters in Veal Vong were privileged to have visits not only from a range of parliamentary candidates for the province, but also from prime ministerial candidates Sam Rainsy and Prince Norodom Ranariddh.⁶⁵ Visits from high-ranking politicians, let alone party leaders, were extremely rare in the more remote communes we visited. Concerns of the opposition party related mainly to intimidation of voters, rather than disruption of party campaign activities.

Within the province, generally, the campaign was hotly contested and there were reports of parties taking down one another’s signs, and of local authorities and employers forbidding villagers and workers to attend opposition party rallies. However, opposition party representatives and election observers agreed that the most serious problems occurred in the countryside.

3.2.1.5 Media and Election Awareness

As an urban commune, many of whose residents worked in the markets in nearby Kompong Cham town, access to the media and to information about the election was very easy in Veal Vong commune. According to the commune chief, the three major parties were all active in providing information to their members about the election, and in encouraging their members to turn out both to register and to vote. However, the commune chief also commented that there was little discussion between voters of the different party platforms:

“People are mostly attached to the three big parties. They don’t discuss the parties much – they dare to speak, but some don’t want to speak. They are scared or lazy. They don’t want to step out of line. They are not afraid, but lazy. People get information from reading newspapers etc. and watching television.”

The commune chief commented further that, “the newspapers are not so good – they are very divisive and serve one group, but the television is no problem.”⁶⁶

3.2.1.6 Polling Day

Polling day reportedly went smoothly in Veal Vong commune. Eighty-four percent of registered voters turned out to vote, according to the commune chief; this was fewer than in 1998 but more than in 2002. The main problem on voting day was that a number of people that had voted in 1998, but not in 2002, arrived at the voting station without having re-registered. The rules on permanent registration, however, used the 2002 voting list as a baseline, which meant that voters who had voted in 1998 but not in 2002 had to re-register in order to vote in 2003. Confusion caused by this provision was widely reported throughout the country. A further problem widely reported in Kompong Cham province was the presence of commune and vil-

⁶⁴ Commune chief, Veal Vong (13), personal interview, Kompong Cham, 30 July 2003.

⁶⁵ Prime Minister Hun Sen, of course, did not participate in election campaigning.

⁶⁶ Commune chief, Veal Vong (13), personal interview, Kompong Cham, 9 July 2003.

lage chiefs around polling stations, but this was more widespread in rural than in urban areas. The commune chief in Veal Vong said, “They made me vote before everyone else and then leave again.”⁶⁷ He denied that village chiefs had led people to come and vote – a practice reported by COMFREL, and by one CEC member from Krouch Chmar District interviewed – but said that the SRP had led its own supporters to the polls in the commune.

3.2.2 Peam Ek Commune, Ek Phnom District, Battambang

3.2.2.1 Commune Government and Politics

Peam Ek is located in Ek Phnom district, Battambang province, about 15 km from the provincial town. The commune consists of eight villages. For demographic details, there are about 15,000 people with 2,500 households. The majority of people are children under the age of 15 years old. The area is rich in fruit tree plantations. It is highly populated and accessible from the main markets. The adaptive strategy of people for daily survival is rice cultivation, migration work to Thailand, petty trades in the area such as rice mills, fishing, fruit hawkers, and so forth. At a glance, the economic condition of the villagers is rather poor because there is limited arable lands and limited social security being given by the state, especially the healthcare system. Many people are landless.

For this national election, six parties had registered in the commune, out of which only three main parties were very active. The head of CEC in the commune explained “this election, we have a total of six different parties registered in the campaign. However, some small parties come only once to campaign and then disappear.”⁶⁸

Since the commune election of 2002, the political structure of Peam Ek is mixed with three main parties. There are a total of 11 commune councillors, 7 of which are CPP, 3 are FUNCINPEC and 1 is SRP. It is headed by commune chief from CPP, 1st deputy from FUNCINPEC, and the 2nd from SRP. The election history of the commune was in 1993 FUNCINPEC won the election, and in the 1998 national election SRP was the winning party, and in the commune election 2002 CPP was the winner. The second visit to the commune was after counting had finished. CEC revealed that there were 5,745 people registered for voting. The result of counting shows that SRP won the election with 2,059 votes, CPP came in second with 1,755, and FUNCINPEC got 556.

Voting History: Peam Ek Commune

1998 election: 1st SRP; 2nd FUNCINPEC; 3rd CPP

2002 commune election: 1st CPP; 2nd FUNCINPEC; 3rd SRP

2003 national election: 1st SRP; 2nd CPP; 3rd FUNCINPEC

The role of elected commune councillors and village chiefs was important in this national election. The elected commune council consists of three political parties: CPP, FUNCINPEC, and SRP. Consequently, despite the evident success of non-CPP parties in national elections, the CPP control the local level of government, both in its dominance of the commune council and its retention of the loyalties of village chiefs appointed in the 1980s. Furthermore, with available sources of support from the central party, CPP has been able to meet local demands for assistance much better than the other parties, especially before the election time and during the campaign. This was viewed as controversial by other political

⁶⁷ Commune chief, Veal Vong (13), personal interview, Kompong Cham, 30 July 2003.

⁶⁸ CEC chief, Peam Ek commune (19), personal interview, Battambang, 23 July 2003

actors. The interactions (horizontal and vertical communication) between commune councillors and village chiefs from CPP with people and party line are very active, compared to other parties. This enables CPP to respond to an accurate target group on the ground.

Many accusations were directed at commune councillors, especially those from the CPP. The councillors were accused of participating in party campaigning. These accusations reflected the confusion over the Ministry of Interior and NEC directives which state that local authorities should remain neutral, but, as the commune chief and CEC chief in Peam Ek commune explained, restrict this to “working hours.”⁶⁹ The regulations from NEC and MoI also allow local authorities to run campaigns if they have submitted a letter of resignation beforehand. An SRP commune councillor in Peam Ek alleged that within the commune “many village chiefs have submitted the letter of resignation in order to be allowed to run the campaign for CPP. However, they might or might not inform the villagers and all villagers do not know. Their view is the village chiefs remain powerful in controlling the constituents.”⁷⁰

Three village chiefs in the commune were invited for interviews. All were very optimistic and seemed to be well aware of their roles in the election. They admitted that during the 1993 and 1998 elections, there were a lot of problems, but said that now much progress had been made. For instance, people have experienced many elections, access to media is improved and the role of the CEC and local authorities are clarified. However, they claimed that many people are poor, so they pay more attention to making a living and they are not strong supporters of any parties. All village chiefs understood their roles; for example one village chief said “I understand that as a village chief, I am not allowed to run the campaign. I can’t do so unless I send a letter of resignation.”⁷¹

They also understand their role as a gatekeeper for all kinds of development activities in the village. The same village chief continues, “we accept all money for development of our commune, such as we can get money from government, NGOs, and political parties. For example, a senior CPP minister has built many things in our commune such as school and roads.”⁷² In the mean time, they reported, some problems such as verbal conflicts still occur. People use dirty language during the campaign, and some technical problems have occurred; for example, during voter registration some people did not have their photo taken properly.

3.2.2.2 Election Institutions

CEC members claimed that they were able to work more effectively than previous elections, since most of them are educated as school teachers and are experienced in this kind of work. One of the most significant problems was voter registration. For this national election, CEC was not responsible for voter registration. All were conducted by commune councils and clerks. Therefore, CEC members did not fully control the paperwork, and if problems occurred on election day, for example, misspelled names, missing ID cards or photos, they could not handle it very effectively.

There is still a weak sense of trust toward CEC members from SRP and FUNCINPEC activists. An SRP activist in the commune said:

⁶⁹ Commune chief (20) and CEC chief (19) Peam Ek commune, personal interviews, Battambang, 22 July 2003.

⁷⁰ SRP councillor Peam Ek commune (21), personal interview, Battambang, 23 July 2003

⁷¹ Village chief, Peam Ek Commune (22), personal interview, Battambang, 22 July 2003.

⁷² Village chief, Peam Ek Commune (23), personal interview, Battambang, 22 July 2003.

“All CEC staff are government employees, mainly school teachers. They are the clients of the government, so I don’t trust them because after the election they will return to work for their daily routine and directly controlled by CPP. Do you think that they are accountable for other parties besides CPP. The answer is clearly not.”⁷³

There were no official complaints about the CEC in Peam Ek commune. According to CEC chief, all of staff and local authorities worked very hard to keep a peaceful environment in the commune. CEC chief said:

“We have learned all problems from many elections, so this time we must work hard to prevent those problems from happening again. There are many ways we can work together to avoid problems for this time including: work closely with local authorities and police, have weekly meeting with all parties concerned, all kinds of confusing matter must be solved quickly by CEC. The elected commune councillors cooperate with CEC well. All regulations from NEC and MoI have been disseminated to people on time. We are able to invite people to sit face to face discussing issue directly. All people have access to media and understood the situation well.”⁷⁴

3.2.2.3 Voter Registration

According to the interview with the commune clerk, first, and second deputy of the commune who were responsible for voter registration, this issue was one of the administrative burdens given to commune authorities to handle besides civil registration.

“We faced a lot of difficulties during the registration because it was our first experience to do the job. We were lacking of logistics such as stationary and transportation. The registration was supposed to be the responsibility of the clerk, but we invited commune chiefs, and the two deputies to help as well.”⁷⁵

800 people who just turned 18 years old had registered and the total registered was 5,748. The local authorities worked hard to encourage people to register by announcing in the commune office and using word of mouth via village chiefs. Each political party serving in the commune was actively mobilising their members to come. Nonetheless, there were many people who did not register because they thought that by holding a card from 1998, they did not need to re-register. This is one of the most serious technical problems. CEC members in the commune account that:

“This election is very confusing because CEC was not responsible for registration as previous elections. When we received the list of voters, we just follow that. During the election day, some activists from political parties blamed CEC of being this and that. I told them not to blame CEC please, blame commune authority. It would appear that all commune councillors from the three parties took part in the registration.”⁷⁶

Another technical related issue is that many people who had registered did not turn out to vote. In Peam Ek commune, only 4,847 out of 5,748 people turned out to vote, so that there were 1,001 people missing from the polling stations. According to the CEC and local authorities, many people were absent from polling station because many people in Battambang are migrant workers in Thailand. Some people are sick, have moved out, and some have passed away, but their names are still valid.

⁷³ SRP chief, Peam Ek (24), personal interview, Battambang, 22 July 2003

⁷⁴ CEC chief, Peam Ek (19), personal interview, Battambang, 23 July 2003.

⁷⁵ Commune chief and commune clerk, Peam Ek (20, 25), group interview, Battambang, 23 July 2003.

⁷⁶ CEC chief, Peam Ek (19), personal interview, Battambang, 23 July 2003.

3.2.2.4 Election Campaign

Each party was required to submit their schedule of campaign to the security agency (police station in the commune) which works closely with CEC. Both CEC and the police have to report to one another everyday regarding security events on the election campaign. According to police and political activists:

“This campaign time is better than the 1998 election because we now have only three more days before election, and no serious cases have occurred”⁷⁷

According to our interview and observation during the campaign, each party has a similar strategy in conducting campaigns. CPP used large group meetings explaining the party political agenda, party signs or leaflets, and rallies in the community explaining political agenda and its leaders. CPP also focused on its rural and national development, its achievements in ending the fighting with the Khmer Rouge and facilitating the country’s “rebirth” on 7 January 1979. For FUNCINPEC, using loudspeakers, rallies, and party signs or leaflets were common strategies. The content of the campaign was the appeal of the monarchy, and issues relating to the border, illegal Vietnamese migrants, anti-communism and fighting the corruption of the government. The SRP campaign was conducted mostly using party signs and leaflets, loudspeakers, and meeting with activists in villages. The campaign content was similar to FUNCINPEC, with additional promises to increase salaries among workers up to \$100, fight corruption, deal with border issues and illegal migrants, social security and rural development.

The overall situation of the campaign was satisfactory for all parties in the commune, but there were some complaints from SRP on vote buying and on the conflict of interest of some village chiefs in remote villages. These cases will be addressed in the next chapter. But the SRP seems satisfied with the general scope or atmosphere of the campaign because people have good access to various media and the different parties, the security forces were playing their role and there was less intimidation than in previous elections allowing all party activists to campaign freely. However, there remain some sceptical views towards local authorities, mainly commune councillors and village chiefs.

3.2.2.5 Media and Public Awareness

The level of understanding about the election among people in this rural area was surprisingly high. The majority of people here have good access to radio, television, NGO activities, and cell phones. The transportation system is improving, making people more mobile. However, newspaper access is very limited. According to many commune councils and CEC staffs, broadcast media is still the only way to convey information on the election to people. Although there are leaflets and signs on display, a high level of illiteracy makes them less important.

There is a social norm or tradition that Cambodian people living in rural areas don’t like to talk about political issues publicly. When asked if this is because of security reasons, the answer was invariably no. According to our observations, awareness of the election was high, and people knew what the secret ballot was. They learned about the election through television and radio. CPP commune councillors in both Wat Tamim and Peam Ek also claimed that greater understanding about the election was due to the educational activities of political parties.

⁷⁷ Policeman and SRP member, Peam Ek (26), personal interview, Battambang, 23 July 2003.

3.2.2.6 Polling and Counting Day

During the election day, CEC was very cautious with local authority leaders, especially commune councilors and village chiefs. They were seen as the most likely source of conflict. An effective way to deal with this problem was to invite all local authorities to vote early in the morning and to ask them to return home soon after they have cast the ballots. Keeping ballot boxes and vote counting were the most contentious issues during 1998. This time all stakeholders such as political activists and CECs were very cautious on these issues. The SRP and CEC chief commented that:

“We still remember very well about the problems which happened in the 1998 election, so that this time we must keep our eyes on them. The night of keeping of the ballot boxes, there were about 250 people ranging from security agents, political activists, observers, and people stayed in the Wat to safeguard those ballot boxes. For counting, political activists and observers were very curious about parallel counting and the 1105 form was handed to all concerned people right away. In short, our commune had no serious problem.”⁷⁸

Observers in the commune came from COMFREL and NICFEC, national and international agencies, and were very active during the election. Contributing to this smooth ongoing activity was good security in most parts of the area even in some places that were former Khmer Rouge strongholds.

3.2.3 Wat Tamim Commune, Sanke District, Battambang

3.2.3.1 Commune Government and Politics

Wat Tamim commune is located in Sanke district, Battambang province, about 18 km south of Battambang provincial town. The commune has six villages, with a total population of 14,823 divided into 2,604 households. The dimension of the commune is 32 sq km including resident areas, rice lands, and orange and fruit tree plantations. Everywhere in the commune is filled with alluvial soil from the flooding of Sanke river. Glancing at the economic aspect, the living standard of people in this commune is better compared to other communes in Battambang.⁷⁹ The survival strategy is rice cultivation, orange and fruit tree plantations, small businesses, and migration work in Thailand. Some people have relatives in America or Western Europe sending money for survival as well. There are a total of six parties registered for running a campaign in the commune, but only five are very active: CPP, SRP, FUNCINPEC, Norodom Chakrapong Proleung Cheat Party, and Hang Dara Democratic Movement Party.

The commune chief is from CPP and the councillors comprise seven from CPP, three from FUNCINPEC (serving as first deputy) and one from SRP (serving as the 2nd deputy). FUNCINPEC won comfortably in the commune in 1998, with 39 percent of the vote, as compared to the CPP's 34 percent, and the SRP's 17 percent. In 2002, the CPP surged ahead with 57 percent, compared to FUNCINPEC's 27 percent and SRP's 13 percent. This gain was eroded in 2003, when CPP gained 38 percent of the vote, SRP gained 31 percent, and FUNCINPEC gained 20 percent.

⁷⁸ SRP representative and CEC chief, Peam Ek (20, 24), group interview, Battambang, 5 Aug. 2003.

⁷⁹ One of the research team, Kim Sedara, has personally been to this commune for many times since 1996, recently under the auspices of CDRI's study on decentralisation. He has built up a good rapport with many people in the commune, which was helpful in allowing the research team to gain access to the community.

Voting History: Wat Tamim Commune

1998 election: 1st FUNCINPEC, 2nd CPP and 3rd SRP

2002 commune election: 1st CPP, 2nd FUNCINPEC, and 3rd SRP

2003 election: 1st CPP, 2nd SRP, and 3rd FUNCINPEC

One of the main conflictual matters during the election was the role of local authorities which consist of elected commune councilors and appointed village chiefs. This is the first time that elected local governments in Cambodia were given responsibility to affiliate in organizing national election; for instance, clerk and commune councils were responsible for voter registration. These local authorities played an important role in the election because they are from three main political parties, representing their constituencies. During the election social and public order was the main responsibility of local authority as well, especially commune police and CEC who worked closely to ensure security. The general feeling of people in this community was mixed since there have been some positive outcomes implemented by commune councils. There has been much progress compared to the 1998 election. The progress observed includes: 1) CEC, police, and commune authority worked closely to ensure the process of election, 2) through experience from the commune election, the perception is that no matter who wins people will still have the same way of living. Therefore, tolerance is the most critical aspect, 3) through elected commune councils, people participate in various development activities with local authority and NGOs. This improves the understanding of public awareness among people, 4) commune authority consists of elected commune councils from the three main parties. This allows all political parties to be accountable and share information.

“People now are smart, they know who is good or bad in the community. They have good access to radio and TV. Everyone knows what the secret ballot is, but they don’t share with you, and the legacy from the Khmer Rouge makes people reluctant to speak or share information publicly. People have exposure to all kinds of development programs, including the commune development fund, we are using a voluntary and participatory approach, based on democratic principals. For the campaign we have divided into different schedules for each political party, this is really efficient to avoid verbal conflict which eventually happens.”⁸⁰

Nonetheless, many complaints were raised related to the role and responsibility of the commune councils. For example, SRP and FUNCINPEC commune councillors accused CPP activists of conducting vote buying during the campaign, and both parties lacked trust in CEC and local authorities, alleging that those institutions worked for the CPP. During the night between voting and counting, when the ballot boxes were stored in a Wat, the SRP and FUNCINPEC demanded that the CEC move the boxes to another building, claiming that the building where they were stored belonged to a CPP activist. In pursuit of this complaint, the SRP and FUNCINPEC called upon both the CEC and the district governor (who was a FUNCINPEC member) to intervene. In the end, the CEC agreed to change the room. Another complaint concerned claims by an SRP activist that he had seen a village chief near a polling station telling villagers to vote for the CPP.

According to an SRP commune council, “my activist saw a village chief telling villagers to vote for CPP, we even shot a photograph, now it is being developed.”⁸¹ There are many other complaints most of which related to village chiefs and commune councils from CPP. The two common complaints are vote buying and conflict of interest such as wearing T-shirt,

⁸⁰ Commune chief, Wat Tamim (27), personal interview, Battambang, 21 July 2003.

⁸¹ SRP commune councillor, Wat Tamim (28), personal interview, Battambang, 4 Aug. 2003.

hat, or watches with CPP logo, or CPP activists using the commune office to congregate members for campaigning.

The research team talked to four village chiefs in the commune. They were well aware of their role and responsibility during election; for example, they stated that they cannot wear a party T-shirt or conduct campaigning unless they send a letter of resignation to the commune authority. All of them said they were not sure how many people are loyal to CPP or other parties:

“No one knows how many people are in a particular party, because people don’t share this idea with one another. However, people make their judgment based on the feasible outcome in their community.”⁸²

The village chiefs expressed deep loyalty to CPP because the party has been able to build roads, irrigation, and schools in the commune. An SRP activist in the commune reacted to this issue by asking about the source of money for the CPP’s infrastructure projects.

Neither SRP nor FUNCINPEC representatives had strong concerns about security or security agencies in the commune. We were told that security was good during the campaign and election period. The commune chief explained that “it was my main responsibility to keep information updated with security everyday. If something happens during the election time, we will be held responsible for it. So far there is no problem or violence related to election.”⁸³

3.2.3.2 Electoral Institutions

As elections come and go, CEC staff are accumulating more experience in organizing elections. Weekly meetings organized by CEC, with all stakeholders such as political party representatives and local authorities, seemed to be an efficient means to solve problems and build up trust among political parties. During the campaign, CEC received a daily report from the police, and CEC has its own staff to supervise the situation. The CEC in Wat Tamim showed its accessibility to all parties by considering the complaint from SRP on relocating the ballot boxes. Many CEC staff have strong confidence in the elected commune councilors from the three main parties.

“This time local authorities are more accountable for social order and security in the commune. All three parties have their members sitting in the commune office. Those are representing people. Each party is better prepared than in the 1998 election.”⁸⁴

The research team heard everywhere that SRP and FUNCINPEC do not trust the work of CEC, since there are negative lessons learned from previous elections. The SRP in Wat Tamim made two fundamental accusations against the CEC: that the CEC recruitment procedure was flawed, so that all the same people are re-employed every time; and that the people employed are government employees under the power of the CPP. However, the CEC in Wat Tamim disputed the SRP’s view, stating: “in rural areas, mostly school teachers are knowledgeable for this sort of work, that is why we accept them continuously. All CEC staff work hard and are very tired from this intensive work for two months. There is no weekend and meagre pay.”⁸⁵

⁸² Village chiefs, Wat Tamim (29, 30, 31, 32), personal interviews, Battambang, 21 July 2003.

⁸³ Commune chief, Wat Tamim (27), personal interview, Battambang, 4 Aug. 2003.

⁸⁴ CEC members, Wat Tamim (33), group interview, Battambang, 3 Aug. 2003.

⁸⁵ CEC members, Wat Tamim (33), group interview, Battambang, 3 Aug. 2003.

3.2.3.3 Voter Registration

The percentage of eligible voters registered is about 92% in the commune. All stakeholders such as political parties, commune authorities, and village chiefs encouraged people to register. Some people were absent because they were busy working in Thailand or in Phnom Penh. The commune clerk, first and second deputies of the commune authority were responsible for voter registration. They revealed that;

“It was the most hectic time for all of us during the registration. We did not know the procedure although we had some training, and people did not fully cooperate. Frequently we ask local authority and political activists to inform people to come and register. As a clerk, I must keep my daily work in the commune office as well as help with registration. We face some technical problems in taking photos and misspelling people’s names. Of course we lack logistical assistance and transportation.”⁸⁶

Voter registration, to some extent, faced some technical problems due to under-staffing in the commune, and lack of skills. At that time, CEC was not formed yet and there were many complaints made by the SRP and FUNCINPEC. The CEC members commented that the allocation of responsibility away from the CEC made it difficult for them to supervise the process:

“There are some technical problems within voter registration. CEC does not really understand if something is mistaken.”⁸⁷

Some of the CEC staff whom we talked to after election day agreed that;

“Next time it is better to let CEC be responsible for registration because this time we do face many technical problems during the election day, and we did not know who could fix all the problems.”⁸⁸

3.2.3.4 Election campaign

In the commune, the campaign was divided into different schedules for all parties, especially the three main parties. CEC worked with commune authorities to set the schedule to curb verbal conflict during the campaign.

“We have experienced from 1998 and 2002 commune elections, the most controversy and the sources of conflict were during the campaign. This time having scheduled for pertinent parties is an effective way for our commune. This also helps the police to lay the plan for securing the community.”⁸⁹

All five parties in the commune have similar strategies for their campaigns such as using party signs, leaflets, rallies with truck and loudspeaker, meeting with activists in the commune, and T-shirts and hats. The SRP and FUNCINPEC commune councillors complained that;

⁸⁶ Commune clerk (34) and various councillors, Wat Tamim, group interview, Battambang, 21 July 2003.

⁸⁷ CEC members, Wat Tamim (33), group interview, Battambang, 3 Aug. 2003.

⁸⁸ CEC members (33), Wat Tamim, personal interview, Battambang, 3 Aug. 2003.

⁸⁹ CEC chief (35) and police, Wat Tamim, group interview, Battambang, 20 Aug. 2003.

“Even though we have a schedule for the campaign and no violence CPP started the campaign long before other parties by using the government system. For instance, the appointed village chiefs and commune councillors from CPP have been very active for a long time to assist their party. They have money and resources comparing to other parties. There is no doubt they conduct vote buying everywhere.”⁹⁰

SRP and FUNCINPEC activists were extremely suspicious and vigilant on the above issues; however, although they claimed that the CPP violated the code of conduct in many ways, they produced no evidence to support their claims. The CPP chief in the commune denied all accusations by saying:

“I never abuse or try to manipulate people for political reasons. All CPP activists are working in the daily routine because we have to be responsible for our commune. Another thing is, that we all have seen people participate in all rallies organised by all parties. Young kids are enjoying sitting in the trucks yelling. Some people are curious to know what the other parties say. This is their freedom. Sometime villagers come to me asking about election and political situation. I tell them I am not allowed to talk.”⁹¹

3.2.3.5 Media and Public Awareness of Election

A general feeling was expressed by interviewees that this election was much safer than 1998, and things have improved. In Wat Tamim commune, there are many rural development activities sponsored by international and local NGOs that have led to improvement in living standards. Having elected commune councils from all three parties and good security in the country allows the party activists to travel around more easily. More experienced CEC staff and local authorities help to disseminate information to villagers about the election. These are the factors driving improved public awareness of elections.

Villagers interviewed said that the most effective mechanisms in the campaign were through broadcast media, training by NGOs and people’s exposure to urban areas. However, a number of people commented that most radio and television channels were strictly controlled by the CPP. Access to the print media remains more or less limited. Although Wat Tamim is one of the better off communes in the province and located close to the urban town of Battambang, people still do not have access to newspapers. Consequently, broadcast media play a very critical role in voter education.

3.2.3.6 Polling Day and Afterwards

Generally, the process on election day and vote counting went smoothly. There were some technical problems such as registration, misplacement of names on voter lists, and ID cards without photos. Some people who had not registered showed up to vote. During election and vote counting, there were observers from political parties, national and international observers, and COMFREL, and NICFEC present.

3.2.4 Thnaot Commune, Bati District, Takeo

3.2.4.1 Commune Government and Politics

Thnaot Commune is a rural commune in Bati District, close to National Route 2. The commune comprises eight villages and 1,401 hectares, with a population of 6,618. The inhabitants

⁹⁰ SRP and FUNCINPEC commune councillors (36, 37), Wat Tamim, personal interviews, Battambang, 22 July 2003.

⁹¹ Commune chief (27) and other CPP activists, Wat Tamim, group interview, Battambang, 4 Aug. 2003.

engage mainly in rice farming and silk weaving for their livelihoods, and there is evidence of NGO input into developing the silk industry in the commune. The commune also benefits economically from its proximity to Phnom Penh. On election day, garment workers were observed arriving in the commune to cast their ballot. Parties active in the commune comprise the CPP, FUNCINPEC, SRP and Hang Dara Democratic Movement Party.

The commune council comprises three members from the CPP, three from FUNCINPEC and one from the SRP. The commune has a reputation for being pro-FUNCINPEC, in a province that has traditionally been a CPP stronghold. In 1998, FUNCINPEC won easily in the province with 55 percent of the vote as compared to 21 percent for the CPP and 16 percent for the SRP. However, in a spectacular reversal of fortunes, the CPP won the 2002 election in the commune with 71 per cent of the vote, compared to FUNCINPEC's 21 per cent and the SRP's 7 percent. The commune chief is consequently a CPP representative. The commune chief commented that loyalties to FUNCINPEC in national elections were mainly due to voters' devotion to the King, but that his own victory in 2002 was based on his personal popularity. He had previously been commune chief from 1983 until 1990, and was persuaded to stand again in 2002 by pro-CPP villagers who feared another FUNCINPEC victory in the commune. He commented: "These [2003] elections are for the high level people – we don't know them. But in the commune everyone knows everyone."⁹² The commune chief reported that there had been some conflict over the counting process in 2002, over the issue of spoilt ballots, but that this had been resolved amicably.

Voting History: Thnaot Commune

1998 1st FUNCINPEC, 2nd CPP, 3rd SRP

2002 1st CPP, 2nd FUNCINPEC, 3rd SRP

2003 1st FUNCINPEC, 2nd CPP, 3rd SRP

During the 2003 election period, CPP and FUNCINPEC councillors and campaigners reported few problems or conflicts within the commune. The commune chief reported complaints about the volume of the FUNCINPEC party's loudspeaker, and some bad relations within the village between followers of different parties, but commented that this was "not a big deal". The CPP and FUNCINPEC councillors appeared to have a good working relationship, and reported few difficulties in managing commune affairs, although the FUNCINPEC First Deputy Chief of Commune complained that the commune councils were very limited by the failure of the central government to disburse funds to them. He commented:

*"Each party has a programme for helping the people, but we haven't seen anyone keep their promises. In our commune there are no NGOs, no goods from outside, no development money. More than 5 million riel has been given for the CEC but the commune council has received none. How can we give them things if we don't have any money? In this commune we want to be a representative to help the people who are in trouble. But the nation hasn't seen any results. If we vote or not it's the same; in the commune, we have no money, we can't even repair the road."*⁹³

⁹² Commune Chief, Thnaot (38), personal interview, Takeo, 8 July 2003.

⁹³ FUNCINPEC First Deputy Chief, Thnaot (39), personal interview, Takeo, 8 July 2003.

The First Deputy Chief believed that this had had an adverse impact on the level of political interest in national politics within the commune, but had permitted the commune council to overcome political differences:

“There is a rising sense of distrust in the government because there has been little response given by the government. People don’t care much about the multi-party system in the commune council. But as a local authority, involving people directly, people question us a lot.”⁹⁴

Both the commune chief and the first deputy chief suggested that local politics, particularly since the commune elections, had become much more important than national politics to the residents of Thnaot, in part because of a feeling that the commune had been neglected by national politicians. The commune chief expressed the view that the commune was considered of little strategic importance by the CPP because it was a lone FUNCINPEC stronghold, in a strongly pro-CPP province. The notion that Thnaot was something of an electoral backwater was echoed by a member of the commune election committee interviewed, who commented that elections would be improved if more public debates could be held between parliamentary candidates and voters in the communes. He said that the biggest problem for democracy in Cambodia was that people were afraid to speak out, and so the politicians never heard what they had to say. He commented, “The political party people must listen to the complaints the people have.”⁹⁵

However, political tensions were evident between CPP and SRP representatives in the village. The head of the CPP’s election campaign commented that there was less conflict in the 2003 election than previously because political representatives had regular meetings to raise issues and conflicts, but added;

“The SRP is still a big problem to work with. SRP don’t speak nicely with us, but the CEC tells them to go to a different area to campaign. FUNCINPEC and we are used to doing things together, but SRP doesn’t pay so much attention.”

Equally, the SRP representative on the commune council claimed some CPP members had intimidated SRP supporters by asking them, “If you lose, how are you going to stay in this village?”

Although distrustful of the local authorities and the CECs and PECs, the SRP representative expressed confidence in measures of observation and facilitation developed to govern the election. He commented that the role of the local authorities was much better than in previous elections, and that “each party has a good mechanism for supervising the situation.” He was confident also about his role as a party observer on polling and counting days, commenting:

“I have the intention to observe – we go to help and all the parties agree how many votes we have – we discuss until we agree, and then we sign to show that we agree. We’ve been to a meeting to learn how to do it.”

He added also that greater understanding of electoral processes amongst the population in general limited the extent to which political parties could use illegal means to gain votes:

“The situation is much better than before. It is quiet now, because the people know better than before, so they can do anything. Now the people understand a lot. The CPP and FUNCINPEC don’t dare to do so much.”⁹⁶

⁹⁴ FUNCINPEC First Deputy Chief, Thnaot (39), personal interview, Takeo, 8 July 2003.

⁹⁵ CEC member, Thnaot (40), personal interview, Takeo, 8 July 2003.

⁹⁶ SRP member, Thnaot (41), personal interview, Takeo, 8 July 2003.

The FUNCINPEC First Deputy Chief agreed also that: “The people do know about the secret ballot, therefore the local authority and political activists have less chance to dominate the election.”⁹⁷ Similarly, a CEC member commented:

“Compared to the past – I wasn’t a member of the CEC in 1998, but I think things are fair this time. There are no threats or violence now because the commune councils control politics, and also because people understand better. People understand about the law. They get information through the broadcast system, through radio and television, and through posters that we distribute. Officials came to train us for two days on the code of conduct of parties and officials and armed forces.”⁹⁸

Fears still remained however, according to interviewees. The FUNCINPEC first deputy chief commented that “We do not have democracy yet because people are not brave enough to express their views publicly. The culture of fear is still deeply embedded.” The SRP councillor also conveyed concern that village chiefs might engage in vote-buying or intimidation, but commented that the political party representatives were being very vigilant on the matter.

Village chiefs interviewed claimed strict neutrality in their dealings with political parties, although they were personally supporters of the CPP. One village chief commented:

“We are neutral. The local authorities help all the parties – help to preserve security for political parties. There is no problem with security here – there have been no acts of violence. There are three main parties- SRP, FUNCINPEC and CPP. FUNCINPEC has raised a lot of points about CPP – they beat the CPP and say we are corrupt, thieves. They make this kind of propaganda by cassette. We see this and we feel angry but we don’t react. We see the reality. Mr Hun Sen has said that we mustn’t do anything. People don’t believe the propaganda, they see the reality, see the implementation.”⁹⁹

Similarly, the CPP campaign manager commented that the party’s original plan for campaigning in the commune had been to use the commune councillors to lead the campaign; but following the release of the NEC regulations prohibiting this, he had been selected from among the party’s other members to take over.

3.2.4.2 Election Institutions

The CEC in Thnaot commune reported few conflicts during the election campaign. While some verbal conflicts had arisen, CEC members reported that these were easily resolved. One CEC member commented that the level of conflict had reduced drastically since 1998, because “each institution, like the CEC and the commune council is more responsive and accountable.” The elected constitutional councils were viewed by this CEC as “playing a key role in stabilising the election atmosphere and explaining to people about democracy.”

The CEC staff saw their role during the election campaign as comprising observation of the election campaign and party activities, in order to report any non-compliance with the regulations to the PEC; and as facilitating with the political parties and voters to resolve conflicts. One staff member said that the latter task required building trust between the CEC, local authorities and people. He commented:

“If something happens we must call up a meeting or solve it quickly to avoid the accumulation of anger or misunderstanding.”¹⁰⁰

⁹⁷ FUNCINPEC member, Thnaot (42), personal interview, Takeo, 8 July 2003.

⁹⁸ CEC member, Thnaot (40), personal interview, Takeo, 8 July 2003.

⁹⁹ Village chief, Thnaot (43), personal interview, Takeo, 15 July 2003.

¹⁰⁰ CEC member, Thnaot (40), personal interview, Takeo, 8 July 2003.

CEC meetings took place weekly and included all party representatives, local authorities and local police. A meeting observed during the fieldwork was held in the local wat and focused on the transmission of information about voting procedures to the political parties and observers. These meetings appeared to be open to everyone and consisted of the CEC chief reading out instructions sent from the PEC. Other meetings, according to interviewees, had focused on the facilitation of verbal disputes and the allocation of campaign slots in different parts of the commune to different parties.

3.2.4.3 Voter Registration

Voter registration in the commune was very high – the FUNCINPEC first deputy chief claimed it was almost 100 per cent, while the commune chief estimated the level at 90 per cent. Three hundred new voters had come to register. The commune clerk ascribed the interest in registering to the activities of the three main parties, all of whom encouraged their members to register. The first deputy chief commented that young women use election IDs to get jobs in garment factories and sometimes register for this reason.

3.2.4.4 Election Campaign

Election campaigning was largely a local affair. Although photographs of a CPP minister were prominently displayed throughout the area, all three of the major parties in the commune said that no senior politicians had visited the commune during the election campaign. Local activists collected booklets and leaflets from district party offices to distribute within the commune, and played tape recordings of messages from the party leaders. The CEC emphasised the importance of keeping the parties apart during election campaigning, although party members emphasised their commitment to avoiding conflict. For example, the CPP campaign manager commented:

“The CPP goes according to the policy of the party and the code of conduct, and according to the policy of the government and Hun Sen. Hun Sen told us if we meet them while we are campaigning we have to pass by on the other side of the road, and not cause violence.”¹⁰¹

FUNCINPEC campaign activists reported that they were afraid of intimidation after the election, but that “the situation is better than in 1998 – in 1998 we were afraid about power sharing, but now we understand very well.”

The main obstacle reported by campaigners was the fact that plentiful rain kept the villagers very busy for most of the day, so that only “the very poor” could come to listen to campaigning. According to a village chief interviewed, people were uninterested in the campaign for similar reasons:

“People don’t talk very much about political parties – they are not very interested. They don’t understand about politics and they are very busy.”¹⁰²

Most interviewees reported a much improved situation compared to 1998, and the success of meetings held to facilitate disputes.

3.2.4.5 Media and Election Awareness

Although both village chiefs and the commune chief asserted that preoccupations with livelihoods kept villagers from participating much in the election campaign, most interviewees believed that far more information was available in 2003 than in 1998. Furthermore, most asserted that the experience of previous elections had helped the people to understand the prin-

¹⁰¹ CPP campaign manager, Thnaot (44), personal interview, Takeo, 15 July 2003.

¹⁰² Village chief, Thnaot (43), personal interview, Takeo, 15 July 2003.

ciples of democracy better. Newspapers were not widely available, but there were 60 television stations in the commune and the broadcast media were generally agreed to be the best source of information, along with political parties. NGOs had also conducted voter education in the area, although CEC officials asked for more of this.

Although information is widely available about the election, as stated above, a number of interviewees expressed concern at the lack of attention paid by political parties to the commune, and a lack of opportunities for villagers to express their own views to political representatives. The lack of specific information available about the parliamentary candidates standing in the province, as opposed to the party platform generally, was also mentioned by the commune chief, as a disincentive to voters to take the election very seriously.

3.2.4.6 Polling Day and Afterwards

Polling went generally smoothly, with 92 percent of registered voters turning out to vote. Lots of national and international observers were observed at the three counting stations, including party representatives and representatives of COMFREL and NICFEC. Some conflicts between polling station officials and political party observers were observed, when the CEC asked a security guard to remove an SRP observer who had broken the rules. The SRP subsequently complained to the PEC about the incident. Other problems were observed during counting, when political party reserve observers tried to get in to observe the counting, even though they were supposed to wait outside. A further issue was the presence of village chiefs and commune chiefs who stood outside the polling station, which was located in a large wat compound customarily used as a meeting place. Many other voters were also observed hanging around in the compound after voting, particularly garment workers, who had just returned from Phnom Penh for the day and stopped to chat with their friends.

3.2.5 Ta Khaen Commune, Chhouk District, Kampot

3.2.5.1 Commune Government and Politics

Ta Khaen is a remote commune in Chhouk District, more than an hour's drive from the National Highway, and surrounded by hills. Its twelve villages are widely scattered and poorly connected – some can only be reached by motorbike, and some are cut off completely during the rainy season. Population density in the commune is less than 0.3 persons per hectare – as compared to 4.7 persons per hectare in Thnaot commune. Interviews with local officials, party activists and villagers revealed that the population comprised a mix of former NADK soldiers who settled in the area in the period from 1970 to 1998, and civilians with ancestral ties to the area. There were reports from interviewees of tension between these groups, particularly over land rights. Economic activity comprises the gathering of forest products and rice or cash crop cultivation. The remoteness of the area entails that there are relatively few links with the outside world. The commune chief estimated illiteracy at 70 percent in the commune; few development projects are underway here and villagers interviewed said that few of the children go to school. Commune officials commented that a number of former inhabitants have left the commune since it was reintegrated, to find work in the towns.

The commune council comprises seven members, of whom six are CPP. The CPP members identified themselves as former resistance fighters of the Ta Mok sector of the National Army of Democratic Kampuchea, who had exercised authority in the commune for many years. When they defected to the government in 1997, they were retained in place as commune officials, and were then elected to these positions in 2002. The commune chief described the defection deal as follows:

“At the time of surrender we entered the CPP. The CPP gave us land and everything to live – a salary and so on. We have independence – we make our own living. So, most go into the CPP to have a living, and to support the living of their children. The Khmer Rouge lands that we controlled were shared out, so now we keep those lands.”¹⁰³

The relationship formed since integration between the Ta Khaen authorities and the CPP appears to be close. According to the COMFREL representative in Kampot Province, Prime Minister Hun Sen “has strong relations with the area” and had sponsored a road-building programme there.

Since integration, the former NADK commanders have continued to dominate commune politics, obtaining 71 percent of the vote for seats on the commune council in 2002, compared to FUNCINPEC’s 18 percent and SRP’s 11 percent. Results in 2003 showed the gap between the CPP and FUNCINPEC closing slightly, with the CPP receiving 67 percent and FUNCINPEC 24 percent. SRP lost support, managing only 9 percent of the vote.

Voting History: Ta Khaen Commune

| | |
|------|---|
| 1998 | No election |
| 2002 | 1 st CPP, 2 nd FUNCINPEC, 3 rd SRP |
| 2003 | 1 st CPP, 2 nd FUNCINPEC, 3 rd SRP |

Despite the CPP’s dominance at the polls, FUNCINPEC and SRP representatives are active in the commune. The one FUNCINPEC member of the commune council is a relatively recent arrival in the commune, who said that he had returned after integration in 1996 to reclaim his family’s lands. The FUNCINPEC member said he had faced pressure from the other councillors to join the CPP – specifically, he claimed that the commune authorities refused to recognise his claim to his land unless he switched parties. He explained the situation:

“If I go and join the CPP they will recognise my claim to my land. If I stay in FUNCINPEC, they won’t. They haven’t really taken it away – no one can legally claim possession of the land while there is a conflict, until that conflict is resolved. And I don’t allow them to take my land away. Another person used to be a FUNCINPEC supporter here, but they persuaded him to join the CPP. They want to give half my land to him. I don’t have a real map of the boundaries, so they want to cut away half my land.”¹⁰⁴

The SRP also has a foothold in the commune, although its record has also been troubled. In 2002, the SRP attempted to raise a party sign, but this had been pulled down, and there were many complaints of intimidation against SRP members. The leading SRP activist in 2002 had retired from politics by 2003; his colleagues in the SRP claimed that this was because he was afraid. A village chief, by contrast, said the resignation of the SRP activist was due to financial difficulties following the election: “He ran for the commune election and lost, and then he had to sell off his cow and his ox to pay off his debts, so he resigned.”¹⁰⁵ The commune chief commented that the complaint from the SRP over the signboard in 2002 was a misunderstanding – that the sign had fallen down by itself during a storm. He said,

¹⁰³ Commune Chief, Ta Khaen (45), personal interview, Kampot, 7 July 2003.

¹⁰⁴ FUNCINPEC commune councillor, Ta Khaen (46), personal interview, Kampot, 18 July 2003.

¹⁰⁵ Village chief, Ta Khaen Commune (47), personal interview, Kampot, 17 July 2003.

“Initially there was a problem with regard to raising the sign. The SRP raised a sign and it fell down, so they were angry and asked us to protect them. They asked for the police to protect them. But we solved the problem altogether and since then there has been no problem. They have raised a sign and we all respect the law.”¹⁰⁶

The research team was unable to track down the 2002 commune election candidate for interview. The PEC, COMFREL and SRP in Kampot Provincial town all disagreed with the commune chief’s version of events and said that the commune had seen a lot of conflict and intimidation towards political parties other than the CPP during the 2002 elections. According to the UN, 12 of 17 cases of threats, harassment and intimidation reported in the period from June to October 2001 in Kampot Province had taken place in the Ta Khaen Koh Sla area. The PEC chief in Kampot told us that a PEC delegation to the area had been arrested and detained briefly by the commune chief, and that subsequently they had only visited the area in the company of international observers. In response to these concerns, the Special Representative for Human Rights, Peter Leuprecht, paid the commune a visit in November 2001, and discussed human rights issues with commune and district officials. The Special Representative reported that subsequent to his visit, there were fewer complaints from the area during the commune election period.

COMFREL’s representative in Kampot Provincial Town confirmed that Ta Khaen was a difficult area for NGOs also. She commented that COMFREL invited international organisations to go with COMFREL monitors to investigate issues in Ta Khaen. According to COMFREL, three months before the start of the 2003 election campaign, the commune authorities had collected in all voter registration cards. COMFREL asked international organisations to intervene, and subsequently the cards were returned to the villagers. The COMFREL representative commented:

“When they took them they told the people they would write down the names. We asked international observers to go – they met with the local authorities and asked them to give the cards back. They said he needed them to tell the people where to go to vote, but we were afraid that he would tell people, “Go here and vote for us.”¹⁰⁷

SRP and FUNCINPEC activists interviewed in Ta Khaen in July 2003 agreed that village and commune authorities intimidated villagers to prevent them from joining their parties, but they said that as party activists themselves, they did not feel threatened. They explained their greater confidence as follows:

“People are afraid because they don’t understand the law. We are not afraid because we understand the law. But they don’t understand the law because they live under power that is biased towards one party. They don’t dare to protest. But the law can protect them. We are Khmer citizens so there is no one who can chase us from here.”¹⁰⁸

A FUNCINPEC activist added, “The CEC can protect us. The police can protect us, that is no problem.” This confidence was manifest as we observed FUNCINPEC campaigners going door to door wearing party t-shirts and hats and distributing leaflets, although it is of course possible that our presence may have prompted this activity. Similarly, those who attended the CEC meeting wore campaign clothes and were obviously willing to travel around the commune, clearly identifiable as SRP and FUNCINPEC supporters. This faith in the protection of the law, in such a remote and isolated area, is perhaps a result of the efforts made by observers and election authorities to reorient the attitudes of local authorities in Ta Khaen, following the violence and intimidation in the run-up to the 1993 election.

¹⁰⁶ Commune chief, Ta Khaen Commune (45), personal interview, Kampot, 7 July 2003.

¹⁰⁷ COMFREL provincial representative, Kampot (6), personal interview, Kampot, 16 July 2003.

¹⁰⁸ SRP activist, Ta Khaen (48), group interview, Kampot, 17 July 2003.

The same message was strongly emphasised by the commune chief in Ta Khaen, who commented:

*“There were some problems initially but now there are no problems for any of the parties that were here. We respect the law.... I met village chiefs and told them to protect against intimidation, in the name of the party and so on. We don’t want it in our area.... This is the right of the people.... We lead the people to understand. The people here respect the law – not just individuals but the law.”*¹⁰⁹

After polling day, the commune chief reiterated this point: “We all know about their rights and didn’t dare to do anything. We were scared they would complain about us. We know the law and we are scared of the law.”

A village chief interviewed also emphasised the importance of compliance with the electoral law and regulations. He commented, “There is no intimidation of the opposition – we feel we are all in the same commune and we have a very good commune chief, so we don’t need intimidation. Especially, our local leaders are very mature in terms of leadership, because they were chiefs for the Khmer Rouge since 1973.”¹¹⁰

It was clear in interviews with villagers in Ta Khaen, however, that open support of opposition parties was considered potentially dangerous. One elderly man, after looking over both shoulders to check he could not be overheard, whispered to us:

*“I love the King. I talked to my children about politics, I told them that I and my father and my ancestors all followed the King. But it’s up to them if they want to follow the King or follow the people who come to build roads and schools... I support FUNCINPEC but I don’t discuss it with any one except my children.”*¹¹¹

3.2.5.2 Election Institutions

The CEC at Ta Khaen comprises five members, all of whom also worked as CEC members in 2002 and all of whom came from the neighbouring commune in Koh Sla. Interviewees said that the import of CEC members from outside the commune was due to the fact that there were too few capable people in Ta Khaen to take on the job. The impact of bringing CEC members from outside the commune is unclear – while this might appear to offer greater guarantees of neutrality and independence for the CEC, the neighbouring commune is also part of the Koh Sla integration area, and the two communes were administered as a unit during the resistance era. Political connections between the two communes remain strong. A village chief interviewed commented: “Although we have CEC members from another commune, we do know each other very well.”

The CEC chief in Ta Khaen was less concerned than CEC chiefs interviewed in other provinces to emphasise his independence from the local authorities. Rather, he emphasised close cooperation with the commune council; for example, “the commune council worked with us to organise the election so there was no problem.” He commented also that the commune chief waited outside the polling station on election day but did not view this as a potential difficulty:

*“There was no problem with the local authorities after the election. They went and sat outside with the security guards – they didn’t stay inside.”*¹¹²

¹⁰⁹ Commune chief, Ta Khaen (45), personal interview, Kampot, 7 July 2003.

¹¹⁰ Village chief, Ta Khaen (47), personal interview, Kampot, 17 July 2003.

¹¹¹ Villager, Ta Khaen (49), personal communication, Kampot, 17 July 2003.

¹¹² CEC chief, Ta Khaen (50), personal interview, Kampot, 1 Aug. 2003.

However, this account was disputed by the commune chief, who said, “I went to vote, but I didn’t wait outside. I went to get those who hadn’t voted to go and vote.”¹¹³

The main problem faced by the CEC in Ta Khaen was the size of the commune and the difficulty of travelling around it. The CEC said this had caused problems during registration. There also appeared to be a problem of communication between the CEC and the SRP and FUNCINPEC parties – when the research team visited to observe a CEC weekly meeting, we found it had been called off as the CEC members had been called to a meeting in Chhouk. The CPP representatives to the meeting had clearly been informed of this, but the SRP and FUNCINPEC members had not, and sat waiting to deliver a complaint.

SRP activists interviewed expressed confidence in the role of the CEC to facilitate relations between the parties. One activist commented:

“If there is a problem we will complain to the CEC. Before we complained to the CEC about the CPP distributing scarves, and to the CEC about village chiefs. Before the election campaign began on 26 June, they were allowed to distribute gifts. The village chiefs give gifts – they help the CPP. The village chiefs are the chiefs of the campaign – they don’t allow anything for FUNCINPEC and SRP. I was satisfied with the response from the CEC.”¹¹⁴

On the occasion of the cancelled meeting, a FUNCINPEC activist showed the research team a written complaint that they planned to present to the CEC concerning intimidation against FUNCINPEC members by village chiefs in Tomnak Troyeng Village. According to the FUNCINPEC activist, people had been told that they might lose their land if they were seen clearly to have joined FUNCINPEC. As in Thnaot Commune, the village authorities had allegedly asked the FUNCINPEC supporters, “If you lose, where are you going to live?” According to the FUNCINPEC activist, this made the FUNCINPEC supporters afraid and unwilling to undertake campaign activities for the party.¹¹⁵ However, the CEC chief, interviewed after the election, said he had not received any complaints about intimidation. The FUNCINPEC activist in question could not subsequently be located, so the research team were unable to check whether the complaint had been submitted.

3.2.5.3 Voter Registration

Local authorities emphasised that there were no problems during registration. A village chief said:

“Registration is 100 percent for my village and my commune. It’s partly because people from here don’t go away to work. They are hunters and gatherers in the area. And all local authorities encourage people to vote.”¹¹⁶

The CEC chief said that registration had encountered some difficulties, such as technical difficulties in taking photographs. He added: “It was very difficult to register people because they lived very far away and were busy working. It was difficult to get hold of people to take photos etc. But only a few didn’t register.” This view was disputed by local SRP activists who said, “When there was voter registration, some people didn’t dare to show their face if they were SRP.”¹¹⁷

¹¹³ Commune chief, Ta Khaen (45), personal interview, Kampot, 1 August 2003.

¹¹⁴ SRP activist, Ta Khaen (48), group interview, Kampot, 17 July 2003.

¹¹⁵ FUNCINPEC commune councillor, Ta Khaen (46), personal interview, Kampot, 17 July 2003.

¹¹⁶ Village chief, Ta Khaen, personal interview (47), Kampot, 17 July 2003.

¹¹⁷ SRP activists, Ta Khaen (48), group interview, Kampot, 17 July 2003.

3.2.5.4 Election Campaigning

According to the CEC chief, the three major parties all campaigned in the province. FUNCINPEC held three rallies with the assistance of the FUNCINPEC party office in Chhouk District Town. CPP campaigners from the district office also came to help in campaigning. The CEC said, “The SRP only did one day of campaigning because they had no money... No one from outside came to help SRP.”¹¹⁸

This account was confirmed by the SRP activists themselves, who said, “The high level of the party don’t help with campaigning, because we are not a big commune. They haven’t come to give us help... We don’t have many resources.” However, the biggest obstacle to campaigning, according to the SRP activists, was the fearfulness of local villagers: “Many of the villagers support us, but they are afraid. They don’t dare to support openly. They dare to vote for SRP but they don’t dare to support openly. They don’t dare to discuss SRP policies.” The SRP had also tried to organise villagers to attend rallies at the district level, but activists said that villagers were too busy and too poor to go. They added, “They are not afraid to go, but they are afraid that when they come back there might be some problem.”¹¹⁹

A variety of comments made by interviewees suggested that the remoteness of the commune also affected perceptions of the election overall. As in Thnaot, where party activists commented that the lack of attention by high-ranking politicians to the commune had led the voters to lose interest in politics, so in Ta Khaen an SRP activist commented, “People don’t pay much attention to politics, because there is no change.”¹²⁰ The commune chief regarded his constituents as interested in “what they can see.” He said, “People here are not educated, 70 percent can’t read, children don’t go to school. But they know which party they love. They can see which party comes to help them. Big people come and the people see, and they vote as they see. Who comes to solve their problems, build roads, build schools.”¹²¹

The SRP activists put forward a rather similar notion – “my idea is that if people vote for Sam Rainsy and he wins, he will help us, building roads, wells, anything.” However, one activist indicated the limits to this form of propaganda – “some people don’t understand. They just say, we haven’t seen him do anything yet.”¹²²

3.2.5.5 Media and Election Awareness

Information about elections comes mainly via political party district offices, for party activists, and via local authorities for ordinary villagers. The high level of illiteracy and poor transport in the area hinders the spread of information, but both the commune chief and a village chief commented that the local authorities were well-practiced in mobilizing the people of the area to participate, given their long experience in administration here since 1973.

The commune election committee is also an important source of information, although higher election authorities or observers do not visit the area regularly. When outside agencies do come to the commune, according to the commune chief, local people are enthusiastic to learn. Human rights NGOs had come to the area and met with very strong responses – “The people come to these meetings. They come only 40 percent in some places. But here they come 70 to 80 percent.”¹²³ The area has also been the subject of a weapons amnesty drive, and training by a health NGO. Even so, the area has observably less everyday interaction with the outside world than the other communes we visited.

¹¹⁸ CEC chief, Ta Khaen (50), personal interview, Kampot, 1 Aug 2003.

¹¹⁹ SRP activist, Ta Khaen (48), group interview, Kampot, July 2003.

¹²⁰ Sam Rainsy Party activist, Ta Khaen (48), group interview, Kampot, 17 July 2003.

¹²¹ Commune chief, Ta Khaen (45), personal interview, Kampot, 7 July 2003.

¹²² SRP activist, Ta Khaen (48), group interview, Kampot, 17 July 2003.

¹²³ Commune chief, Ta Khaen (45), personal interview, Kampot, 7 July 2003.

Access to the broadcast media is limited. There are few televisions in the commune, and many radio stations have a very poor reception. SRP activists told us that they sometimes tried to pick up Radio Free Asia or Voice of America on shortwave, but that mostly they listened to state radio because it was the clearest.

Despite these limiting factors, the village chief interviewed believed that integration was having an effect on the area: “My personal feeling is that people start to change from the old attitude, they have exposure to the market, people travel more – I have a cousin in Phnom Penh, whom I visit regularly – so the legacy of the Khmer Rouge is less and less.”¹²⁴

3.2.5.6 Polling Day and Afterwards

Voter turn-out was low in Ta Khaen. Out of 3,774 registered voters, 2,813 came to vote – a turn-out rate of 74 percent - and 131 ballots were spoilt. According to the commune chief, “900 people were either sick or too busy to go.” The commune chief commented that some of these were coping with flooding at home and suggested that the election should be moved to May to avoid the rainy season. He also commented that those who stayed away would have voted for the CPP. The chief of the CEC commented that because of the scattered nature of settlement in Ta Khaen, villagers had to travel long distances to the polling stations, “so perhaps people couldn’t be bothered to come.” He also commented that there were “a few” cases of people coming to vote who had not registered, or whose names were not on the voting list.

3.3 Comparison of Case Study Communes.

3.3.1 Security

We found no party activists who said they believed they were in danger. We were able to find members of all three major parties in all our case study communes, although the small parties were much less evident. All interviewees acknowledged that the security situation was much better than in 1998, and we heard no complaints about the activities of any of the security forces in the case study communes, although we heard many complaints about security forces at the provincial level. However, we found many party activists and election observers who claimed that voters believed they would be in danger if they joined a party other than the ruling party, and used this to explain a lack of apparent interest in their party’s campaign. By contrast, members of the CPP or local authorities tended to ascribe a lack of voter participation in election activities to laziness or to the fact that voters were busy earning a living. This represented a fundamental source of conflict, as it implied a vastly different interpretation of events and reactions and a different overview of the election process as a whole. A similar distinction was observed at national level in 1998, and it is significant that these attitudes persist at local level also.

3.3.2 Level of Conflict

In line with the above, we found that members of the SRP were far more likely to regard the electoral situation as more highly conflictual than members of the CPP or FUNCINPEC, of the CEC, or of the local authorities. We found that this generally emerged from different conceptions of conflict. Local authorities tended to use the term to refer to violence or other types of civil disorder. In all our case studies, we found that local authorities emphasised the orderly nature of the election, and the high level of security in comparison to previous years. SRP activists, by contrast, were more likely to regard issues such as an alleged fearfulness on the part of voters as issues of conflict, even if these did not result in any observable public disorder. This finding is significant in explaining why a calm and peaceful campaign and polling day do not necessarily lead to the acceptance of election results by the opposition party.

¹²⁴ Village chief, Ta Khaen (47), personal interview, Kampot, 17 July 2003.

Thnaot appeared to be far less conflictual than the other communes we visited. Given our finding that the main conflicts were between the SRP and the CPP, this may be because the SRP was very weak in this commune, and the FUNCINPEC and CPP commune councillors appeared to have a very close and friendly relationship. In Veal Vong, the case study commune where the SRP was the strongest, relations between parties were considerably more tense. In Peam Ek, a number of complaints were also put forward by the SRP. In Wat Tamim and Ta Khaen both FUNCINPEC and SRP activists made complaints about the activities of CPP campaigners and local officials. In Ta Khaen, these may be ascribed to the relatively recent emergence of political party pluralism in the area. In Veal Vong, it may be due to the fact that the 2002 elections saw a particularly close race between the CPP and the SRP. It may also be due to the fact that in this urban commune, campaign activities had been relatively intense, including visits from the leaders of political parties making inflammatory speeches.

3.3.3 Neutrality of Local Authorities

We found similar widespread disagreement between parties over the question of neutrality of local authorities. Local authorities almost uniformly asserted that they were neutral in carrying out their activities during working hours, even though all the members of the local authorities we met were personally loyal to the CPP. We found that in all our case study communes, local authorities were aware that campaigning for political parties, wearing party t-shirts and so on, was against NEC regulations. However, the question of what precisely constitutes “us[ing] their position to influence the freedom of choice of voters in the election” or “act[ing] in a way, even if it is directly or indirectly, that intimidates or threatens voters,” in the words of the NEC’s 17 July directive, is problematic. For example, some local authorities said it was part of the role of village chiefs to wait and see who had voted on election day, and to go and fetch those who hadn’t voted. Portrayed as a public service, by local authorities, this activity was interpreted by COMFREL, among others, as threatening behaviour. In our commune case studies, SRP activists almost uniformly asserted that the same local authorities discriminated against their supporters, and used intimidation and threats. A commonly cited threat was the allegation that village chiefs had asked villagers, “Where will you live if you don’t support the CPP?” This was believed to inspire fear of land expropriation among villagers. Allegations of vote buying by village chiefs were made by SRP activists in both the Battambang communes and in Ta Khaen. We found in all our case study communes except Ta Khaen commune that FUNCINPEC interviewees were less critical of local authorities and electoral institutions than SRP interviewees were, perhaps reflecting the greater inclusion of FUNCINPEC in the selection of NEC and PECs in 2003.

3.3.4 Attitudes to Election Institutions

We found a high level of distrust, particularly among SRP representatives and election observers at provincial level in CECs, who were viewed by these groups as ineffective and biased. However, we found that CEC weekly meetings were well attended. All the CEC members we met were teachers, and most had had experience in previous elections. All asserted their neutrality, but complained about a lack of resources. Local activists engaged actively with the CEC, using weekly meetings to press their complaints. Sometimes these were resolved satisfactorily, sometimes not. Specific complaints about CECs tended to refer to their ineffectiveness, rather than any overt discrimination, at least before polling day. Overall, the CECs seem to have worked more transparently and been more accessible in 2003 than in previous elections, even though we found cases in Veal Vong and Ta Khaen where complaints from opposition party activists clearly remained unresolved despite attempts to address them at CEC level. For example, we heard no complaints of CECs obstructing party campaign activities in any of our case study communes.

3.3.5 Voter Registration

Accounts of voter registration differed between communes. In Battambang, CECs and commune councils admitted to technical difficulties and problems of coordination over voter registration, although the tendency of local officials in other communes was to assert great success in this process.

We heard accounts that commune or village chiefs had remained outside the polling station in two of our five case study communes. In three of our case study communes, we heard that voters had attempted to vote who were not registered, or could not find their names on the voter lists. This suggests that information about voter registration was not sufficient in these communes. It also closely corresponds with accusations made at national level, suggesting that there is a close link between the claims of local and the claims of national political party representatives.

3.3.6 Media and Public Awareness

A common complaint was that people were losing interest in national politics, because they never saw their national assembly representatives and did not perceive that changes of government brought about changes in their lives. This complaint was most often made by FUNCINPEC interviewees, and was less often heard from CPP members, who campaigned on a platform that emphasised their party's record of funding local development projects.

There were also wide differences in the extent of information available to individuals in different parts of the country. In those communes that were part of or close to provincial towns, newspapers, a variety of broadcast media, and political party and NGO offices all offered a varied source of information. With distance from provincial towns, sources of information decreased, with fewer newspapers, broadcast media stations or institutions accessible. However, it is notable that problems in Ta Khaen in 2002 attracted intervention from outsiders, including from international observers and the Special Representative for Human Rights. These interventions appeared to have been very successful in reassuring political party activists of their rights, and in constraining local authorities to respect the law, although it seems to have had less impact on ordinary villagers.

Information about the elections came mainly from local authorities and broadcast media. The CECs also held training sessions to transmit information from the NEC and PECs. NGO voter education projects were rarely mentioned by interviewees. The role of village chiefs and commune chiefs in collecting people to go to vote was mentioned in two of our case studies.

3.3.7 Election Campaign

The CPP was widely recognised as having good networking from the central down to individual throughout the country via its government system, especially the local authority network. Interviewees agreed that the CPP network extended from the centre to the provincial, district, commune, village, group and working group (one senior person from Phnom Penh with a rank of excellency is responsible for one district). From district down to group level, meetings are held often, exchanging information from the top. Relations below the district level are sometimes formal, sometimes informal. Between the district and national level, formal meetings are held every three months. CPP activists in rural areas speak of their confidence in their leaders because they believe the gap is not wide, and senior people come to the local areas regularly. However, this does vary from commune to commune – in Ta Khaen, the commune chief spoke enthusiastically of the assistance given by CPP leaders, but the commune chief of Thnaot remarked that the party paid little attention to the commune.

FUNCINPEC also has a wide-ranging network, but it does not operate at the sub-village level, unlike the CPP network. The lowest level is usually the village or the commune.

Villagers in different communes reported that FUNCINPEC activists were less active than other parties in the last five years, and some FUNCINPEC activists – notably the FUNCINPEC first deputy chief in Thnaot Commune – complained bitterly about a lack of attention from high ranking politicians to the needs of the commune. Activists at commune level receive information for the campaign from the district and provincial office. It is rare that senior people from the provincial office or Phnom Penh come down to commune or village areas. Most of FUNCINPEC activists we talked to said that they mostly learn the party agenda through broadcast media. A FUNCINPEC commune council accounts that “we support FUNCINPEC because we love our leaders and monarchy, but we are not really extreme for the party.”¹²⁵ There is little interaction between local and central level, within FUNCINPEC.

The SRP appears to have dynamic intra-party relations at all levels, with the exception of Ta Khaen commune where members had been given little outside help in the run-up to the 2003 election. Elsewhere, relations between activists in rural areas and the provincial office are strong, and provincial offices provide training to rural activists. The SRP aims to establish a network comprising eight members in each village. SRP members generally claimed that their party was the most active, and that this activity came from spontaneous local commitment. An SRP commune councillor in Peam Ek commented:

“We do not have a strict mechanism or as many members as CPP, but our activists are working hard and their sincerity is from the bottom of their heart.”¹²⁶

3.3.8 Polling Day

In our case study communes, the most widespread problem was that of individuals arriving to vote who had not registered, or whose names were not on the list. In two communes we heard reports of commune chiefs waiting outside polling stations. In all the communes, national and international observers were in evidence. There were no cases of violence or disorder in our case studies.

3.4 Conclusions

Direct comparisons with 1998 are not possible as CDRI’s study at that time focused on the national, rather than the local level. However, some overall conclusions, regarding the local manifestation of the specific conflicts addressed in this study, can be drawn.

- a) Our case study research suggests that the freedom to campaign was widespread, to the extent that party activists representing all the major parties were able to conduct campaign activities in all our case study communes. Freedom for voters to express their opinions without fear was more equivocal, and the question of whether or not voters had freedom was a source of conflict. Different actors from different political parties had sharply different views of this question, with CPP representatives in general emphasising that any lack of enthusiasm was due to laziness or lack of interest rather than fear or intimidation. SRP representatives, by contrast, claimed that lack of enthusiasm was due to fear. FUNCINPEC representatives in our case study communes in Battambang and Kampong Cham tended to share the views of the SRP; in Takeo and Kompong Cham, they tended to share the views of the CPP.
- b) Different actors had different views of what conflict meant. For CPP representatives, conflict was always discussed in terms of order and public security. For SRP representatives, conflict was discussed in terms of the private feelings of individuals, and alleged intimidating activities going on behind the scenes.

¹²⁵ Commune councillor, Wat Tamim (52), personal interview, Battambang, 21 July 2003.

¹²⁶ SRP commune councillor, Peam Ek (21), personal interview, Battambang, 23 July 2003.

- c) Great distrust between the SRP and the CPP remains at local level. We heard frequent complaints from the SRP about their marginalisation on commune councils. SRP activists also complained about the activities of village chiefs, allegedly engaging in vote-buying and intimidation. Relations between FUNCINPEC and CPP at local level seemed to be much better in most places.
- d) Our case studies suggested that the overtly heavy dependence of CECs on local authorities, alleged by many interviewees in 1998, appears to have ceased. CECs adopted mechanisms such as the weekly meeting to ensure that all parties had access to them. These weekly meetings represented the main site for local level conflict management. However, the success of these meetings in resolving conflict through facilitation is questionable, in the light of our case studies. While in general CEC staff and CPP and FUNCINPEC activists were positive about these meetings, we found cases of conflict in which accounts of the outcome differed sharply, suggesting that a common understanding of the situation and its resolution had not been found. Furthermore, SRP activists still expressed high levels of distrust of the CEC, and their relations with local authorities and political parties, and this is likely to have undermined the authority of the CEC to resolve conflicts. This distrust also came to the fore during counting, particularly at provincial level when votes were tallied and discrepancies between different sources of information about the results from different communes were discovered by political party representatives.
- e) The steps taken in the election law and NEC regulations to ensure the neutrality of local authorities have clearly filtered down to the local level, and commune and village authorities were mostly well aware of the rules regarding their participation in local campaigning. Generally, in our case studies, they avoided open campaigning. Allegations that they campaigned in private and used vote-buying and intimidation to gain support from frightened villagers were widespread in our case study communes, and were an important source of conflict. The impact of the pluralisation of commune level of authorities on local government seemed to be weak. In particular, commune councillors from the SRP reported that they had little power and were unable to influence local government.
- f) There were no conflicts in our case study communes over discrimination against opposition or FUNCINPEC members at registration. There were no conflicts over the ability to campaign.
- g) Access to information about the elections is highly variable across the country, and in rural areas, available information is largely restricted to local authorities and broadcast media, both of which are dominated by the CPP. Political parties are also a source of information, but the information available to party activists also varies. The CEC weekly meetings represented an important forum for exchange of information.
- h) Finally, a lack of contact between voters and National Assembly representatives was widely reported and viewed as detrimental to the democratic process.

More broadly, our commune level case studies suggest that distinct and incompatible perspectives on Cambodian politics are voiced down to the commune level. Activists from different parties at this level made different assumptions about events, and drew different conclusions based on these assumptions, depending on their political allegiances.

The widespread distrust of CECs by members of the SRP is an example of this. This distrust was based upon the assumptions that CEC members, as local school teachers, were dependent upon the CPP, were likely to have been pressured by the CPP, and had probably caved in to this pressure. Consequently, failures or errors on the part of CECs appeared to activists as political problems. By local authorities and by their own members, by contrast, the

CECs were portrayed as neutral organs of state, inhibited only by a lack of resources and, in some cases, the difficulty of working with uncooperative political parties.

Equally, different assumptions were made about the electorate. For the CPP, the electorate were hampered in their engagement in politics by their busy working schedules, especially during the rainy season, but were nevertheless pragmatic democrats, with a sound sense of which parties helped them and which parties just talked about it. For the SRP, the electorate appeared as a frightened mass, longing for liberation, but prevented from active participation in politics by a strict network of party surveillance, implemented by the village chiefs with at least the connivance of commune and party authorities.

These assumptions led to the different parties portraying the activities of village chiefs very differently. For the CPP, the village chiefs were neutral state authorities, and activities such as noting down voter registration numbers, or waiting outside polling stations to see who hadn't voted and then going to get them, represented performance of the essential task of assisting the electorate to understand their role in the electoral process. For the SRP such activities were part of the surveillance that kept voters fearful and subjugated, and were likely to undermine voters' courage to vote for opposition parties. Comments from village chiefs to voters, such as "If you enter SRP party there will be no development," can be interpreted either as a disinterested discussion of the different party programmes, or as a threat to social exclusion against opposition party supporters. In the 2003 election, the NEC recognised the concerns of opposition parties, and attempted to ban these kinds of activities and statements. The evidence from our field research suggests that the directive of 17 July was still open to widely differing interpretations from different political activists. These different perspectives on Cambodian politics pave the way for conflicts to arise at every level of the election process, and particularly during the complex business of counting and totalling votes.

The vastly different perspectives on the elections from the CPP and SRP particularly at commune level remained despite much better channels for dialogue between the parties, the local authorities, and the election committees in 2003, as compared to 1998. This raises the question of what other means can be used to foster better relations between the parties. Compared to 1998, relationships between the CPP and FUNCINPEC seemed to be much better, particularly in Peam Ek, Thnaot and Veal Vong Communes, reflecting, perhaps, the experience of coexistence in government at national level between 1998 and 2003.

As yet, coexistence on commune councils does not appear to have had a similar effect on relations between the SRP and CPP; rather, the experience of commune government seems to have led to accusations by the SRP that they are marginalised by CPP power-holders. However, many interviewees emphasised that the commune councils are as yet not fully functioning and it is possible that this could represent a force for change in the future; this is a question for future research. Equally, the movement of FUNCINPEC away from alliance with the CPP and into alliance with the SRP may lead to a deterioration again in local level relations between the CPP and FUNCINPEC. This study offers a starting point for long-term comparisons of relations between parties at the national and local level, as a means of identifying factors that foster reconciliation.

Chapter 4:
**Conflict Management at National
Level – Case Studies**

4.1 Conflicts over registration

4.1.1 Legal Framework

The legal framework for permanent voter registration was spelt out in Chapter VI of the Law on the Amendment to the Law on the Election of the National Assembly, enacted on 21 August 2002. The main purpose of the legal reforms was to provide for the establishment and retention of a permanent voter list, to be kept at the Commune/Sangkat office and updated regularly by the Commune Clerk (Art. 48). The law stated that the voter list should be updated on a rolling basis, during the months from October to December each year (Art. 49). Voter lists were copied to the NEC also, which had the responsibility to validate official voter lists at least 90 days before polling day (Art 48).

Under the new system, individuals are required to register to vote in the commune/sangkat where they live (Art. 50). They are required to prove their residency, as well as their identity, age and citizenship, through the presentation of documents from an approved list. For individuals who did not have the appropriate documents, a letter of certification could be provided by the commune or sangkat authority (Art. 54). Voters were to be told at which polling station they would vote, when they registered, and lists of voters and polling stations were available for a small fee to all political parties (Art. 87). Following the close of registration, preliminary voter lists were to be displayed publicly in the commune/sangkat, so that voters could check that their details were entered correctly (Art. 63). Anyone dissatisfied with their own registration or that of someone else could appeal, first to the commune/sangkat council and then to the NEC and Constitutional Council (Art. 64, 65, 66). Voters whose names did not appear on the voting lists posted at polling stations on polling day were not permitted to vote, even if they had relevant identity documents with them (Art. 98).

4.1.2 Institutions

4.1.2.1 The status of commune councils in 2003

In theory, giving power to the commune authorities to maintain the register of voters appears to be an appropriate move. It locates responsibility for this task at the most appropriate level, the commune council being the lowest level of formal government that is generally accessible to the people and which has other long-standing registration roles, such as the registering of births, deaths and marriages. District and provincial authorities, by contrast, are known to be perceived as more remote by villagers, while village authorities are less formally organised and do not have the status or the material resources (offices etc.) of government officials. Furthermore, the recent commune elections have permitted all three of the major parties to have a role in commune government, and this could be expected over the long term to ameliorate conflicts of voter registration by giving all parties the power to scrutinise procedures for the maintenance of the electoral roll.

At the same time, allocating responsibility to this level of government was risky in that the commune councils had been constituted for only about a year when the task of updating the 2002 electoral rolls had to be carried out. It is widely accepted in initial studies of the functioning of commune councils that these have yet to establish a clear idea of their own procedures and aims; funds have not yet been disbursed to establish the support infrastructure for these councils to exercise power; and the relationship of councils to chief and clerk, and of parties to one another, is not yet well-established. Our commune level case studies suggested that relations between the CPP and SRP, in particular, on commune councils are poor, and that SRP councillors feel that they are marginalised in decision making. Delegating voter registration to this level of government entailed delegating it to state agencies that are as yet poorly organised and coordinated.

A senior NEC representative commented on these problems as follows:

“There were some problems – the Commune Councils haven’t yet had any experience of organising the elections. The capacity of the Commune Councils is not even, especially the capacities of the commune chief, the first and second deputy chiefs, and the clerks. Also they are very busy with lots of jobs to do, so they didn’t pay so much attention to voter registration. But it was ok for the clerk – the clerk has received training, and the clerk has responsibility for this. Therefore we issued a few instructions to help. And to supervise the voter lists, we recruited clerks’ assistants. But we met some problems, especially in very remote places in the northeast, Ratanakiri, Stung Trent, Mondulakiri. We sent officials from the provincial level to go and help, because the people there are hill tribe people.”¹²⁷

This account suggests a number of specific problems. The emphasis on the commune clerk and a specially appointed clerk’s assistant suggests the reliance upon employees of the Ministry of Interior, rather than on elected representatives to complete the task of voter registration. This is viewed as necessary in the light of the poor “capacity” of elected commune council members. It suggests a conflict between the goal of democratising local government and pursuing the efficient organisation of national political events, such as elections. In particular, the need to enlist provincial level officials in the northeast to help register hill tribe people suggests a continued lack of communication between local authorities and non-Khmer minorities, despite efforts to democratise these levels of government.

Equally, the NEC acknowledged that the abilities and will of commune clerks to carry out the registration process effectively was also suspect in some places. H.E. Tep Nytha, Secretary General of the NEC, commented at a COPCEL meeting in January 2003, at the end of the first day of the period of registration for new voters, that commune clerks were busy with other duties; in some cases had limited capacity to understand NEC training programmes; and lacked commitment to the registration process because they were not paid separately to do it, like other NEC staff.¹²⁸

Reliance upon staff answerable to the Ministry of Interior for voter education entails the need for close working relations between the NEC and the Ministry. While NEC members reported an improvement in this relationship in 2003 as compared to previous elections, interviews with members of NGOs and political parties also suggested that the Ministry of Interior was perceived as less accessible and less accountable than the NEC itself. Equally, in its self-assessment of the election process, the NEC regarded its own efforts to supervise voter registration as flawed, and has flagged the relationship between the NEC and the commune authorities in charge of registration as an important area for improvement in the future.

¹²⁷ NEC representative (8), personal interview, Phnom Penh, 5 Oct 2003.

¹²⁸ Minutes of the 42nd COPCEL meeting, Phnom Penh, 30 Jan 2003.

One NEC member commented:

“We can see with voter registration that if we use the commune council and clerk we can save money, but they are new, they are wearing a double hat, and it’s difficult for us to oversee the process, compared to the previous situation where we had direct control. Now we have to go through the Ministry of Interior. We are now learning the lessons from this and we are going to make recommendations for re-viewing registration.”¹²⁹

Despite these concerns, it is important to note that in the commune level research undertaken for this study, problems of voter registration were relatively rare. One SRP party activist in Kampot province raised the issue, commenting:

“At registration there were problems. If someone doesn’t have a card, and the commune official knows that that person supports SRP, they don’t let him register. They make problems, so the person has to go to another place, and they can’t be bothered to go. But for any person that supports them – they will transport them to go. They know who supports who – for example, they know that this person used to go to SRP meetings. Then they will meet trouble.”¹³⁰

The CECs in both the case studies in communes in Battambang also expressed concern over the difficulty of monitoring the process. Election monitors expressed concern at the low level of registration and asked for extensions, which were granted by the NEC as in previous elections. However, there was little sense before polling day that a more significant disenfranchisement of voters than at any other election might have taken place, and the issue of whether some systematic bias had been introduced into the election process was not raised until the parties observed the extent to which their supporters were able to cast a ballot on voting day. Our findings suggest that there was little open discrimination against opposition party supporters by commune authorities, at least in the more plural communes that formed the majority of our case studies, as this would presumably have prompted complaints from party supporters to their representatives on the commune councils, and reports from commune councillors to party headquarters.

However, after observing the situation on polling day, conflicts arose as opposition party claimed that there had been an insidious discrimination against their members, not through active efforts to prevent them from registering, but by excluding these members from access to information, especially information distributed by village chiefs, that would have enabled them to vote. Claims that information was unfairly distributed, so as to exclude opposition supporters, were based upon a long-standing perception of the lack of separation of party and state in Cambodia. This concern, which dates back to the UNTAC election of 1993, and was prominent in CDRI’s study of the 1998 election also, relates to the fact that, when the state apparatus was built in the 1980s, it was built as a one-party state, in which state officials were expected to maintain strong allegiances to the ruling party. Concern that these allegiances not only continue to be personally felt, but affect the performance of official roles so that opposition supporters are discriminated against, remain.

4.1.2.2 The role of village chiefs

While registration is officially the task of the commune authorities, the role of village chiefs in this process is important. The NEC identified village chiefs as the most important source of information about the election to the two-thirds of the population who are functionally illiterate. A survey of voters conducted by the Asia Foundation also found that village chiefs were “the most important source of information about elections and... the most popular source for

¹²⁹ NEC member (51), personal interview, Phnom Penh, 5 Oct 2003.

¹³⁰ SRP provincial activist (52), Kampot Province, personal interview, 16 July 2003.

voter education.”¹³¹ Our findings, in our commune level case studies, concurred. As described elsewhere in this report, issues of state-party separation emerged most clearly with respect to the village authorities. However, one NEC member commented that during its self-assessment conference, NEC members argued for a formalisation of the role of village chiefs in the election registration process. She commented:

*“We should train the village chief to be in charge of the work, because they know the people very well. They know who is 18, who has moved away and in. So the participants of the conference suggested the village chief should do this. We also think its better if the village chief is in charge of helping the commune council to update the statistics – the same system but change it a little to improve our technique.”*¹³²

At the same time, the NEC member mentioned the importance of electing or re-appointing village chiefs:

*“The present unofficial role, and any future official role, of village chief in the registration process brings the question of state and party separation to the fore. Whether or not village chiefs are elected, there needs to be a thorough evaluation of the attitudes of village chiefs towards members of minority parties, in order to protect the rights of these members to participate in elections.”*¹³³

Some interviewees from the NEC saw the question of information differently, as a question of plurality rather than a question of rights. For example, a senior official in the Training and Public Information division argued that the democratisation of the commune level of government allowed all parties a foothold in the commune, and thus created the potential for plural sources of information to become available to the voter:

*“After the commune council elections, there are three parties in the commune council. We believe that in the village, if you have all three parties in the commune council, why don’t the other parties go and give information too? If it’s just the CPP in the commune then that’s one thing, but you can’t say that only the CPP can give information. SRP and FUNCINPEC are members of the commune council too, so they have the right to disseminate also. They can disseminate through the party.”*¹³⁴

An important aspect of this conflict is the question of who has the duty to provide information to the voter. If the state has that duty, then the NEC must be required to implement that, either directly through its own programmes, or through closer supervision of local authorities. An alternative approach is to regard the parties as having this duty. This party-based approach presumes that elections operate primarily as a contest of strength and popularity between political parties. If a party wishes to win, it must demonstrate its superiority by showing that it can inform, organise and motivate its supporters. This approach conflicts with a rights-based approach, which sees elections as valuable in offering all individuals an equal right to participate in political decision making, regardless of which party they support. The delegation of responsibilities for voter information to political parties risks depriving members of small and poorly organised parties of their right to participate equally. Although democratisation of commune government has given more parties a presence at local level, and has thus evened up the capacities of the major parties, at least, to provide information to their supporters. A party-based approach remains incompatible with a rights-based approach to elections.

¹³¹ Asia Foundation, “Democracy in Cambodia –2003, A Survey of the Cambodian Electorate” Draft Report, Phnom Penh, 16 May 2003, 14.

¹³² NEC member (51), personal interview, Phnom Penh, 5 Oct 2003.

¹³³ NEC member (51), personal interview, Phnom Penh, 5 Oct 2003.

¹³⁴ NEC representative (8), personal interview, Phnom Penh, 5 Oct 2003.

Similarly, one NEC member commented on criticisms made by NGOs of NEC public information:

“COMFREL complained about us not doing enough voter education. But how about you, you get a lot of money from The Asia Foundation, Japan, EU etc. for voter education. If you complain it means that you didn’t do a good job either.”¹³⁵

Successive elections in Cambodia have seen increasing pluralisation of information sources for voters. However, a rights-based approach demands that it is the responsibility of the state to ensure adequate information to all voters. The evidence that voters in fact depend upon local authorities for information suggests that attention must be paid to the quality of information passed on by these sources to the voters. While the NEC did provide information through printed leaflets, posters, television and radio, and the internet, the NEC itself remained concerned that for the 50 percent of voters who lack access to television and radio, or the 35 percent who cannot read printed leaflets, information was not sufficiently available.

4.1.3 Outcomes: Conflict and Conflict Management related to Voter Registration

Two major conflicts emerged as a result of the voter registration process. The first was a conflict over the question of the registration of unqualified individuals, especially people identified as Vietnamese. The second conflict, which was quoted more widely after the election by parties rejecting the results, were problems emerging on election day, when a number of people tried to vote, and were unable to, either because they were not on the electoral roll, or because they could not find out which polling station their name was listed at. The losing parties claimed after polling day that their own supporters were disproportionately affected by this confusion, which amounted to a disenfranchisement of their members.

4.1.3.1 Conflict over the registration of unqualified individuals

In every Cambodian election since 1993, the question of registering individuals who either are or are alleged to be of Vietnamese descent has arisen as a conflict during voter registration. In 2003, the issue was again the source of complaints to the NEC from FUNCINPEC and SRP – the SRP’s director of complaints commented at a workshop to discuss the elections in October that, “The strategy begins with registration. Thousands of *yuon* nationals were allowed to register.” This issue is a popular theme for the opposition press. For example, the pro-SRP newspaper *Moneaksekar Khmer* claimed that: “Illegal “*yuon*” immigration gives the election to the CPP, so that *yuon* can continue to invade Khmer territory like a flood and destroy the Khmer nation at will.” The paper claimed that diplomatic sources in Hanoi had stated that “the *yuon* leadership press their citizens living along the border who have a Khmer voting card to enter the country to vote for the People’s Party.” Such voting cards are allegedly issued illegally by pro-CPP officials to illegal Vietnamese immigrants, in response to Hanoi’s concern that, “If the People’s Party lose the election and fall from power, the *yuon* cannot abuse and invade Khmer territory any more.”¹³⁶ At a COPCEL discussion of voter registration, a representative of a small opposition party commented: “Nowadays most immigrants have Cambodian ID cards. He said that in Pra Phaong commune, Peam Ro district, Prey Veng province, around 350 Vietnamese immigrants have Cambodian citizenship even though they cannot speak Khmer at all.”¹³⁷ The representative of another small party, interviewed for this study, commented,

¹³⁵ NEC member (4), personal interview, Phnom Penh, 8 Oct 2003.

¹³⁶ “Khmer Citizens Throughout the Country must Go to Vote and Protect their Ballot in order to Stop Yuon Invasion,” *Moneaksekar Khmer*, 25 July 2003, 1,4.

¹³⁷ Lav Zuhong, representative of Hang Dara Democratic Movement Party, extract from Minutes of 42nd COPCEL Meeting, Phnom Penh, 30 January 2003.

“If the party in power still leads the country, then more Vietnamese are coming in to our country every day. For those that have been here for a long time, they have an election card now so they can also vote. It’s obvious that they will vote for the ruling party. Then what happens if ten Khmer go to vote, and twenty Vietnamese? The Vietnamese party will win the election. At the end of the day, Khmer will lose our country and become like the Cham.”¹³⁸

The linkage of a poor administrative record on the part of state authorities in issuing identity documents with the populist rhetoric of the election campaign entails that the issue remains a perennial source of conflict in Cambodia politics. The numbers of cases giving rise to complaints were in fact relatively small. COMFREL found 144 cases of illegal or suspect registration during its monitoring of the registration period itself. Various parties lodged a further 94 complaints to the NEC and the Constitutional Council, relating to 15,000 suspected ineligible voters during the campaign period. Further complaints were made over the registration of 7,873 people, when provisional voter lists were posted. These complaints were rejected by the NEC and the Constitutional Council, without a public hearing, and consequently, the process of rejecting the complaints was criticised by COMFREL as lacking transparency.

In 2003, as in previous elections, the NEC upheld some of the complaints, where it appeared that individuals lacked the legally required identity papers. However, they rejected many of these complaints on the grounds that possessing a foreign accent or lacking knowledge of Khmer history were not legally valid reason for excluding individuals from voting, if they had the documentation (ID cards, family books and so on) required by law. In 2003, as in previous elections, the opposition parties were unwilling to accept this as valid, reflecting their distrust in the broader institutional framework of government, and particularly in the local authorities that have the power to issue ID cards. In some cases, groups of activists took direct action in attempting to prevent people they believed were Vietnamese from entering polling stations. COMFREL argued that efforts by the NEC to hold a more transparent hearings process could have defrayed the problem.

In 1998, claims concerning illegal registration of Vietnamese voters were important in the speeches of opposition politicians, both during the election campaign and afterwards during protests and demonstrations against the election results. In 2003, such claims have appeared less regularly in official pronouncements of the parties. It may be that these claims have been less openly made following the 2003 election because of a political drive, by the losing parties, for international support following their rejection of the election results. International actors have maintained a policy of condemning this kind of complaint as racist; this policy may have suppressed the conflict in 2003, but it remains a serious source of contention between Cambodian political parties.

The rather haphazard process of gaining administrative documents in Cambodia also causes difficulty for many Cambodian citizens, as acquiring official documents can be time-consuming and expensive. Complaints were raised of local authorities charging for the issue of National ID cards which were supposed to be given freely; of local authorities requiring certain individuals to provide witnesses as well as documents to prove their identity; and of commune clerks in some communes requiring individuals to get guarantees of their identity from their village chief before they could register.¹³⁹ In one commune in Kandal province, the EMO NICFEC reported that commune clerks charged voters 2000 riel to register if their documents were incomplete.¹⁴⁰ All of these allegations exemplified the arbitrary imposition of extra conditions by local authorities, over and above those specified by law. Examples of

¹³⁸ Khmer Unity Party representative (53), personal interview, Phnom Penh, 10 July 2003.

¹³⁹ Iv Borin, extract from Minutes of 42nd COPCEL Meeting, Phnom Penh, 30 January 2003.

¹⁴⁰ Hang Puthea, extract from Minutes of 42nd COPCEL Meeting, Phnom Penh, 30 January 2003.

groups with difficulties getting registered in 2003 were students living in pagodas, who needed residency certificates from the abbot of the pagoda in order to register; orphans turning eighteen who had no papers at all; and victims of the frequent fires that raze the city's squatter areas, destroying the inhabitants' identity cards and other official documents. This problem is provided for in the Election Law, through a provision which permits an individual to bring witnesses to testify to their Khmer citizenship. NEC secretary general Tep Nytha added in January 2003, in response to complaints from opposition parties that some people found it difficult to register, that "The NEC has requested many times already that the MOI speed up the delivery of National ID cards, and to instruct the Commune Clerks not to be too strict with the registration process."¹⁴¹ However, introducing this element of discretion, on top of a high degree of latitude already evident in the process, increases suspicions that some individuals – including supporters of the ruling party and "foreigners" – are permitted to register illegally.

In discussions of the issue at COPCEL, the NEC maintained that the problems encountered were technical problems, related to the incapacity of commune clerks, the problems with the national ID card system, and the fact that the system was new and neither voters nor officials were as yet familiar with it. Opposition parties, however, continued to view the issue as a political issue, arguing that political bias among commune clerks entailed that those for whom registration was made difficult were invariably opposition party supporters, and those for whom registration was made easy were invariably ruling party supporters or "Vietnamese." Consequently, the different groups held strongly contrasting views of wrongdoers. For the NEC, violators were poorly trained and overworked officials struggling with a difficult job. For the opposition and some NGOs, they appeared as biased supporters of the ruling party, attempting to use their official positions to deprive individuals of their right to vote and thus stack the election.

Because of these fundamentally different views of the cause of the problem, different views emerged of how it should be dealt with. The NEC advocated intervention and assistance to help commune clerks to understand the right way of going about registration, noting that as commune clerks were Ministry of Interior employees, rather than NEC employees, the only course open to the NEC was mediation. Opposition party members and some NGOs, by contrast, advocated punishment of violators of the Election Law, according to the law. A lack of reconciliation between these views set the scene for the issue to re-emerge later in complaints over the election result.

4.1.3.2 Conflict over disenfranchisement of opposition voters

While the registering of ineligible voters was the main issue of concern before the election, and this prompted accusations of arbitrariness on the part of registration officials, COMFREL's monitoring of the registration process found only 58 specific cases, nationwide, of eligible voters whom officials refused to register, and a further 59 cases nationwide of voters being obstructed by partisan officials in their attempts to gain the necessary documents to register or complain about their inability to register. However, COMFREL warned that the NEC's announcement to voters to check their names on provisional voting list was unclear and not widely publicised, and that most of the population "were oblivious to the announcement." On polling day, this warning proved to be a premonition of serious problems. Election observers noted a number of administrative problems that in some cases prevented individuals who wished to vote from voting. These included: the arrival of voters with 1998 voter cards, under the impression that these would be valid again, when in fact they were not; the arrival of voters who claimed they had registered, but whose names could not be found on polling lists; claims that voters' names had been moved from the list on one polling station to the list

¹⁴¹ Tep Nytha, extract from Minutes of 42nd COPCEL Meeting, Phnom Penh, 30 January 2003.

on another polling station, so that voters had to travel around polling stations looking for their names; claims that some voters arrived to find their names already ticked, so that they could not vote; claims that polling station officials did not assist voters to find their names on the list; and claims that CPP members were given priority in voting by polling station officials.

These issues were raised by the SRP in a statement released to international observer groups shortly after the election, claiming that the election was unfair:

“It must also be noted here that 63 percent of the adult population in Cambodia are illiterate which means that thousands of people cannot read a voter list and were not able to find their names. We have serious reports stating that the election officers in no way helped voters when trying to vote, on the contrary they just sent them back to the lists posted outside the polling station, thus causing total utter confusion, and in the end, people became discouraged and went home without voting. Election officers are under the obligation to help the voters, and not hinder the process. Receiving special treatment, CPP supporters were given a slip of paper by their village chief containing the voter’s name and registration number, and were able to go through the process smoothly, with no hassle.”¹⁴²

These observations, together with the official release of voter turn-out figures that showed a drop from previous national elections, led some observers and opposition party members to conclude that administrative errors had prompted disenfranchisement of voters on a large scale. Some also concluded that this had disproportionately affected opposition voters. Sam Rainsy wrote in one statement:

“Using a subtle form of election manipulation, the ruling party managed to prevent scores of eligible voters – who are not its members – from casting their ballot at the last poll. As a result the voter turnout rate fell to a record low.”¹⁴³

COMFREL and NICFEC offered a range of explanations for the lower voter turn-out, which they put at 80 percent of voters. Their explanations included:

- registration and communication problems between the NEC, PECs and CECs;
- voters misunderstanding they could use 1998 voter cards to vote and not being able to vote because they had not registered this year;
- voters finding it difficult or impossible to find their names on the NEC voter registration lists, therefore not being able to vote;
- some disorganization at polling stations, leading to voters being made to wait for considerable periods of time to vote and therefore not voting;
- problems with the issuing of the wrong stamp at some polling stations, invalidating some votes;
- some private companies prohibiting employees from voting; and
- the moving of polling stations, preventing people from finding the polling station.¹⁴⁴

¹⁴² Sam Rainsy, “A Plea from the Sam Rainsy Party to International Observers,” press release, Phnom Penh, 31 July 2003, posted to Camnews, at camnews@cambodia.org.

¹⁴³ Sam Rainsy, “A Biased Comparison of Two Cambodian Leaders,” Letter to Editor of Asia Times Online, Paris, 1 Sept. 2003, available online at www.samrainsyparty.org/letter_to_editor/2003/, accessed 17 Oct. 2003.

¹⁴⁴ COMFREL and NICFEC, “Initial Impressions of the Polling Day and Counting Process,” joint press statement, Phnom Penh, 29 July 2003.

Low Voter Turnout in Poipet: The case of Poipet was a particular source of conflict. The SRP lodged a complaint over the holding of the election in this town, where fewer than 50 per cent of registered voters actually cast a vote. As a result, the SRP asked for a re-run of the election in Poipet.

The NEC refused this complaint, claiming that there was no link between the administrative problems on voting day, and the low voter turnout. They attributed low voter turnout in the town to the particular characteristics of the area. One senior NEC representative commented:

“In Poipet there were many problems. First, a lot of people there don’t have the required documents to register, for example, ID card or family book. This is because they are a transitional population – a lot of economic migrants. Some have had problems with Thailand and been sent back. Some live in Poipet to earn money, they go there to work. Second, people there are not so interested in elections. They are mainly interested in earning a living. Some party people try to help to find documents for those people, so they can go to vote. We extended the registration in Poipet to try to help. But then when voting day arrived – if they have registered in Poipet they have to vote there – but a lot of them had gone back to their home town by then, or gone off to Thailand to work. They weren’t really people who lived there long term...”¹⁴⁵

Another senior NEC official commented that the problem arose from parties making efforts to get their members registered in Poipet, even though these members were actually only passing through. He commented:

“In 2002, 25,000 people registered in Poipet, and 19,500 voted. In 2003, 40,000 registered and 20,600 voted. This is a place with a lot of economic migrants. By the time the election arrived they had gone to Thailand or gone home.”¹⁴⁶

According to the NEC, these economic characteristics were more important in affecting the level of voter turnout in Poipet than the moving of polling stations, which the SRP claimed had caused great confusion.

“There could have been some problem of moving polling stations there. But that was only a small point – we didn’t move them more than 200 or 300 metres, and we put up a sign to say if they had been moved. We didn’t move them five kilometres away. That’s not really a big reason.”¹⁴⁷

An NEC representative commented also that the change in the voter registration system itself made it more difficult for voters to find their polling station. Under the temporary voter registration system, voters registered at the same office in which they would later vote. Under the permanent voter registration system, voters registered at the commune office, and then had to find their polling station on polling day.¹⁴⁸

A further problem, according to the NEC, was the role of village chiefs. An NEC representative argued that in previous elections, village chiefs were important in leading villagers to the polling stations to vote. However, in 2003, the conflicts that had already arisen over the role of village chiefs during the election campaign had prompted the NEC and Ministry of Interior to issue a press release ordering village chiefs to remain neutral in the election process. This, NEC representatives suggested, may have discouraged village chiefs from per-

¹⁴⁵ NEC representative (8), personal interview, Phnom Penh, 5 Oct 2003.

¹⁴⁶ NEC representative (54), personal interview, Phnom Penh, 7 Oct 2003.

¹⁴⁷ NEC representative (8), personal interview, Phnom Penh, 5 Oct 2003.

¹⁴⁸ NEC representative (54), personal interview, Phnom Penh, 7 Oct 2003.

forming their role of leading villagers to vote, thus accounting for the decline in voter turnout.

Officials Biased towards CPP Members: A further claim was that on voting day itself, polling station officials were biased towards CPP members, allowing them to go to the head of the queue and vote first, and failing to assist other voters who could not find their names on the voting lists. NEC members argue that this, like the question of voter registration and turnout, is not a question of bias on the part of the NEC and its local level staff, but of better organisation on the part of the CPP as compared to other parties. With regard to objections that PSOs did not assist voters, one senior NEC official agreed that there were some voters who needed help, when polling stations were split into two; when voters were illiterate or had poor eyesight and couldn't read the small letters on the voter lists; or when the area was too crowded to allow people to get a good look. However, there was no scope in the regulations for providing staff to assist voters having difficulties. In each polling station there are four officers with specific roles related to the polling process; these officers could not leave their posts and go to help voters find their names on the lists without disrupting the balloting process.¹⁴⁹

Another NEC official explained reports that CPP members were given slips of paper to show to PSOs, to enable them to jump to the front of the queue, as follows:

"The CPP checked all the details of the voter's name, voting card number and polling station and they write it on a piece of paper and give it to each member. FUNCINPEC didn't do this. CPP gave this piece of paper to each of their members, so when they arrive at the polling station they can find their name on the list very fast. People think they just show some paper and are allowed to go first, but in fact it's because they can find their name more quickly."¹⁵⁰

These accounts confirm that more adequate information was made available to voters who were assisted by the CPP than to those who weren't, in many parts of the country. COMFREL reported also that a drive by the SRP to distribute posters and leaflets, and broadcast audio cassettes, appealing to people to go to register and review their names in February had been stopped by the NEC, who argued that the SRP was using the activities as an excuse to campaign illegally.¹⁵¹

The question at issue is whether such inequalities should be seen as a normal part of political competition between parties, or whether they introduce a bias into the electoral process that makes it more difficult for members of smaller and less well organised parties to exercise their right to vote. The conflict over voter registration proved to be one of the most significant conflicts in the election, featuring most prominently in the SRP and FUNCINPEC's complaints and rejection of the results. In their joint statement rejecting the results of the election, SRP and FUNCINPEC claimed they were acting,

¹⁴⁹ NEC representative (8), personal interview, Phnom Penh, 6 Oct 2003.

¹⁵⁰ NEC representative (54), personal interview, Phnom Penh, 7 Oct 2003.

¹⁵¹ COMFREL, "Assessment Report on Voter Registration Process for the July 2003 National Assembly Elections," Phnom Penh, 7 Mar. 2003.

“on behalf of about five hundred thousand eligible voters whom the NEC created obstacles to deprive them from registration in January and February, 2003; on behalf of over one million registered voters whom the NEC came up with all kinds of ploys -- including allowing confiscation of their voter cards, relocation of voting stations without sufficient notice, voter lists being marred with errors making it impossible for a large number of voters to find their names, and improper deletion of names from voter lists, to prevent them from voting on 27 July 2003 against their right and wish.”¹⁵²

The SRP focused in particular on the case of Poipet – which it described as an “SRP stronghold” – in its own complaints to the NEC, claiming that 20,000 voters had been disenfranchised in the town. The SRP regarded this as decisive in denying the SRP a second seat in Banteay Meanchay province overall. The rejection of this complaint by the NEC on the basis of insufficient evidence, without holding a public hearing, was bitterly criticised by the SRP. The issue remained unresolved.

4.2 The Conflicts over Village Chiefs

4.2.1 Sources of Conflict

In addition to the role of the village chief in distributing information related to the elections, village chiefs were also alleged to be engaging in vote-buying, intimidation, illegal confiscation of voter cards, and other illegal and threatening acts in large numbers during the election period. This issue was raised by the SRP and FUNCINPEC in their statement rejecting the election results, indicating its importance as an electoral conflict. The two parties claimed to be denouncing the elections “on behalf of hundreds of thousands of voters who cast their ballots on voting day under threats from the CPP that used local authorities, including village chiefs, as its tools in collusion with the NEC.”¹⁵³

SRP allegations of violence, intimidation and disruption of election campaign activities appeared early in the election campaign. The SRP alleged that village chiefs had threatened SRP members and supporters, in its online election campaign bulletin. For example, the entry for 1 July claims that the following incidents took place:

“Phnom Penh: In Khan 7 Makkara, on Friday, June 27, 2003, the chief of Group Pralay, named Chrung ripped off the SRP leaflets, and warned the SRP activists and members of the village not to organize the campaign. Chrung ordered SRP activist Eang Chea to bring down the SRP flag within 24 hours. The SRP has lodged a complaint with the Commune Election Committee (CEC) No. 048 the same day.”

¹⁵² Alliance of Democrats (SRP and FUNCINPEC), “Joint Declaration to Reject the Results of the Election Released by National Election Committee (NEC),” Phnom Penh, 8 Aug. 2003, posted to Camnews camnews@cambodia.org 8 Aug. 2003.

¹⁵³ Alliance of Democrats (SRP and FUNCINPEC), Joint Declaration to Reject the Results of the Election Released by National Election Committee (NEC), Phnom Penh, 8 Aug. 2003, posted to Camnews camnews@cambodia.org 8 Aug. 2003.

“Kompong Thom: On Friday, June 27, 2003, at the village of Chakto Lauch, Baray District, Sao Thel distributed and posted the SRP leaflets in the village. At around 2 pm, the chief of village named Ven Phally verbally abused Sao Thel with slanders: “you are a Sam Rainsy Party member, don’t live in the Hun Sen and Chea Sim territory,” and slashed Sao Thel cutting him on the arm, kneecap and testicle. Sao Thel was brought to the hospital, Ven Phally was arrested and later released by the police. Sao Thel, not Ven Phally, was accused of assaulting Ven Phally; the police claimed to have found a piece of iron rod under Sao Thel’s house. The provincial SRP has lodged several complaints with Kompong Thom Provincial Election Committee (PEC).”¹⁵⁴

A provincial party worker for the SRP in Kampot province commented during the election campaign:

“There are problems from commune and village, and group level. The village and group levels are very strong and they intimidate the villagers. If only the SRP raises signs or have a meeting, they intimidate beforehand. And then second, after SRP has raised a sign or had a meeting, they intimidate the villagers afterwards. The local authorities do this, whenever someone from the high level comes down to the province. If anyone goes to listen they put their name on a list. And then later if they have a problem, they say go and get SRP to resolve your problem.”¹⁵⁵

Concerns about the role of village chiefs surfaced in the reports of election monitors, also, at all stages of the election process. During the period for registration of new voters between January 15 and February 20, COMFREL reported “During this time the voters were forced to swear (by drinking oath water, thumbprint or other means) by politically motivated local authorities to a member of their parties especially the village chiefs in some places of Battambang and Kampot.”¹⁵⁶

In the same report, COMFREL detailed 19 complaints of serious threat and intimidation. In 11 of these, the culprits were named as district, commune, or village chiefs, deputy chiefs or police. On 19 June, before the start of the election campaign, COMFREL reported, “COMFREL has observed many incidents of village and commune chiefs threatening and intimidating particular parties and their supporters in Takeo, Kompong Speu, Prey Veng, Siem Reap and Kompong Thom. These include village leaders collecting voter cards in pagodas, where people were asked to pledge for a party, and commune chiefs threatening people not to attend an opposition party’s meeting and recording the names of people who did attend.”¹⁵⁷

Five days into the election campaign, a group of human rights NGOs released a statement that again implicated village chiefs and other local authorities in practices of intimidation or obstruction of opposition campaigners. They commented:

“There are also many cases of irregularities, which are against the election law. For instance, the village headmen refused to give a place license to the non-ruling parties to launch their election campaigns and to disseminate their party policy; and prohibited people who are opposition party supporters to participate and listen to the party election campaign; persuaded and lobbied people in whatever means to

¹⁵⁴ Extracts from SRP Campaign Bulletin, 1 July 2003, online at http://www.samrainsyparty.org/campaign_bulletin/2003/20030701.htm

¹⁵⁵ SRP provincial activist (52), Kampot province, personal interview, 16 July 2003.

¹⁵⁶ COMFREL, “Assessment Report on Voter Registration Process for the July 2003 National Assembly Elections,” Phnom Penh, 7 March 2003.

¹⁵⁷ COMFREL, “COMFREL urges government to open up the political environment and requests NEC to review the interpretation of the election law’s vote counting process,” press release, Phnom Penh, 19 June, 2003.

*dismantle party labels of other non-ruling parties; and facilitated in gift donation during the election campaign. There are also some cases where the police, the Royal Cambodian Armed Forces, village and commune headmen are pro-ruling party because they perform their duties to campaign for the ruling party and not to defend the non-ruling party while the marching process of CPP, oppressed and disturbed the SRP marching campaign. This incident can create violence.*¹⁵⁸

Towards the end of the election campaign, the major EMOs, COMFREL and NICFEC concluded that they had evidence of “widespread incidents of using social discrimination and social sanction in order to control voters at remote areas: Village chiefs and local authorities exclude villagers from social development opportunities if they do not vote for the party in power.”¹⁵⁹ In total, COMFREL and NICFEC said they observed “595 cases of non-neutral public officials identified while carrying out their work.”¹⁶⁰

Finally on voting day, COMFREL reported “at least 462 village chiefs hanging around outside polling stations.” COMFREL and NICFEC commented:

*“The greatest areas of concern were the continuation of patterns of intimidation and illegal campaigning by commune officials established throughout the campaign period. Powerful local leaders and village chiefs were observed hanging around outside polling stations, causing some voters to feel uncomfortable. Although most of these coercions were verbal in nature, it created an insecure and menacing environment for voters.”*¹⁶¹

The international human rights NGO Human Rights Watch also released a report detailing alleged intimidation by a village chief of a widow in Kirivong District of Takeo, and describing meetings convened by village chiefs in Siem Reap Province, in which FUNCINPEC supporters were pressured to join the CPP.¹⁶² The complaints about village chiefs at national level echoed the concerns expressed regarding this group by commune level actors in our case studies.

4.2.2 Management of Conflict

The NEC responded to the widespread complaints made about local authorities and particularly village chiefs, throughout the electoral period, by issuing a joint directive with the Ministry of Interior, stating that village chiefs were “to remain neutral and impartial and refrain from showing any preference for or against any political party or candidate.”¹⁶³ This was followed by a second directive, on 17 July, which listed five prohibited categories of activity:

- 1) Use their position to influence the freedom of choice of voters in the election;
- 2) Confiscate the voter card or substitute voter card or any ID document from citizens under any circumstance;
- 3) Question voters for the purpose of influencing or wanting to know the confidential polling choice of the voters;

¹⁵⁸ ADHOC, COMFREL, NICFEC and Youth Council of Cambodian (CYC), “Joint Statement On Concerns of Violence during the First Five Days of the Election Campaign for the Third Mandate of the 2003 National Assembly Elections,” press release, Phnom Penh, 2 July 2003.

¹⁵⁹ COMFREL, NICFEC, “Pre-Election Joint Assessment,” press release, Phnom Penh, 25 July 2003

¹⁶⁰ COMFREL, NICFEC, “Pre-Election Joint Assessment,” press release, Phnom Penh, 25 July 2003.

¹⁶¹ COMFREL, NICFEC, “Joint Statement, The Findings of Cooling Day, Polling and Ballot Counting Periods Phnom Penh,” press release, Phnom Penh, 6 August, 2003

¹⁶² Human Rights Watch, “Don’t Bite the Hand that Feeds You, Coercion, Threats and Vote-Buying in Cambodia’s National Elections,” Briefing Paper, July 2003, online at www.hrw.org/background/asia/cambodia/elections.html.

¹⁶³ NEC and MOI Joint Directive No. 004 S.N.N, 22 May 2003.

- 4) Interfere with the right of voters in making free decision, joining public discussion, participating in political activities or receiving full information about political affairs;
- 5) Act in a way that directly or indirectly intimidate or threaten voters.¹⁶⁴

One representative of an human rights NGO commented on this directive, that “our experience in the field is that letter was very good.”¹⁶⁵ On 25 July, the NEC went further, announcing a decision by the Ministry of Interior that three village chiefs, from Prey Veng, Kompong Cham and Kratie Provinces, were to be suspended from their positions pending investigation of allegations of serious threats being made against FUNCINPEC and SRP supporters. One of these village chiefs – accused in a report from the UN Cambodia Office of the High Commissioner for Human Rights of intimidating FUNCINPEC supporters at a meeting into joining the CPP – was subsequently exonerated by the NEC, who stated, “There is no clear witness, evidence, and base to the accusation that Mr. Launh Deth threatened and intimidated the supporters; the fact that 28 citizens left the FUNCINPEC Party and joined the CPP is not an evidence of intimidation or threat.”¹⁶⁶

However, this action was criticised by the UN Special Representative for Human Rights, who regarded it as too little too late:

*“In most cases, NEC, its provincial and local-level subcommittees and law enforcement authorities failed to respond to incidents of election-related intimidation. Only one case is known where the sanctions available to NEC were imposed prior to the elections. In three cases, village chiefs accused of election-related intimidation were temporarily suspended by order of the Ministry of the Interior shortly before polling day.”*¹⁶⁷

The NEC argued that finding village chiefs who had violated the law and punishing them was problematic in a number of ways. First, one NEC member argued, cases of intimidation were often poorly substantiated:

*“If a village chief goes to a polling station, there’s nothing really to support to say he’s there to intimidate the voters. We penalised a few, where we could find documentary evidence, but if it’s just the accusation that he is standing and staring at the people, that is not enough. If I want to fine you, I need enough evidence.”*¹⁶⁸

This comment underlines the difficulty of applying strictly legal processes in cases where the kind of threat complained of is largely unspoken. An SRP representative described the ability of village chiefs to inspire fear in opposition party supporters, without the need to take specific actions:

¹⁶⁴ National Election Committee Directive No. 07.1499/03, 17 July 2003, available online at www.necelect.org.kh

¹⁶⁵ CHRC national representative (55), personal interview, Phnom Penh, 13 Aug. 2003.

¹⁶⁶ National Election Committee, “Clarification,” press release, Phnom Penh, 1 Sept 2003.

¹⁶⁷ Peter Leuprecht, “Situation of Human Rights in Cambodia,” Report by the Special Representative for Human Rights in Cambodia to the General Assembly, 22 Aug. 2003, para. 21.

¹⁶⁸ NEC member (5), personal interview, Phnom Penh, 8 Oct 2003.

“A village is only a hundred houses. The village chief knows everyone – knows who is voting for who, knows the political inclinations. They know who is their strong supporter. A lot of the others will say nothing, but those who are not strong supporters are suspects. And if the village chief is allowed to be a representative of the CPP... he knows everyone, and this can frighten our supporters. This worries us.”¹⁶⁹

In other words, the assertion that village chiefs can intimidate villagers just through his presence is a difficult assertion to prove in law. However, the majority of the cases documented by political parties and election monitoring organisations involved much more specific action than this; for example, threats to discriminate against opposition party supporters in future development projects; confiscation of voting cards and noting down numbers; and warning villagers not to attend opposition party rallies. These kinds of activities should have been much easier to document.

In pressing these cases, however, the NEC was restricted by the very limited powers it was awarded by the Election Law to impose penalties on wrongdoers. The NEC was given no powers under the Election Law to supervise the work of state officials, other than employees of the Provincial and Commune Election Committees. The Law did demand that:

Authorities at all levels responsible for security, public orders, and other assignments, at the request of the National Election Committee or other Electoral Commissions, shall absolutely cooperate with the National Election Committee and other Electoral Commissions at all levels to maintain safety, security and public orders during the time of election, electoral campaign, polling and ballot counting.¹⁷⁰

Where government officials failed in this obligation, the NEC had the option to suspend them from the voter list for five years or to “request to the head of his institution to impose administrative and disciplinary sanctions on him ranging from suspension without remuneration to dismissal.”¹⁷¹ Where village chiefs were concerned, this dictated that punishment would have to go through the Ministry of Interior.

The NEC also had the power to impose fines of up to 25 million riels and suspend electoral rights for up to five years in cases where individuals violated the Election law. Punishable offences included bringing weapons into places connected with the electoral process; tampering with ballots or ballot boxes; or attempting to influence voters during the polling process. Similar penalties could be imposed upon political party members who violated the rules of the election campaign, or officials who prevented parties from campaigning equally.¹⁷²

Further to this, there were no specific references to the conduct of state officials other than members of the NEC, PECs and CECs in the Election Law. The NEC’s regulations made a number of stipulations regarding the neutrality of civil servants and local authorities, namely:

“Civil servants, local authorities at all levels, members of military, national police and court officials, who are on duty, must not:

- 1) use their power and role to directly or indirectly influence the election process;
- 2) mobilise civil servants, local authorities at all levels, members of the military, national police and court officials inside the State buildings and offices in order to convincingly and deliberately garner votes; and

¹⁶⁹ SRP national representative (3), personal interview, Phnom Penh, 10 July 2003.

¹⁷⁰ Law on the Election of Members of the National Assembly, as amended 2002, Art 28.

¹⁷¹ Law on the Election of Members of the National Assembly, as amended 2002, Art 28.

¹⁷² Law on the Election of Members of the National Assembly, as amended 2002, Articles 129-133.

3) actively participate in the election campaign for any political party.”¹⁷³

Active participation in election campaigning was defined in the regulations, but the kinds of activities specified related mainly to public activities taking place during working hours. The scope for local authorities to engage in activities on private premises or outside of working hours was not so restricted.

In this sense, the developments in the laws related to local authorities seemed to be based on contradictory premises. On the one hand, attempts were made in 2003 to increase protection for voters from possible reprisals from politically affiliated local officials. For example, more classes of local official were excluded from positions within election committees.¹⁷⁴ NEC regulations prevented commune and village chiefs from attending CEC meetings for political parties, in order to avoid their presence being seen as intimidating by opposition parties. Yet, at the same time, any potential for intimidation in permitting powerful local officials to align themselves openly with a political party “outside working hours” was not addressed. For example, an NEC press release responding to a complaint from an SRP representative over the partisan activities of a policeman in a Kompong Thom commune stated:

*“On 21 August 2003, Mr. Khun Sophal of the SRP accused Mr. Phoke Ly, a vice police-inspector of Prasat Sambo, Kompong Thom province, of not being neutral. The NEC clarified that Mr. Phoke Ly joined the election campaign on his free time, on Sunday 20 July 2003. The NEC stressed that according to chapter 7 article 7.7 of the regulations and procedures, civil servants, all levels of authorities, RCAF, National Police, and Judiciary officers can join the election campaign after they finished their working hours. Consequently, the NEC stated that Mr. Phoke Ly’s activity is not contradicted to the electoral law, regulations and procedures of the NEC.”*¹⁷⁵

Opposition party supporters claimed that the ability of village chiefs and local police to threaten and intimidate voters by virtue of their position was not restricted to working hours, and that campaigning by local authorities on Sundays had the same effect as on other days of the week. In the eyes of the opposition, the NEC was drawing a distinction between the individual and the official position which simply did not exist in Cambodian villages, where, they believed, village chiefs used their personal knowledge of the political sympathies of other villagers to implement discriminatory policies in their official position. The role of local authorities, and in particular village chiefs, continued to be a major source of contention between the political parties and the NEC during the election.

Certain of the complaints made about village chiefs referred to activities that were specifically prohibited to all persons under the Election Law. For example, the Election Law stipulated penalties of fines and/or suspension of voting rights for any persons who attempted to:

- incite his supporters or eligible voters to commit offenses, threats, or violence against another candidate or political party;
- use duress, threats, or coercion to secure a promise to vote for a candidate or political party that he desires;
- use force or violence to prevent eligible voters from voting or standing as a candidate;
- prevent a candidate or supporters of a political party from conducting campaign activities allowed by law;

¹⁷³ NEC Regulations, §7.3

¹⁷⁴ Law on Election of Members of the National Assembly, as amended 2002, Arts 19\8, 20 and 22.

¹⁷⁵ NEC, press release, no. 09.411/03 NEC, Phnom Penh, September 2, 2003.

- use force, violence, threats, or insults so as to intimidate, confuse the voters, or to undermine the credibility of the election or the secrecy of the voting; and
- offer material or monetary incentives to buy votes.¹⁷⁶

However, the criminality of such offenses was not stipulated under the Election Law, and powers to launch any investigations with a view to criminal proceedings, for example, in cases of violence, remained with the Ministry of Interior. Neither did the Election Law make any special provision – such as suspension or dismissal – for dealing with state officials alleged or found to be engaging in any of the above activities. Although the NEC’s directive of 17 July dealt with a number of the issues about which political parties subsequently complained – such as confiscating voter cards or noting down the names of individuals who attended particular party rallies – these were not given the status of law.

Provisions that were included in the law – for example, the prohibition against the “offer [of] material or monetary incentives to buy votes” – were not well-defined. The NEC’s regulations referred to vote-buying in the following terms: “Any political party, its representative and candidate or any individual shall not provide contributions, gifts or rewards in cash or in kind of any form to any institution, organisation or individual in order to buy votes.”¹⁷⁷ The meaning of these provisions caused much debate in a context where the bestowing by politicians of personal flows of aid to needy constituents is a staple of political life and where opposition parties and NGOs alleged that village chiefs used threats to penalise opposition supporters in future allocations of development aid. The NEC’s position on the subject was stated by the Secretary General at a COPCEL meeting:

*“We have to be cautious about the interpretation. We should also make a distinction between parties’ activities in public places and those activities inside the compound of the parties’ offices with their members. The NEC will cooperate closely with political parties on how to prevent vote buying.”*¹⁷⁸

The sketchy legal and institutional basis for prosecution perhaps made this option inevitable; however, Tep Nytha justified this stance in the light of concerns for security also:

*“It is easy to talk about sanctions and to condemn the mediation approach. But on the ground, if we are not cautious, it could rapidly lead to violent confrontation.”*¹⁷⁹

This perspective sharply contrasted with that of an SRP representative, who commented during the election campaign:

*“The NEC, Ministry of Interior and Hun Sen are yelling for people to be tolerant and peaceful, etc. But the question is with those appeals, why are these things still happening? Is Hun Sen in control or not? If he can’t control the country he should step aside. He makes a lot of declarations, but if things don’t happen then you start to question, who is running the country. And the fact is that no one is really running the country, because no one takes responsibility for running the country. No one is prepared to take the blame.”*¹⁸⁰

Once again two directly opposed views emerge, between the NEC and the SRP. For the NEC, the village chiefs represent both a force beyond their control, and a potentially extremely useful means of disseminating information about the election. Concern to maintain the cooperation of this group, to preserve the veneer of public order and keep the elections on

¹⁷⁶ Law on Election of Members of the National Assembly, as amended 2002, Art 124.

¹⁷⁷ NEC Regulations §7.10.7

¹⁷⁸ Tep Nytha, statement to COPCEL, Minutes of 45th COPCEL Meeting, trans Sen Sina, 30 April 2003.

¹⁷⁹ Tep Nytha, statement to COPCEL, Minutes of 45th COPCEL Meeting, 30 April 2003.

¹⁸⁰ SRP national representative (3), personal interview, 3 July 2003.

track is of overriding importance. Consequently, the approach is conciliatory, seeking to alter village chiefs' behaviour rather than to punish it. By contrast, the SRP, along with COMFREL and NICFEC and international observers such as the UN Special Representative for Human Rights and Human Rights Watch, view the village chiefs as perpetrators of electoral or criminal offences and demand that the state punish the offenders according to law, arguing that this is the constitutional responsibility of the government. The inability to reconcile these viewpoints led to the escalation of this conflict and the claim by SRP and FUNCINPEC that the NEC was in collusion with the CPP in an orchestrated campaign of intimidation and vote-buying, by means of village chiefs. This claim featured prominently in SRP and FUNCINPEC statements after the election, and as of early November 2003, has not been resolved.

4.3 Conflicts over Access to the Broadcast Media

Our commune level case studies indicated that, after village chiefs, the broadcast media was the second most important source of information for voters during elections. For these reasons conflicts over political party access to the media are significant for the overall quality of the election. The media appeared to be a sector in which few structural changes have occurred since 1998, despite the emergence of serious conflicts and widespread criticism of the media's performance by local and international observers. A number of conflicts occurred over access to the media in 2003, including a conflict over the right of a local radio station to relay broadcasts of Radio Free Asia (RFA) and Voice of America (VOA); a conflict between the NEC and radio stations over the status of NEC guidelines for media activities during the election campaign period; and conflicts over a new UNDP initiative called the "equity access programme." However, access to the media for campaigning did not emerge as a central aspect of conflict after the elections, suggesting that these conflicts were successfully resolved.

4.3.1 Structure of the Cambodian Media

As noted in Chapter 2, there has been little change in the structure of media ownership since 1998. The Sam Rainsy Party has continued to request a frequency from the government for its own radio station, but this request continues to be denied. Of the privately owned stations, one, Ta Phrum Radio, has adopted an editorial line strongly supportive of FUNCINPEC. Concerns were raised in June 2003 about the potential downgrading of FUNCINPEC's influence in the media, when the deputy director of Radio FM96 MHz, a FUNCINPEC member named Nouv Sovathero, was replaced by a CPP member, Touch Sareth. This prompted complaints from Minister of Information Lu Laysreng, who was not consulted about the charge, that "media coverage is unfair."¹⁸¹

One radio station, Women's Media Network, which is run by a non-governmental organisation, is widely considered to be neutral. Radio Free Asia staff interviewed in 2003 commented that since 2002, they had developed better relations with the CPP, and were broadcasting more news about, and interviews with, its members. Although RFA and VOA are both widely considered within Cambodia to be pro-opposition, RFA staff claimed that they never editorialised in favour of one party or another, and only reported news.¹⁸² All the other Khmer language television and radio stations broadcasting in Cambodia are widely considered to be pro-CPP.¹⁸³

¹⁸¹ Far Eastern Economic Review, "Intelligence," 3 July 2003, posted online to Camnews.

¹⁸² Radio Free Asia reporter (56), personal interview, Phnom Penh, 4 July 2003.

¹⁸³ See for example, COMFREL, "Media Monitoring Preliminary Findings," Press statement, 8 Aug 2003; EU Election Observation Mission, "Preliminary Statement," press release, Phnom Penh, 30 July 2003; Special Representative for Human Rights in Cambodia, "The Situation of Human Rights in Cambodia," report to UN General Assembly A/58/317, 22 Aug 2003, Summary.

A number of media monitoring projects, carried out during the 1998 and 2002 elections, indicated that the CPP and its members received much more coverage on Cambodia radio and television overall, than any of the other parties. In 1998, for example, the United Nations Cambodia Office of the High Commissioner for Human Rights reported that, in the month of May, Hun Sen appeared on state radio and television 170 times, compared to five appearances each for Prince Norodom Ranariddh and Sam Rainsy. In June the figures were 186, 17 and 12 respectively. On private television, disparities were also noted. For example, in the first two weeks of July 1998, the CPP was featured 446 times on private television news, compared to six times for FUNCINPEC and nine for the SRP.¹⁸⁴

In 2002, in the period surrounding the commune elections, COMFREL organised a similar media monitoring exercise. COMFREL observed “a selection of the most popular electronic media (including state-owned TV and radio) for the access they provided to political parties during the election process.”¹⁸⁵ The channels selected included a mix of six state and private television channels and seven state and private radio stations. It should be noted that the latter did not include either Beehive Radio (105 MHz), identified by The Asia Foundation’s survey of voters in 1993 as the fourth most popular radio station,¹⁸⁶ or Ta Phrum Radio (90.5 MHz).

COMFREL’s monitoring exercise suggested that the situation had deteriorated between 1998 and 2002, and that the electronic media’s coverage of the commune elections offered even less basis for voters to decide between political parties than in 1998. Overall, COMFREL found that the stations showed very little political coverage. COMFREL’s report stated “During prime time, several channels observed never broadcast a report on election preparations and campaigns and never interviewed any political representatives or candidates.” The report added that news programmes were dominated by “activities of the government and CPP members, including commune chiefs giving gifts to the population. FUNCINPEC and Sam Rainsy Party were very briefly covered and the remaining parties competing for the commune elections were usually ignored.” The report commented also that no free time for broadcasting campaign spots on state channels was awarded. Most parties did not pay for advertising. The report noted that “during prime time one single political debate [took place] during which four candidates only had a few seconds of speech opportunities.”¹⁸⁷ In 2002, the European Union sponsored a programme to monitor the state television news and found that only the three main parties were covered at all. Of these, the CPP received 88 percent of the coverage, FUNCINPEC 12 percent, and the SRP less than one percent.¹⁸⁸

The practice of journalism in Cambodia is adversely affected by a number of factors. One important factor is economic. The problem of gaining sufficient revenues, for example from advertising, in Cambodia’s impoverished economy, means that journalists are very poorly paid and media organisations are often reliant upon wealthy patrons. The practice of offering journalists money for favourable coverage – and of journalists denying favourable coverage to those who can’t or won’t pay – is reported to be widespread. In the mid-1990s, a common explanation for the poor quality of Cambodian journalism was that Cambodian journalists lacked technical capacity to produce high quality news. Training schemes by international and national NGOs have been ongoing since the early 1990s to attempt to redress this

¹⁸⁴ Information extracted from Hughes and Real, *The Nature and Causes of Conflict Escalation in the 1998 National Elections*, Phnom Penh: CDRI, 2000.

¹⁸⁵ COMFREL, “Final Report of the Media Monitoring, for the Period of 4 January to 8 February, 2002,” Phnom Penh, 2002, 2.

¹⁸⁶ The Asia Foundation, “Democracy in Cambodia – 2003, a Survey of the Cambodian Electorate,” draft report, Phnom Penh, 16 May 2003, Appendix 1, Table 12.5.

¹⁸⁷ COMFREL, “Final Report of the Media Monitoring, for the Period of 4 January to 8 February, 2002,” Phnom Penh, 2002, 17.

¹⁸⁸ UNDP representative (2), personal interview, Phnom Penh, July 2003.

shortfall. By 2003, reportedly, a cadre of well-qualified and highly competent journalists exists in Cambodia as a result; however, structural factors such as the political control of their media organisations and the lack of funds prevent them from using their skills.

A further factor affecting the practice of journalism is the question of violence. Through much of the 1990s, pro-opposition journalists were the victims of violent attacks and assassinations. This has become much less frequent since 1998, although some accounts of newspaper reporters being arrested or attacked after writing articles critical of either the central government or local officials emerged in 2002. Following the anti-Thai riots in 2003, the owner of Beehive radio station, Mam Sonando, was imprisoned but later released. Following the 2003 elections, Chuor Chetharith, an editor from Ta Phrum Radio Station was shot dead. The Cambodian Human Rights Action Committee commented, "it appears that the killing was meant to be a strong message to the media in Cambodia to repress the freedom of expression guaranteed by the Constitution of Cambodia and international covenants and treaties adhered by Cambodia."¹⁸⁹

4.3.2 Rights of Freedom to Broadcast and Access to Media

It was noted in CDRI's report on the 1998 elections that this view was disputed by the Secretary of State for Information, H.E. Khieu Kanarith, who pointed out that opposition parties enjoyed the support, in particular, of the Beehive radio station, Ta Phrum Radio (90.5KHz) and the Khmer language broadcasts of Radio Free Asia and Voice of America. The latter two stations, he commented in 1999, "have powerful transmitters and can be heard over a long distance." In 1998, the question of whether parties other than the CPP had had sufficient chance to use broadcast media for campaigning depended to a great extent upon whether these two stations' broadcasts were included in the "Cambodian media". While international observers tended to exclude these from the definition of "Cambodian media," Khieu Kanarith saw them as an important part of the news services available to the Cambodian public, and as guarantees of opposition access to the airwaves.¹⁹⁰

In 2003, these four stations continued to provide coverage for opposition parties. The RFA and VOA services have been upgraded through a deal with the Beehive radio station, which has begun to relay RFA and VOA broadcasts through its FM channel, which provides better quality reception of the stations, at least in central Cambodia. The status of these relays was equivocal at first. A representative of Beehive Radio Station said the station began relaying RFA and VOA broadcasts on 1 July 2003, but that the station received a visit from one of Khieu Kanarith's staff members "to tell us to stop, don't broadcast, and if not he will call the police to close."¹⁹¹ COMFREL and NICFEC reported in a joint statement on the matter that Khieu Kanarith argued that this action was taken because Beehive had not applied for a license from the NEC to broadcast VOA and RFA news during the elections.

¹⁸⁹ Cambodian Human Rights Action Committee, "CHRAC Denounces Murder of Ta Prom Radio Station Editor," Press release, Phnom Penh, 18 October 2003.

¹⁹⁰ Caroline Hughes and Real Sopheap, *The Nature and Causes of Conflict Escalation in the 1998 National Election*, Phnom Penh: CDRI, 2000, 23.

¹⁹¹ Beehive Radio Station representative (57), personal interview, Phnom Penh, 8 Aug. 2003.

COMFREL and NICFEC noted, however, that “there is no regulation that states that media must apply for the license from the NEC to cite news from various sources and broadcast them,” and that their own media monitoring suggested that this practice was widespread. They voiced concerns that the attempt to block Beehive’s broadcast represented a violation of constitutionally guaranteed rights of freedom of expression.¹⁹² A Beehive representative said that following this visit the station asked for permission from the NEC to broadcast relays from RFA and VOA about the election, and was told that as the radio station was a legal station, the NEC had no power to prevent it from doing so. This decision was subsequently officially confirmed by the Minister of Information Lu Laysreng. Since the election, the Beehive Radio Station has acquired a more powerful transmitter to extend the range of this service.

More generally, the question of whether the opposition parties have the opportunity to express their views over Cambodia’s airwaves is a contested question in 2003, as in 1998. The existence of Ta Phrum and Beehive Radio Stations, as well as RFA and VOA, does offer an opportunity for voters to listen to coverage of parties other than the CPP, if they wish to. COMFREL’s media monitoring survey of 2003 showed that:

Voice of America (third most listened to station in the northeast, fifth most popular nationally) covered ten political parties in the news, granting the most coverage on a political party inside and outside the news to the Sam Rainsy Party. The second most popular station in Phnom Penh, FM 105, granted 11 parties coverage in the news granting the Sam Rainsy party the most coverage on a political party inside and outside the news. FM 90.5, FUNCINPEC's radio station (no listener figures available) granted nearly 100% coverage to FUNCINPEC, both inside and outside the news.¹⁹³

Clearly, if voters dislike the pro-CPP message of many of the radio and television stations, they do have an alternative. At the same time, technical factors, such as the strength of the signal, or non-political aspects of programming, may significantly affect listening choices. In this case, the consistent dominance of just one political party in electoral coverage could be seen as adversely affecting the opportunities of other parties to campaign via the most popular channels. The greater coverage of the CPP in the state media adds the extra concern that the state itself appears to be endorsing a particular political party, violating the principles of state neutrality and separation of party and state that characterise models of liberal democracy.

A further aspect to this issue was the decision of private television stations in 2003 to refuse to accept all political advertising from political parties, and to avoid broadcasting news of the general elections or political campaigning, announced in June. This decision was a response to the guidelines of the NEC which demanded that all media should accept political advertising on an equal basis from political parties, and should adopt a balanced approach to news. Although the news black-out applied to all political parties equally, it severely limited access to the media by non-government parties in particular. At stake in this issue was the distinction between news about political parties and news about the government – media monitoring projects have shown that private television station news bulletins are dominated by news of the government, and particularly by senior government ministers participating in gift-giving ceremonies. Consequently, the decision to continue to broadcast news about the government, but not about political parties, removed any opportunities for non-government politicians to express their views via this media, while continuing to offer a high profile for government parties.

¹⁹² COMFREL, NICFEC and Youth Council of Cambodia, “Joint Statement on Concern of the Violation of the Freedom of the Media concerning the Warning to Shut Down FM 105 Sambok Khmom (Beehive Radio) by a High-Ranking Ministry of Information Official,” press release, Phnom Penh, July 10, 2003.

¹⁹³ COMFREL, “Media Monitoring Statement,” press release, Phnom Penh, 6 August 2003.

The issue also highlighted economic constraints on the development of independent television in Cambodia. The decision by private stations to refuse paid political advertisements, in a context where the commercial advertising market is very small, suggests that these stations are economically dependent upon political patronage, rather than on advertising. This is significant, in that it makes the favour of political patrons more important to the financing of the station, than the favour of viewers, and renders television stations relatively unresponsive to viewers' interests and preferences. This militates against the emergence of a politically-independent and democracy-enhancing media.

However, a number of steps were successfully taken in 2003 to attempt to improve the equality of access of political parties to the media, and to try to increase the quality and quantity of political coverage available to the population. There were three major initiatives: the preparation of a regulatory framework and set of guidelines for the media; the establishment of an "equity access programme" run by the United Nations Development Programme; and the re-establishment of the equal access programme for political parties to broadcast campaign spots on state television and radio. A number of other initiatives also emerged, including the much more widespread practice of organising and broadcasting televised and recorded debates between political parties, and call-in question and answer shows where politicians answered questions from the public. However, both the NEC guidelines and the equity access programme themselves were sources of conflict.

4.3.3 Conflict over NEC Guidelines

The election law contained three articles, which remained unchanged from 1998, of relevance to the role of the media in the election campaign. Article 74 permitted the NEC to use all media outlets at no cost for publicising the election and conducting voter education. Article 75 provided for NEC organisation of an equal access programme, providing an equal amount of time to each political party to broadcast their campaign spots. Article 76 called for "political parties and candidates [to]... refrain from using violence, abuse, or contemptuous remarks, causing fear, confusion and loss of confidence in the secrecy of the ballot."¹⁹⁴

In elaborating these articles, the NEC wrote a number of provisions for the media into its NEC Regulations, as well as providing a special Annex to the regulations entitled, Guidelines for the Media. The regulations included two major constraints on the media. First, the private media were required to accept paid political advertising from political parties on an equal basis. If they accepted advertising from one party, they were required to accept it, at the same rates of pay, from any other party wishing to broadcast. Second, the content of any political advertising or propaganda broadcast via the media had to avoid the use of images or language that were "insulting, threatening, abusive, contemptuous or immoral," that could incite violence, lead to loss of confidence in the secrecy of the ballot, spread fear, confusion or civil disorder, or that contained inaccurate information about the election."¹⁹⁵ The NEC warned that, "The broadcast, dissemination or publication of educational and propaganda materials that are found to be in violation of the above provisions can be ordered by the NEC to withdraw, remove or cease the broadcast and use of those offending materials."¹⁹⁶

The NEC also produced guidelines for the media, and demanded observance of these by all state and private media on the basis of the importance of the broadcast media for elections:

¹⁹⁴ Law on the Amendment to the Law on the Election of the National Assembly, as amended 2002, Arts. 74-6.

¹⁹⁵ NEC Regulations, 7.13.8.1-7.13.8.4.

¹⁹⁶ NEC Regulations, 7.13.8.5

“The voters have the right to make a choice based on the information they have received. This right requires both the State and private media to have an obligation to follow the Guidelines for the Media as stated in the annex in order to allow for the free and fair election.”¹⁹⁷

The guidelines required the media to prioritise election coverage, to provide “accurate, impartial and balanced information,” to avoid inflammatory or offensive language in reporting on issues that could encourage civil disorders or incite violence.” Journalists were to avoid being influenced by gifts, and should promote the status of women and the handicapped in their reporting.

Certain guidelines were directed specifically at the state media. The state media was enjoined to “make a distinction between the coverage on official duties of government representative and election campaigning activity carried out on behalf of a political party or a candidate.” Furthermore, state journalists and reporters were warned to “refrain from showing any political preference, disdain or contempt by the tone of their voice or other explicit behavior.” Finally, the state media was required to “demonstrate the highest standards of journalism” and to “provide accurate and impartial coverage of news and current affairs in such a way that ensures balance, based on equitable principles for all political parties contesting the elections.”¹⁹⁸ The NEC also noted that any state or private media that failed in their duties “shall be responsible before the law.”¹⁹⁹

Once the campaign had begun, the adherence of private media stations to these guidelines was observed to be less than satisfactory. In its report on the first two days of the election campaign, the NEC commented that “several private radios and TVs acted partially by broadcasting speeches of a few parties only.”²⁰⁰ In particular, criticism was mounted regarding FUNCINPEC’s Ta Phrum radio station, which was accused of broadcasting both insults towards the Prime Minister, and racist remarks about ethnic Vietnamese, and Radio FM 103, which was accused of allowing callers to insult Prince Ranariddh and Sam Rainsy.²⁰¹ In response to this, the NEC issued an “appeal” to the private media, on 28 June, followed by an “ultimatum” on 7 June. The ultimatum reiterated that all media should “avoid using abusive, insulting, inciting, intimidating and immoral languages which cause fear, confusion and disorder to the society and electoral climate,” and that the media “shall provide accurate, non-biased and balanced information.” The ultimatum added that broadcasting about political parties “shall be based on the principles of equity for all.” The NEC threatened to suspend the broadcasting of any media that persisted in violating these principles, until after the election.

The ultimatum was reported to have been immediately successful in taming radio broadcasting, but the refusal of Ta Phrum Radio to cease its controversial broadcasts soon led to a reversion to form by the pro-CPP radio stations also. At this point the NEC discovered that it did not have the powers, in law, to suspend media stations. This discovery led to criticism of the NEC as a “paper tiger”.

Like the conflict over the role of village chiefs, the conflict over violation of media guidelines during the election campaign showed clearly the limits to the NEC’s powers. Whereas in the case of the village chiefs, the NEC achieved some cooperation with the Ministry of Interior to issue joint directives and to eventually suspend some offenders, such cooperation with the Ministry of Information did not occur. In both the conflicts related to the me-

¹⁹⁷ NEC Regulations, 7.20.1.

¹⁹⁸ NEC Regulations, Chapter 7, Annex, Guidelines for the Media.

¹⁹⁹ NEC Regulations, 7.20.2.

²⁰⁰ NEC, “Report on the Two First Days of the Electoral Campaign,” press release, Phnom Penh, 28 June 2003.

²⁰¹ COMFREL, “Media Monitoring Unit Summary Report 5,” July 19-July 25, 2003.

dia outlined above, the Ministry of Information and the NEC appeared to be working at cross-purposes; in the case of Beehive Radio, the Ministry threatened to close a radio station, even though the NEC found that its broadcasts did not violate the Election Guidelines, whereas when the NEC tried to control broadcasters who did violate the guidelines, assistance from the Ministry of Information was not forthcoming. The problem is perhaps exacerbated by the fact that within the Ministry of Information, the Minister, Lu Laysreng, and Secretary of State, Khieu Kanarith, frequently disagree on conflicts related to the media.

In attempting to control the media during election campaign periods, the NEC takes on the task of attempting to transform, temporarily, the attitudes and practices of an institution that suffers from unresolved and ongoing political and economic problems. CDRI's study of the 1998 election reported that interviewees "who were critical of the electronic media often spoke of aspects of broadcasting which lay outside the NEC-regulated sphere." It commented further that the weakness of the media as an institution in Cambodia – a weakness perpetuated and exacerbated by a lack of security and a lack of transparency on the part of government, as well as by economic constraints – entailed that transforming it during electoral periods would be very difficult. In 2003, the same situation continues. While there are many well-trained and capable journalists in the country, the institution of the media remains weak. Better cooperation within the Ministry of Information, between the Ministry of Information and the media, and between the Ministry of Information and the NEC might assist the NEC to wield greater authority over the media during election time; but if democracy is understood as extending beyond electoral periods, then the media needs to be structurally reformed.

4.3.4 The Equity Access Programme

Between 1998 and 2003, the type of election coverage shown on the state media was greatly expanded. In 1998, in response to threats by SRP and FUNCINPEC to boycott the election, the NEC introduced the equal access programme, in which five minute campaign slots were offered to each political party to disseminate their political platform on the state media during the election campaign. In 2002, this programme was not repeated. In 2003, however, it was re-established and supplemented with a new "equity access programme" designed to expand access to the media beyond specially designated campaign spots, into the television news itself.

As documented above, the unequal treatment of political parties by television news editors had long been a concern to media monitors in Cambodia. The equity access programme was designed to redress this, by allocating a certain time period on the nightly news to "election coverage" and apportioning different percentages of this election coverage to the various parties, depending upon their importance. The aim was "to provide financial and technical support to the Ministry of Information to provide equitable news coverage on state media of political party activities in the lead up to the 2003 National Elections."²⁰²

A key aspect of the equity access campaign was that it did not provide equal airtime to every party registered, but provided more airtime to parties presumed to have more popular support. The rationale for this was that the news was intended to serve the public interest, rather than the interests of political parties, and that the interest of the public was directed primarily at the main contenders in the election. The calculation of allotted airtime was made using a formula which took into account percentages of seats and votes gained in the elections in 1998 and 2002. This formula generated a split of 56 percent for the CPP; 27 percent for FUNCINPEC; 13 percent for SRP; and 3 percent for other parties. These figures were then adjusted to take into account a number of other factors. These included: the fact that the CPP and FUNCINPEC had been members of the government meant that they had gained more

²⁰² UNDP, "Equity News, a Breakthrough in Cambodian Broadcasting," report, Phnom Penh, Aug. 2003, 2.

electoral coverage over the last five years; the fact that the SRP was the main opposition party justified special treatment; the fact that FUNCINPEC's share of votes and seats over the past three elections showed it was on a downward trend, while the SRP was increasing in popularity. All these factors justified taking a certain proportion away from the CPP and allocating it to the small parties, and the main opposition party, while leaving FUNCINPEC's percentage the same. Airtime was finally divided as follows: CPP 44%; FUNCINPEC 27%; SRP 19%; other parties 10%. In addition to facilitating coverage for parties other than the CPP on state television and radio, the Equity Access Programme also attempted to improve the quality of television news, by including more direct interviews and sound bites from politicians, more comments from people in the street, more coverage of controversial issues, and the reading of emails and letters received from viewers.

The United Nations Development Programme implemented the programme, using an expatriate media advisor and project coordinator to manage the percentages, and oversee on editorial decisions, in order to minimize the risk of bias creeping into the programme. The framework for the project allowed it to operate independently of TVK executives outside the core team assigned to the project, minimizing the risk of political interference. The main difficulties identified by the UNDP in the implementation of the programme were technical difficulties, resulting from the wrong kinds of equipment being supplied, or equipment arriving late.

Two major conflicts emerged as a result of this programme. The first conflict arose when the SRP announced early in the election campaign that they had withdrawn from the programme, alleging that the coverage of their party's activities was more negative than the coverage of other parties. An SRP representative stated the party's complaints as follows:

*"I have monitored the quality of the two minutes that we have [out of every ten] and there is a glaring bias. For example, during the opening day of the campaign they shot some pictures of our rally and claimed about 2,000 participants were there. That is not true, there were at least 10,000."*²⁰³

In addition, the party complained about policies for selecting people on the street to comment on the events:

"In the segment on the CPP they picked up a youth leader. But in our programme they just picked up a supporter on the street. So there is a different quality of comment: in one, there is a committed party leader and in the other, just a supporter on the street."

This became worse, according to the SRP, the following day when the SRP visited a market and spoke to vendors.

"They picked up a merchant talking about her doubts that the SRP can implement their promises. But in the CPP segment, all the interviewees are CPP members, they all talk about how fantastic the CPP is."

A further issue was the poor quality of film on which an SRP segment was recorded. As a result of these criticisms, the SRP issued a statement saying that the party planned to withdraw from the equity access programme.

The dispute between the SRP and the UNDP eventually died away, even though efforts at conflict management were quite limited. The SRP representative claimed that initial requests by the SRP to meet with UNDP officers to discuss the issue were ignored, and that the SRP's criticisms were not taken seriously by UNDP. When the NEC asked the SRP to negotiate with the UNDP, the SRP argued that there was no point in negotiating if the UNDP be-

²⁰³ SRP national representative (3), personal interview, Phnom Penh, 10 July 2003.

lieved the programme could not be improved. Later, the SRP joined discussions with the UNDP, after the UNDP media advisor gave an interview on Radio Free Asia, which the SRP viewed as containing an admission that there might be room for improvement in the Equity Programme.²⁰⁴

A UNDP official interviewed for this study in August maintained, however, that dispute was essentially a publicity stunt by the SRP – “Whenever there is an initiative, the SRP get visibility by criticising it.” He added: “I don’t blame them for doing it; after all they have no access to the media.”²⁰⁵

The NEC adopted a mediation role in the affair, but this was not always successful. The SRP said that the SRP had come to an arrangement with the NEC whereby the SRP could send a representative to collaborate on the filming of SRP segments, but this was later rejected by the UNDP. An SRP representative commented:

*“The NEC is quite helpful – we have a good working relationship with the NEC – but they are weak. In this programme they leave everything to UNDP – then they proposed this compromise but the UNDP wouldn’t accept it. No one takes any notice of the NEC – the UNDP are supposed to be working for the NEC.”*²⁰⁶

The UNDP were more critical of the NEC’s efforts: their own report on the dispute said that the NEC’s efforts at reconciliation had caused “the concept of news [to become] even more distorted” and that “If the NEC’s suggestion had prevailed, independent journalism would have turned into a fiasco.”²⁰⁷ The UNDP claimed that the matter was eventually “smoothed over” once the UNDP had explained its editorial decisions. On 18 July, an SRP representative commented that the Equity News coverage of the SRP appeared to have improved. While it is beyond the scope of this study to adjudicate between the different claims made on this dispute, it is clear that different participants had different perceptions of what the SRP’s main criticisms were, and of their validity. The conflict appeared to hinge upon different conceptions of what balanced news coverage meant and the UNDP dwelt at length on this topic in its own report on the project. UNDP’s continuation of broadcasting news about the SRP, despite its “withdrawal” from the programme, effectively limited the party’s opportunities to disrupt the programme, and the subsequent admission of the SRP that the coverage was now considered acceptable suggested that the conflict would not finally affect the overall assessment of the integrity and freedom of the elections. The fact that the programme was judged to have been a great success by electoral monitoring organisations, who monitored for negative and positive content, as well as for quantity of time, was important in validating UNDP’s efforts.

However, broader criticisms of the framework of the programme were made by the smaller political parties, who between them received an allotment of 10 percent of the news programme. Small political parties surveyed for this study were uniformly critical of the unequal division of time. The NEC and UNDP held a workshop in June to try to convey to all the political parties the principle of equity used in determining the percentages of time allotted to each party. One UNDP representative commented that the small parties “didn’t get it on the day, and didn’t get it all the way through. That was just a casualty of the process.”²⁰⁸ A survey of the small parties, conducted for this study, confirmed this view. Of eleven small parties

²⁰⁴ Information from SRP national representative’s account of the conflict (3), personal interview, Phnom Penh 10 July 2003.

²⁰⁵ UNDP representative (2), personal interview, Phnom Penh, 4 Aug 2003.

²⁰⁶ SRP national representative (3), personal interview, 18 July 2003.

²⁰⁷ UNDP “Equity News...” 15.

²⁰⁸ UNDP representative (2), personal interview, Aug. 4 2003.

surveyed about access to the media, all except one believed that access was unfair, and dominated by the big parties. Comments about the equity access programme specifically included:

“The equity programme on TVK is very biased. They do not give many chances to the small parties to reach more people.”²⁰⁹

“We want to decry the equity access programme on TVK. The programme is not fair at all. They give 90 percent to big parties, and ten percent to small parties, it is clearly not equal and fair competition. Moreover, sometimes they air the small parties campaigns, and sometimes they don’t.”²¹⁰

“The equity programme is very unfair. Big parties can have more time while small parties have very little time. For example, ruling parties have their own television and radio, and they can still get more time from the equity programme. This is very unfair for small parties.”²¹¹

“I’m very unhappy with the formulation that they use to divide time for each party. Even if we’re not happy we can’t do anything because we’re a small party. For a small party like us, one minute on air is very vital.”²¹²

“We are very dissatisfied with [the Equity] programme. We want to criticise this programme publicly, because it serves the benefit of the ruling party.”²¹³

“I want all the parties to be equal for the campaign, so that we can compete with justice. I don’t want to see anything unequal, like the equity programme on TVK.”²¹⁴

The position that all parties should be considered equal and offered equal time accorded with the principles informing previous media access programmes, including the equal access programme of 1998 and the Radio UNTAC programming of 1993. From 1993 onwards, international initiatives towards Cambodia were supportive of small parties, seeing their emergence as a guarantee of the increasing pluralism of Cambodian society. The equity programme, by contrast, downplayed the importance of the small parties, arguing that voters were demonstrably more interested in the big parties and that the big parties deserved more time because they represented the interests of more voters. In this respect, the UNDP’s concept of equity, although justified in accordance with democratic models of the role of the press, went against the spirit of international attitudes to electoral democracy in Cambodia that had prevailed for most of the 1990s. The refusal of small parties, and even the Sam Rainsy Party, to shift their idea of democracy from one based upon equality among parties, to one based upon equity among parties according to their popular support, was understandable and, perhaps, predictable.

The dissatisfaction with the equity access programme among small parties should be considered, however, against UNDP’s reports of emails from many satisfied viewers, who enjoyed the format and felt that the programme gave them better information on which to base their voting decision. UNDP repeatedly emphasised that the news programme was intended to serve the interests of voters rather than political parties.

²⁰⁹ Farmer’s Party representative (58), personal interview, 14 July 2003.

²¹⁰ Khmer Angkor Party representative (59), personal interview, 14 July 2003.

²¹¹ Norodom Chakrapong Proloeng Khmer Party representative (60), personal interview, Phnom Penh, 16 July 2003.

²¹² Union of National Solidarity Party representative (61), personal interview, Phnom Penh, 21 July 2003.

²¹³ Hang Dara Democratic Movement Party representative (62), personal interview, Phnom Penh, 21 July 2003.

²¹⁴ Liberal Democratic Party representative (63), personal interview, Phnom Penh, 22 July 2003.

A further “unstated” aim of the Equity Programme was that the livelier and more viewer-oriented style of programming might provoke a cultural change within TVK, and the Cambodian media more broadly. However, television news programmes in fact returned to the normal government-oriented coverage shortly after the election, with reports emerging that those journalists who had been involved in the Equity Programme were discouraged by senior TVK and Ministry of Information officials from continuing to experiment with critical reports.²¹⁵ The hope that the demands of viewers would outweigh political interests in retaining firm control of the media was perhaps unrealistic given that the relative dearth of a television advertising market renders dependence upon political patrons more pressing. Ratings wars are unlikely in this context, and the chances that a popular and innovative but politically challenging programme like the Equity programme will continue are thus reduced.

Although the aim of promoting a long-term reorientation of the Cambodian media was secondary and unstated, it is important. The success in providing a short-term programme that could legitimise the elections, while failing to promote longer-term structural change in media ownership runs the risk of actually deferring any fundamental reform. The small parties interviewed for our study all believed that the main injustice in the media in Cambodia was the dominance of private media by the big parties.

Overall, then, the equity programme achieved its major objective – the opening of Cambodian state television and radio news to more parties than previously, and particularly to the Sam Rainsy Party. This effort was judged by media monitors such as COMFREL to have been successful, in both quantitative and qualitative terms. Feedback from viewers suggested that viewers enjoyed the programme and found it helpful in determining their voting choice. The shortfalls of the equity programme lay in the failure of the organisers to appreciate the strength of resistance, among the SRP as well as the small parties, to a concept of equity which not only differed from previous principles of international engagement with political parties, but which also went directly against the interests of these parties. While the organisers of the programme repeatedly tried to justify their stance, they appeared unprepared for the conflicts that were likely to arise with the small parties and the SRP, and found these conflicts, consequently, difficult to manage.

4.3.5 Outcomes of Conflicts over Access to the Media

Taken together the various programmes for improving access to the media were successful in significantly opening up access to the Sam Rainsy Party, and opening access to some extent for the small parties. COMFREL assessed the situation on the state media as follows:

“It should also be noted that across all programmes on the state media, the coverage allocated to the three main parties was more or less balanced, with CPP receiving 1% more than FUNCINPEC and the Sam Rainsy Party. The radio environment also showed itself to be more open and dynamic with the broadcasting of political debates, round table discussions, interviews with party leaders, and political advertisements on some radio stations.”

However, on the private television stations, COMFREL stated that the situation was unchanged. On TV5 and TV3, the two most popular channels, “the majority of the political news coverage was dedicated to the government and the Prime Minister, and the CPP was the only party to be mentioned.”²¹⁶

Evidently the opening of state television and radio was sufficient to defuse the issue as a source of conflict between the big parties, and lack of media access was not raised as an is-

²¹⁵ Kuch Naren and Porter Barron, “After Elections, TVK Gets Back to Normal,” Cambodia Daily, 11 Aug 2003, 17.

²¹⁶ COMFREL, “Report of Media Monitoring,” press release, Phnom Penh, 6 Aug 2003.

sue by the SRP and FUNCINPEC when they refused to accept the election results. For the small parties, our survey showed a continuing high level of dissatisfaction, but their continued extremely poor showing in the vote after ten years of equal access programmes suggests that their lack of exposure in the media may be justified by lack of public interest.

4.4 Conflicts over Resolution of Complaints

As in previous elections, conflicts over resolution of complaints turned out to be some of the most significant problems for the election in 2003. In CDRI's study of the 1998 elections, NEC members reported that the NEC was overwhelmed by the number of complaints lodged, and had no procedures in place to deal with them. A particular problem in 1998 was that complaints were lodged at the national, rather than the local level, requiring the central NEC to investigate thousands of alleged violations occurring over the country. Insufficient time, resources and expertise had been provided for this task in the election timetable, and consequently the system broke down.

4.4.1 Procedures for Receiving and Resolving Complaints

In the Amendments to the Election Law passed in 2002, new articles were added to establish a procedure for receiving and resolving complaints, and these were supplemented in the NEC's regulations. The regulations appeared to be designed to avoid a repeat of the problems of 1998. For example, the NEC's regulations for voter registration and election campaigning required complainants to submit objections to commune councils, during registration, and CECs, during campaigning. CECs were required to form a team for investigating complaints, including making field visits and questioning witnesses. If the investigation established that the complaint was valid, the parties to the conflict would be required to undergo an attempt at conciliation, before forwarding to a higher authority. Such procedures were stipulated for all offences except for criminal offences, which were to be forwarded to the court.

Similarly, the regulations for polling day stated that political party representatives should submit their objections to any aspect of the voting directly to the Chief of the Polling Station. Procedures were detailed whereby the Chief of the Polling stations was required to suspend voting to listen to the objection, and take action if necessary to resolve the problem. Where Chiefs of Polling Stations rejected the objections of political party observers, they were required by the regulations to provide reasons, to make a record of the incident, and to issue a form (Form 1202) so that the complainant could advance the complaint to the CEC. Complaints made after the end of the polling process would not be recognised.²¹⁷ On receiving complaints, the CEC was required to decide whether re-checking of election materials was required, on the basis of the evidence submitted by the complainant. If insufficient evidence was submitted, the CEC could reject the complaint.

At any stage in the election process, objections either to procedures at the CEC level, or with the outcome of complaints processes at the CEC level, could be forwarded to the PEC. On receiving a valid complaint, the PEC was required, first, to make further attempts at conciliation, and second, if conciliation failed, to hold a hearing.²¹⁸ Decisions of the PEC could be appealed to the NEC, where a further hearing would be held.

Strict timetables were established for hearings and appeals, usually allowing two days for appeals to be lodged. The regulations specified that,

²¹⁷ NEC Regulations 8.7.1-8.7.21.7; 8.16.1, 8.16.3

²¹⁸ Law on Election of Members to the National Assembly Article 111; NEC regulations 8.20.1; 11.1.4.5

“any appeals received after the duration provided for ... and those which are submitted to a PEC without enough documents and evidences shall not be accepted for ruling.”²¹⁹

Complaints rejected by the PEC could be appealed to the NEC within two days. The NEC could also reject complaints lodged too late, or without sufficient evidence.

For complaints related to the actual balloting process, procedures were specified in detail for the handling of election materials, including ballots, from polling or counting stations at which complaints had been lodged. This addressed a concern from 1998, when ballots from communes where complaints had been made were mixed in with ballots from elsewhere and could not subsequently be retrieved for checking. The procedures also established that complainants had the right to be present when ballots were rechecked or recounted. At every stage, the handling of extra materials was designed to ensure that, if officials decided it was necessary in response to a complaint, either the consolidated results from different levels could be rechecked, or the ballots themselves could be recounted. If NEC officials then decided that the results could not be accepted, revotes could be organised.

However, throughout the regulations on handling complaints, no grounds for decision-making, for imposing penalties, or for deciding what steps were necessary to redress the problem were specified. Decisions as to whether evidence and information provided by the complainant was “sufficient” to support the complaint, and what steps were necessary to resolve valid complaints – for example, with regard to complaints about polling or counting, recalculating results, recounting ballots, or holding a re-election – were entirely left to the discretion of officials, as far as the NEC’s regulations were concerned.

The regulations also allowed for three different types of hearings to be held, including: a summary judgement, where decisions were made only about issues of law, rather than about issues of fact; adversarial hearings, where the parties collect evidence to support contending accounts of events and question one another; and inquisitorial hearings, where the jury is also responsible for collecting facts and is mainly responsible for questioning witnesses. The selection of the type of hearing held in particular cases was at the discretion of the NEC.²²⁰

4.4.2 Criticism of Complaints Procedures

Criticisms of the complaints procedures fell into two categories: criticisms of the procedures themselves, and criticism of their implementation. As noted earlier in this report, many observers were highly critical of the facilitation process, which had little deterrent effect and frequently resulted in an outcome which was favourable to the most powerful party, even if that party had been the offender. The CLEC also noted that no records were kept of CEC facilitation in this way, so there was no possibility of assessing the consistency of practices from one commune to the next.²²¹ One CPP politician interviewed by the research team commented that the policy of the CPP was to try to promote the reconciliation of complaints against the CPP at CEC level, while insisting on the referral of complaints against other parties to the highest possible level, suggesting that the parties approached the process strategically, as a bargaining process which offered potential political advantages.²²² Such an approach to the resolution of complaints directly undermined the NEC’s authority to administer the election in an even-handed way, and left power in the hands of the parties to conflict.

²¹⁹ NEC regulations 8.22.1

²²⁰ NEC Regulations, 11.3.2.

²²¹ Community Legal Education Center (CLEC), “The Implementation of the Complaints Resolution Process during the 2003 National Assembly Election,” draft report, 13.

²²² CPP Working Group Leader (64), personal interview, Kompong Cham, 14 July 2003.

Beyond local level conciliation, however, the complaints process was perceived as onerous and difficult for the average citizen. The CLEC reported that their observation indicated that “the complexity of the complaint procedures and its system may have led potential complainants to abandon their cases.”²²³ The CLEC noted that the complaints form 1202 was frequently wrongly filled in, or not used. In some areas, officials were reluctant to give out the form, an observation supported by an SRP representative who stated:

“During counting they counted very fast. In the rules it says you can complain verbally and the president should stop the process to listen – and if they don’t you can write a complaint to submit. If I say, please slow down, they say, no, time is very limited. If you don’t agree submit a complaint. But when you request a form 1202, they say we don’t have it – they refuse to give you a 1202. Then when they receive your complaint, they say there is no proof or witnesses – but how can you prove the speed of counting. Do you need a tape recorder or a camera? When we request witnesses – you can’t use party agents as witnesses and others are scared of the CPP.”²²⁴

The CLEC also noted reports that individuals were dissuaded from complaining or witnessing complaints through fear of local authorities.

The SRP was highly critical of the new provision that complaints could be rejected if the complainant did not submit sufficient evidence. An SRP representative commented:

“I accused one foreigner [of registering illegally] by name, but they said the name is not enough. Also the accent is not enough proof. They said you can only complain if that foreigner has no legal naturalisation documents. But how can I have proof of that? The NEC should organise the hearing, request the foreigner to produce his naturalization documents. If I am expected to do it, then I am expected to do the police’s job too.”²²⁵

Similar criticisms were made by the Community Legal Education Centre (CLEC) in their own report on the complaints process in the 2003 elections. The Centre pointed out that not only did the rule demanding the submission of evidence make life difficult for political parties, but it almost ruled out completely the possibility that an ordinary citizen might be able to make a complaint. The CLEC commented:

“It can be argued that challenging election violations should be understood as being in the public interest, not the individual’s alone. This would suggest that a specialised body which has the ability and capacity to undertake the task should collect evidence.”²²⁶

Following the election, hundreds of complaints submitted by political parties were rejected by PECs on the grounds of lack of evidence.²²⁷ An SRP representative claimed that in a number of cases the NEC used the “lack of evidence” clause to avoid holding a public hearing into a particular matter. Undoubtedly, the clause requiring that evidence be submitted in support of complaints was inserted into the new regulatory framework in order to prevent the swamping of the NEC with complaints that could not be substantiated after the fact. However, the new requirements left the NEC with great discretionary power, particularly as the regulations included no guidelines as to the rules of evidence or standards of proof required. This

²²³ Community Legal Education Center (CLEC), “The Implementation of the Complaints Resolution Process during the 2003 National Assembly Election,” draft report, 16.

²²⁴ SRP national representative (12), personal interview, Phnom Penh, 7 Aug. 2003.

²²⁵ SRP national representative (12), personal interview, Phnom Penh, 7 Aug. 2003.

²²⁶ CLEC, “The Implementation of the Complaints Resolution Process During the 2003 National Assembly Election,” draft report, Phnom Penh, 9 Oct 2003, 18.

²²⁷ Yun Samean, “Re-Vote Unlikely as NEC Sheds Complaints,” Cambodia Daily, 6 Aug 2003, 13.

entailed that the parties were required to trust the NEC to make impartial decisions – and in the highly tense atmosphere following the elections, such a requirement operated poorly as a means of conflict management. The CLEC, which observed handling of complaints in 20 provinces, noted wide discrepancies in the way complaints were dealt with and decisions made. The CLEC also noted that complaint management was poorly handled, data was not kept systematically, no records were kept of verbal complaints, and lack of computer facilities meant that the ability to track complaints through the process was extremely limited. The work of the NECs and PECs could not be checked or monitored easily, allowing widely divergent interpretations of NEC decision making by political parties.

A further issue was the fact that the NEC was frequently presented with complaints regarding its own conduct or the conduct of its provincial and commune level staff. This was viewed as presenting a direct conflict of interest to the NEC, and observers remarked that the NEC was often the judge and the defendant in such cases. The CLEC noted that because of the inquisitorial system of hearings favoured by the NEC, the NEC was frequently the only actor in a hearing to be represented by a lawyer.²²⁸

4.4.3 Complaints Submitted

The major complaints submitted to the various levels of the NEC were related to the major issues of conflict outlined earlier in this chapter, namely, questions of legality of the registration of individuals of Vietnamese descent, objections that administrative arrangements for voting were confusing and disenfranchised large numbers of voters, and allegations throughout the election campaign of intimidation, vote-buying, disruption of campaign activities, confiscation of voter cards, and forced participation in oath ceremonies. Complaints about these activities have already been discussed. In these cases, the NEC relied heavily on reconciliation processes, rather than punishment, provoking accusations that the NEC lacked the power to control the election process.

Following vote counting, further complaints were made. The SRP focused in particular on the alleged failure of polling station officials to give the tally sheet, Form 1105, stating the results of the election at commune level, to political party representatives and observers.²²⁹

The SRP complained on the evening of counting day:

“The counting process was completed this afternoon, but a number of Commune Election Committees refused to issue to political parties Tally Sheet 1105 detailing the number of votes each party has received. The failure to issue the Tally Sheet promptly, in effect, violates the rules and regulations of the National Election Committee, providing ample opportunities for the CPP to amend the figures on the sheet to support their manipulated outcomes.”²³⁰

This complaint was publicly reiterated four days later, in a plea by the SRP to international observers not to recognise the results of the election:

“The rules and regulations of the NEC state that the tally sheet, Form 1105, must be given to political party agents immediately after the counting process is finished. This was not put into practice in numerous provinces and polling stations, where the tally sheets, at best, were only given very late on election night, some are even still being withheld up to today. It is too late now to do anything about it – there is a serious possibility that the ballots could have been manipulated during this time

²²⁸ CLEC, “The Implementation of the Complaints Resolution Process During the 2003 National Assembly Election,” draft report, Phnom Penh, 9 Oct 2003, 19.

²²⁹ NEC Regulations, 8.18.1

²³⁰ Sam Rainsy Party, “SRP Denounces the CPP’s Election Results,” press statement, Phnom Penh, 28 July 2003.

*with the corresponding tally sheets given late containing figures which have also been manipulated.*²³¹

The NEC later rejected complaints made on this basis, arguing that the regulations did not actually state that Form 1105 had to be given to political party agents immediately. However, the issue caused a great deal of suspicion, at a time when agents of political parties and election observers were deployed throughout the country, relaying their own notes of the election result by walkie-talkie back to provincial and national headquarters. In Kompong Cham, the research team found representatives of COMFREL and of the SRP had both noted significant discrepancies between accounts of the results relayed from their own representatives in the commune counting stations, and accounts given by the PEC when the ballots and forms arrived in Kompong Cham town. Although the COMFREL observer commented that the discrepancy could be due to mistakes in noting down numbers and the difficulty of establishing a clear line by walkie-talkie, an SRP observer contacted saw the discrepancies as clear evidence that the voting figures were being fiddled.²³² The late distribution of form 1105 permitted the impression that the figures were being “cooked”.

In raising complaints at the national level, the SRP focused on three areas of the country – Poipet, Kompong Thom and Svay Rieng. The reason for this focus was strategic – the SRP publicly noted that these were constituencies in which the SRP had come very close to gaining an extra seat. In Banteay Meanchay, where Poipet is located, the SRP required 1,498 more votes to get an extra seat, and claimed that this could easily have been achieved if 20,000 voters had not been prevented from voting in Poipet because the location of the polling station had been unexpectedly changed. Similarly, in Kompong Thom, the SRP needed only 375 more votes to get one more seat, and in Svay Rieng, only 146 more votes.²³³ In each of these cases, the extra votes would have allowed the SRP to take one seat from the CPP. This would have changed the overall election result to 70 seats for the CPP, 26 for FUNCINPEC and 27 for the SRP, permitting the SRP to become the second largest parliamentary party, while preserving FUNCINPEC’s allocation of seats.

The basis of the SRP’s call for recounts in Svay Rieng and Kompong Thom were discrepancies in the various tally sheets for noting down results, and between the results of the NEC and COMFREL. Although the numbers in each case were small, the SRP argued that they suggested a lack of accuracy which could easily have deprived the SRP of the small number of votes needed for an extra seat in these provinces. Consequently, the SRP demanded that the ballots in these provinces should be recounted. The NEC decided instead to review the various results forms from the commune specified in the SRP’s complaints. It issued a press release on 6 August which stated:

*“During a reconciliation session at the NEC headquarters that took place yesterday 5 August, 2003 with the Sam Rainsy Party, the NEC acknowledged some minor mistakes in the re-transcription of results in 14 communes of Svay Rieng province, but found an agreement with the SRP.”*²³⁴

It is significant that, later, the SRP denied any agreement had been reached and complained that the NEC’s response to its complaints had been inadequate, reflecting the lack of agreement over appropriate means of conflict management and, consequently, a lack of con-

²³¹ Sam Rainsy Party, “A Plea from the Sam Rainsy Party to International Observers,” press statement, Phnom Penh, 31 July 2003.

²³² Various personal interviews, Kompong Cham, 29 July 2003.

²³³ Sam Rainsy Party, “A Plea from the Sam Rainsy Party to International Observers,” press statement, Phnom Penh, 31 July 2003.

²³⁴ National Election Committee, “Agreement between the NEC and the SRP on Svay Rieng and Kompong Thom,” press release, 6 Aug 2003.

sensus over whether the conflict had been resolved. For example, in a statement on 7 August, the SRP claimed that:

*“There has never been an agreement, between the SRP and the NEC on Svay Rieng and Kompong Thom issues. The NEC’s claim of a reconciliation in its press release dated 6 August, 2003 is most regrettable, and totally misleading.”*²³⁵

The SRP claimed that the NEC had made a “request to “doctor” the figures to match them all up” – a request denied by the SRP representatives.²³⁶ Following this incident, the SRP and FUNCINPEC released a joint statement in which they claimed that “hundreds of thousands of voters ... voted in accordance to their conscience on 27 July 2003, but [their] votes were stolen or rigged because the NEC failed its tasks.”²³⁷ The SRP later also wrote in a letter to the King that “the CPP should have demonstrated its good faith by asking the NEC to proceed with a vote recounting for the two cases, in order to eliminate all doubts that are not baseless as witnessed also by several international observers.”²³⁸

The SRP further requested a revote in Poipet, arguing that the low turn-out of 45 per cent suggested that many voters had been disenfranchised by the moving of polling stations to a new place. The NEC also rejected this complaint on 5 August on the grounds of insufficient evidence, after an investigation, stating that information had been given to voters about the relocation, and the low turn-out was due to the highly transient population in Poipet, many of whom crossed into Thailand daily to work. The NEC added that the SRP had only produced 27 witnesses who claimed they had not been able to vote because of the moving of the polling station.²³⁹ The SRP and FUNCINPEC subsequently claimed that they were rejecting the results of the election,

*“on behalf of over one million registered voters whom the NEC came up with all kinds of ploys – including allowing confiscation of their voter cards, relocation of voting stations without sufficient notice, voter lists being marred with errors making it impossible for a large number of voters to find their names, and improper deletion of names from voter lists – to prevent them from voting on 27 July 2003 against their right and wish.”*²⁴⁰

For the small parties, also, the complaints process appeared unsatisfactory. The *Cambodia Daily* reported during the election campaign:

*“Most parties, aside from the CPP, have voiced their displeasure (over complaints resolution). “Two out of 10 of our complaints have been resolved,” said Hang Samrith, deputy secretary-general of the Hang Dara Democratic Movement Party. “It is useless to complain to the CECs, PECs and NEC because they are puppets of the CPP.”*²⁴¹

²³⁵ Sam Rainsy Party, “NEC Pressed to Release Misleading Press Release,” press release, Phnom Penh, 7 Aug 2003.

²³⁶ Sam Rainsy Party, “NEC Pressed to Release Misleading Press Release,” press release Phnom Penh, 7 Aug 2003.

²³⁷ Alliance of Democrats (FUNCINPEC Party and Sam Rainsy Party), “Joint Statement to Reject the Results of the Election Released by the National Election Committee (NEC),” press release, Phnom Penh, 8 Aug. 2003.

²³⁸ Sam Rainsy, Letter to His Majesty the King of Cambodia, Phnom Penh, 15 Sept 2003.

²³⁹ National Election Committee, “NEC Rejects a Complaint from Sam Rainsy Party Concerning Poipet Commune,” press release, Phnom Penh, 5 Aug 2003.

²⁴⁰ Alliance of Democrats (FUNCINPEC Party and Sam Rainsy Party), “Joint Statement to Reject the Results of the Election Released by the National Election Committee (NEC),” by the National Assembly, Phnom Penh, 8 Aug. 2003.

²⁴¹ Porter Barron and Thet Sambath, “NEC to Begin Hearing Party Complaints,” *Cambodia Daily* 15 July 2003, 13.

This latter comment underlines the extent to which performance on complaints is significant in the overall image of the NEC among political parties.

Overall, the experience of the complaints process in 2003 showed some important differences to that of 1998. Although it was often implemented poorly, there was a written complaints process in place in 2003, which represented an improvement over 1998. Furthermore, the parties were prepared to co-operate with the terms of the process, by attending conciliation meetings, filling in forms and providing evidence, as required. The strategic approach of the SRP in 2003 represents an improvement over the bombardment approach adopted by the losing parties in 1998, as it resulted in a manageable complaints process, which addressed only the significant parts of the country.

However, a large number of problems remained. Official high handedness and lack of cooperation in issuing forms and assisting complainants to submit them continues. The greater codification of procedures resulted only in a more burdensome process for individual complainants, while still leaving great scope for discretionary action on the part of officials, wide discrepancies in treatment of different cases, and poor data management and record keeping. The procedures also left the NEC in an equivocal position as both judge and defendant in a number of cases – a situation which was not conducive to promoting trust in the NEC's willingness to be held accountable. The refusal of the NEC to consider recounting in provinces where the second and third placements in the overall election result hung on extremely narrow margins of votes violates standard practice in most countries of the world.

As in 1998, the complaints resolution process was an extremely important part of the election process, and as in 1998, there is evidence that the reputation of the NEC sunk rapidly in the eyes of those complaining at this time. This part of the election process remains significantly underdeveloped, both in terms of the creation of authoritative institutions, detailed and usable legal frameworks, efficient management systems, and an atmosphere of cooperation and goodwill on the part of all political actors.

Chapter 5:

**Development of Conflict Management
Mechanisms in Cambodian Elections 1998 to 2003**

5.1 Impact of Processes of Change

5.1.1 Electoral Outcomes, 1998 to 2003

Most political actors contacted for this study agreed that the electoral process in 2003 was much better than that of 1998. During the election campaign, access to the media was much better than in 1998, as some early conflicts were quickly resolved, and there was much greater freedom for parties to campaign without fear across the country. Such complaints that arose were less to do with discrimination or intimidation against political parties, and more to do with discrimination or intimidation against voters. The conflicts over village chiefs and the conflict over registration were examples of the latter. Following the election, parties claimed that they had been discriminated against in the complaints process, and this represented the basis of the refusal by the Alliance of Democrats (an alliance between SRP and FUNCINPEC formed after the election) to enter the government.

As in 1998, many complaints were raised about the NEC's alleged weakness with respect to other actors – village chiefs, Ministry of Interior, Ministry of Information, the media. In contrast to 1998, far fewer complaints were made about the NEC's political bias at national level, although these complaints continued to be widespread at local level.

5.1.2 Legal Framework

The new legal framework offered more detail to guide the implementation of the elections by the NEC, and was accompanied by codes of conduct which made the principles of democracy underlying electoral arrangements more or less explicit. Consequently, the scope for radically different interpretations of appropriate electoral practice was reduced somewhat, assisting conflict management. However, limitations remained, in particular with regard to the complaints process which continues to be widely viewed as fundamentally inadequate to the task of reconciling all parties to the election results, and imposing the authority of the NEC to issue a result at a time of intense political bargaining over the possible composition of a new government. A further review of the law and regulations relating to the complaints process is indicated, with particular emphasis upon guidance for record-keeping, facilitation strategies, and weighing evidence.

5.1.3 Impact of NEC Reform

The NEC had clearly developed as an institution, between 1998 and 2003. It had a much better working relationship with major political parties in 2003 than in 1998. Its own efforts to hold regular meetings, attend civil society forums and provide better information were contributory factors to this improved atmosphere. However, trust in the NEC was constrained by the method of selection – via the Ministry of Information, controlled by FUNCINPEC and the CPP. Furthermore, conflict management by the NEC during the election period was con-

strained by the NEC's continued dependence upon external authorities which are deeply distrusted by the opposition parties, namely the Ministry of Interior and Ministry of Information. These two ministries control security and information and consequently are vital to the success of the election. The NEC's working relationship with the Ministry of Interior appeared to work well at the centre – for example, in the release of directives – but poorly at the periphery – for example, in the constraining of activities of village chiefs. The NEC's relationship with the Ministry of Information, TVK, and UNDP managers of the equity access programme, appeared to be problematic and fraught with misunderstandings of principle and lack of clarity of jurisdiction. Institution building, and in particular the development of a reputation for neutrality, within the ministries is required to complement the institution building that has taken place within the NEC, to ensure smoother running of elections in the future.

The limits to the NEC's jurisdiction led the NEC to adopt a cautious approach towards electoral violations, which evoked criticism from opposition parties. On the one occasion where the NEC did attempt to confront offenders, and warn of the imposition of penalties – in the ultimatum delivered to the media – and then was forced to concede that such penalties were beyond the NEC's powers, the strategy backfired with deleterious consequences for the NEC's reputation and ability to impose its code of conduct on other political actors. One NEC member commented:

“In our [self-assessment workshop], a participant from a PEC said that we should have been more severe with these insults, because this had an influence on them locally. When the CEC or PEC tried to take action at the local level, people said to them, “Why are you taking action? Why are you severe? The NEC does not care about the insults on the national radio.” It undermined their authority.”²⁴²

The performance of PECs and CECs also continued to be a matter for complaint. These bodies were widely regarded as biased by political parties and EMOs. The practice of employing teachers as CEC officials was criticised by opposition parties and EMOs who argued that teachers were dependent upon the government for their current positions and future promotions and could consequently be threatened. It is difficult, in much of Cambodia, given the lack of a well-developed private sector, to find many experienced administrators who are not in a similar position vis-à-vis the government, but the question remains a potential source of conflict in Cambodian elections. Once again, this reflects a continued conviction on the part of the opposition parties and some NGOs that the state and the CPP remain intertwined, this time at the level of provincial and district authorities, and that consequently state agents are politically biased towards the ruling party. The underlying question of state neutrality, between elections as well as during electoral periods, is fundamental to the question of Cambodian democracy and will continue to disrupt election administration as long as it remains unresolved.

The CECs were given an expanded role in conflict management in 2003, as compared to 1998, through weekly facilitation meetings, intended to resolve conflicts at local level and to prevent them from escalating into a national political crisis. This study found that the SRP and EMOs viewed CEC efforts in this regard as mixed in their effect. Sometimes they resulted in an amicable solution. Sometimes they repressed conflicts that would more appropriately have been dealt with by the courts; for example, where the alleged conduct of one party represented a criminal offence. In other cases, notably in complaints over the conduct of village chiefs, CECs were ineffective in providing a solution, and the conflict continued to fester until it was picked up by national political party leaders after election day for use in political bargaining after the election. Our commune level research suggested that there was a close match between the kinds of issues raised by commune level party activists and those raised by

²⁴² NEC member (51), personal interview, 6 Oct 2003.

their counterparts in Phnom Penh, suggesting that CEC facilitation measures were insufficient to prevent conflicts from reaching national level.

Trust in the NEC continues to be fatally undermined at the stage where complaints need to be addressed. Although procedures for complaint resolution were better developed in 2003 than in 1998, there remained large areas for discretion, and they were poorly and inconsistently implemented much of the time. The refusal to recount in provinces where only a few hundred votes could have affected the overall election results suggested a lack of good faith, given that a complex process of counting and tallying votes clearly offers a great scope for error in the best of circumstances. Parties complain that the NEC is reluctant to criticise the work of its own officials, and argue that the NEC is behaving as both a player and a referee, and the establishment of a separate election court has been raised. Given the climate of intense political tension that has arisen in the immediate aftermath of every Cambodian election since 1993, the establishment of a new institution in itself is no guarantee of better conflict management. The procedures for establishing such a court would undoubtedly be as fraught with conflict and distrust as the procedures used to establish the NEC. However, a separation of these powers might defuse the accusation of bureaucratic, as opposed to political, resistance to scrutiny, often levelled at the NEC.

5.1.4 Impact of Decentralisation

In the 2003 election, decentralisation appears to have had some effect. The presence of FUNCINPEC and SRP officials on commune councils throughout the country has undoubtedly expanded the ability of these parties to campaign nationally. This was clearly seen in our commune level fieldwork, where we found active campaigning by all three major parties underway in all our case study communes. Although distrust still clearly exists between commune level activists from the different parties, there is an acceptance now, in rural Cambodia, that all three major parties have a place within the communes throughout the electoral cycles. This sharply contrasts with the situation before 1998 election.

However, although it may have offered a foot in the door, as yet the acquisition of a seat in commune government does not always guarantee influence in the running of local affairs. The emphasis on the role of village chiefs, as well as commune chiefs and commune police, in spreading information, organising members of their own party to vote, and, allegedly, intimidating and threatening opposition party supporters, suggests that at present, party allegiances are more powerful in local government than institutional hierarchies.

As the commune councils have only been formed recently, it is too early to say whether the claims of exclusion by SRP representatives are a result of real political processes or merely early teething problems in the operation of the councils. Institution building at the level of the commune council, to ensure properly collaborative decision making involving all councillors, can help to filter power and influence away from the commune chief and to share it more equally amongst the different parties. The shouldering of more responsibilities by commune councils over the next few years, as money is disbursed and development planning put into action, may help to strengthen the institution, to increase the level of activity of the council and promote its influence among villagers, vis-à-vis that of the village chief.

The status of village chiefs vis-à-vis commune councillors is equivocal at present, and there is some evidence that village chiefs report directly to non-elected district authorities, bypassing the commune council altogether. Strengthening the relationship between village chiefs and commune councillors would help to foster trust between the two levels of government, and to increase the accountability of village chiefs to political parties other than their own. In addition, the legitimacy of the village chiefs themselves should be addressed by providing for re-election or re-selection by an agreed procedure.

5.1.5 Impact of Civil Society Advocacy

While the impact of civil society advocacy is difficult to measure directly, a number of changes in the election can be seen which almost certainly benefited from civil society influence. For example, the opening of the NEC, through weekly meetings with NGOs, prompted a much better response from the NEC to issues arising during the registration and election campaigns, including efforts to address the problem of poor photographic equipment for taking identification photographs; efforts to discipline the activities of village chiefs; and efforts to promote facilitation of conflicts through CEC weekly meetings. The latter initiative reflected similar roundtable meetings held by COMFREL in the 1998 elections, in an attempt to resolve conflict. The former reflected NEC responses to NGO lobbying.

The COPCEL process was widely acclaimed by its participants as having opened up unprecedented opportunities to share information, exchange ideas, raise grievances and listen to the explanations of the other side. It also organised a crucial opportunity for civil society members to comment on the draft amendments to the election law, before this was passed to the National Assembly. For these reasons, COPCEL was regarded by many of its participants as having brought key political players closer together, defused tensions between them, and operated as an early warning system for flagging up conflicts. Interviews with COPCEL participants during and after the election process highlighted a number of achievements on the part of COPCEL. Most interviewees believed that the opportunity to meet face to face, to ask questions, give answers and make complaints was an important contribution to the reduction of tension in Cambodian politics, and the building of a community of trust between electoral participants. Comments included the following:

“COPCEL plays an important role in providing a forum for stakeholders in election matters. This is very important. From that we can see that people come to the forum to discuss, exchange ideas, debate, sometimes throw some words of attack to release frustration, and after that went out with a different feeling. They think, ‘I’ve said it, they’ve heard it’ – it helps to reduce tensions and hostility.”²⁴³

“COPCEL gives the opportunity to representatives from different political backgrounds to meet and raise issues, not just confront each other. It makes a friendly atmosphere, good relationships, so we can express views, and raise problems in public. We don’t just hate each other without talking. It reduces the culture of hate. For example, the opposition doesn’t like the CPP – it gives the opportunity for them to respond to each other and reduces tension.”²⁴⁴

Some interviewees regarded the tendency for such tension and hostility to arise in Cambodian politics as a result of a lack of trust between members of the political community. For example, one interviewee saw this as a legacy of the Democratic Kampuchea era:

“In Cambodia, since the Pol Pot regime, the legacy of lack of trust remains. We have the spirit to change, but we don’t have much unity. It is difficult to reach a consensus. People try to take one side strongly, and fight strongly to win. If there is no meeting to mediate tension, there will be a problem... political tension will increase and political instability will occur.”²⁴⁵

The study conducted by CDRI of electoral conflict in 1998 suggested that political tension and distrust was an important factor in conflict escalation. It led to an unwillingness on the part of electoral officials to explain their actions fully, and, concomitantly, a greater propensity on the part of political actors to regard electoral officials as politically biased, and to blame institutional failures on a lack of neutrality. It led to a lack of communication at local

²⁴³ FUNCINPEC national representative (65), personal interview, Phnom Penh, 12 Aug 2003.

²⁴⁴ CHRC representative (55), personal interview, Phnom Penh, 13 Aug 2003.

²⁴⁵ Ministry of National Defence Representative (9), personal interview, Phnom Penh, 11 July 2003.

level, prompting an increased number of conflicts being raised to the national level. It led to the use of hostile and emotive language by those who felt aggrieved, and a greater degree of high-handedness and non-cooperation on the part of those who felt unfairly criticised. While the electoral conflicts of 1998 cannot be reduced to these emotional questions alone – there were clearly substantive issues at stake – lack of trust and habits of cooperation reduced the likelihood that conflict could be managed effectively, and increased the likelihood that it would escalate into political crisis. Consequently, promotion of trust is an important aspect of conflict prevention.

One major problem in managing conflict in the 1998 elections arose from disputes between political actors over the basic facts of particular cases. Such disputes arise from a tendency on the part of organisations to conduct investigations into particular cases independently of one another, according to procedures that are not always transparent to other interested parties. In addition, a lack of personal contact between agencies and organisations meant that there was no opportunity for the staff of different organisations to develop trust in the competency and professionalism of their counterparts in other agencies. Different access to important sources of information contributed to different pictures of events emerging within different organisations. Different accounts of the facts were frequently attributed to political bias, thus fuelling mistrust further. Finally, different substantive interests led different organisations to focus on different aspects of the case. One interviewee from an NGO described how these problems grew out of a lack of communication between organisations:

“Sometimes if you want to get the official responsible – you can’t contact them. If you are small level, they think they are more important than you. Sometimes they say they have no time to discuss. They are getting better when they understand about the organisation’s job, the civil society purpose – it is up to us to show them about transparency or neutrality. Now government or political parties just expect that we support the opposition – they misunderstand our organisation.”²⁴⁶

As such a lack of contact leads to different organisations’ investigations turning up different information, the political mistrust is deepened, and a vicious circle develops. Equally, lack of consultation and participation in the development of procedures was documented as significantly undermining the authority of the legal and institutional frameworks for the 1998 election. The absence of a number of National Assembly members from parliament, during the time when key laws were passed and appointments were made had far-reaching implications for the authority of these laws and institutions during the election period. The situation in 1998 was extreme; however, lack of consultation on the drafting of laws remains a problem, according to some interviewees:

“It is still difficult to communicate between NGOs and government. That depends on experience – I work for external relations and I find it difficult to communicate with government, for example the MOI, and the National Assembly also. When I want some draft of the election law – we wanted to give our opinion on the election law – we find it very difficult to get. They always say we cannot give before we have the official draft – but we want it before that, we want to have influence at an earlier stage.”²⁴⁷

Tackling these issues, in order to provide a basis for agreement on both the facts of a case and the procedures that should be used to deal with it, is an important area for improving conflict management processes in Cambodia. COPCEL contributed to this through its role in disseminating information, promoting discussion of the facts, and encouraging consultation by state officials with their counterparts in non-governmental organisations, and with inter-

²⁴⁶ ADHOC representative (66), personal interview, 13 July 2003.

²⁴⁷ COMFREL representative (1), personal interview, 5 Aug 2003.

ested political parties. Two interviewees commented that the practices of information exchange facilitated by COPCEL were also useful in helping them to get information outside of the COPCEL forum:

“COPCEL helps us to do our work more quickly. Human rights organisations also go and do investigations – sometimes they go before us, and cooperate with the police to solve the problem. Sometimes we don’t know about a case until it has been raised at COPCEL. Also, COPCEL helps us to get to know political parties, NGOs, government institutions. We have good connections now with all institutions, including government and human rights organisations. We can exchange information, in other ways, for example by telephone. When any problem comes up we can help to exchange information.”²⁴⁸

“It can be success in terms of personal relations. For example, if I want to get information and I call to the CPP, if I say I am a member of COPCEL it helps to get in contact, to provide information.”²⁴⁹

Improving flows of information is potentially an important way of facilitating conflict management. Whether or not problems result from misunderstanding alone, or from deeper conflicts of interest and belief, obtaining agreement on the facts is an important step in the management of conflict. It reduces confusion and limits the points at issue, permitting discussion between parties to conflict to focus on substantive issues of conflict of interest.

In addition to facilitating a flow of information, a number of interviewees regarded COPCEL as important in giving them a voice, or a channel of communication with other actors, that would otherwise not be available to them. This was a concern raised particularly by NGO interviewees. One explained:

“Civil society in Cambodia just emerged in 1992/3 – up to now government officials find it hard to coordinate with civil society. NGOs stand in the middle between the grassroots and the government and bridge the gap between the two. Sometimes it is hard for us to approach a government official – the government official thinks, “this is my decision.”... COPCEL is the first project related to conflict resolution in terms of the election only. The project was very important for us to coordinate with government authorities – the MOI and the NEC. COPCEL could mobilise all electoral working organisations. This was a very important and crucial role – the cooperative approach among COPCEL and government institutions. It is an opportunity for civil society to network, not just with other NGOs – we will never reach our ultimate goal unless we work together.”²⁵⁰

The establishment of a channel for communication can lead to greater understanding, between political actors that may be more accustomed to demonising one another. Direct communication allows participants to begin to shed the political baggage of preconceptions, rumours, and exaggerated caricatures, and perceive their opponents more clearly. Understanding the nature of other organisations, their position and beliefs, and scope for action is important in conflict management, as it helps parties in conflict to understand both the reasons for the intractability of the other side’s position, and their scope for compromise. This allows a more realistic appraisal of the possibilities for conflict resolution.

For some interviewees, many of the problems above issued not merely from the civil war or present day political competition for power between political parties, but from characteristics of Cambodian political culture. These interviewees suggested that Cambodia lacked a

²⁴⁸ Ministry of National Defence Representative (9), personal interview, Phnom Penh, 11 July 2003.

²⁴⁹ Cambodian Human Rights Centre representative (55), personal interview, Phnom Penh, 13 Aug 2003.

²⁵⁰ Centre for Social Development representative (66), personal interview, Phnom Penh, 15 Aug 2003.

culture of dialogue that could facilitate the defusing of tensions between political contenders, and that, consequently, fundamental cultural orientations needed to be changed before channels for communication could be established effectively. For example:

“Cambodia lacks a culture of dialogue and negotiation. If one side has anything against the other, then they treat them like an enemy. We don’t want to discuss or resolve. We always consider we are right. I am glad to see an effort to change this kind of culture.... Cambodian culture is very hierarchical. For example, within the family, people must behave according to their age.... If one is younger, we don’t think they can give their ideas. There is no culture of exchanging ideas.”²⁵¹

If this is the case, it makes the management of conflict much more difficult. Interviewees who viewed electoral conflict in Cambodia as a cultural, rather than merely a political, phenomenon believed that the major contribution of COPCEL should be to reform this underlying culture, rather than attempting to resolve the conflicts that were a symptom of it. For example:

“COPCEL can play a part and has played a part – it has promoted a culture of exchanging ideas, sharing experience, learning to accept a second or third opinion – that didn’t happen either in the traditional Cambodian way or in the communist way – COPCEL has played that role so far. It doesn’t cover the whole area, but it has played a part.”²⁵²

Through a process of acculturation, more effective channels for communication could be established, thus setting the scene for better conflict management.

However, interviewees also referred to a number of limitations to COPCEL. Some participants felt that while COPCEL was a useful place for discussion, its practical impact on the electoral process as that took place throughout the country was limited. For example, two NGO representatives commented:

“My interest is declining because the problem that happened before is still happening.”²⁵³

“COPCEL was created to bring authorities and election authorities to discuss their opinions. This is exchange of information, not really resolution of conflict.”²⁵⁴

Both these interviewees questioned whether a forum for exchange of information and promotion of understanding could resolve conflicts that emerged from substantive conflicts of interest. For example, one NGO interviewee argued that the fundamental problem was that NGOs wanted to reform the government and the government did not want to reform. Consequently he argued:

“We understand the different perspectives already. NGOs understand government and government understand NGOs. Who should change whose perspective?”²⁵⁵

A similar view of the inherently adversarial nature of the relationship between government and lobby groups led the other interviewee quoted above to argue for more of an advocacy approach within COPCEL:

“COPCEL is good for getting information about a conflict, but I want to recommend that COPCEL should try to have a solution. They just report and make minutes – but that doesn’t reflect the name of COPCEL. They should have a strong

²⁵¹ Khmer Institute of Democracy representative (67), personal interview, Phnom Penh, 14 July 2003.

²⁵² FUNCINPEC national representative (65), personal interview, Phnom Penh, 12 Aug 2003.

²⁵³ COMFREL national representative (1), personal interview, Phnom Penh, 6 Aug. 2003.

²⁵⁴ Women For Development representative (68), personal interview, Phnom Penh, 7 Aug. 2003.

²⁵⁵ Women For Development representative (68), personal interview, Phnom Penh, 7 Aug. 2003.

*voice, to push the government related to the election. There should be more advocacy, not just inform, talk and discuss. That is no way to reach what we want to make a good decision. COPCEL should make one voice about the problems that come up. For example, our organisation works for the election, so we often meet problems. We would like COPCEL to make one voice to make a recommendation and statement to the government and NEC. Also, it's not public – it's just talk and not in public. There is not one strong voice – we just inform, and the NEC just promises. There is never any solution.*²⁵⁶

The director of one EMO was concerned that the existence of a multilateral forum such as COPCEL allowed the government to back away from establishing bilateral relationships with NGOs most closely involved in election work. He commented:

*“The problem of COPCEL is that its work overlaps with other people’s work. For example, COMFREL and NCFEC are recognised as doing observation. But when the NEC has documents, they don’t send them to COMFREL and NCFEC who focus on the elections, but to COPCEL as a channel of communication. This makes us slow and late in terms of receiving documents from NEC. Also the NEC takes the opportunity of COPCEL as a place where the NEC tries to escape. It is difficult to have a bilateral relationship with the NEC because the NEC escapes by saying we already discussed this at COPCEL. Some of the participants are not election experts so things get mixed up.*²⁵⁷

Other interviewees questioned whether the nature of conflict in Cambodia was amenable to this approach. They suggested that conflict was rooted in broader institutional or social factors, and that consequently dialogue amongst a limited set of officials, however constructive, would have little impact on the wider world. For example, two NGO interviewees commented:

*“Some problems were resolved and some were higher than the capacity of COPCEL. The problems that we can resolve are about 30 percent. The problems that we can’t resolve, we take to understand altogether. We discuss important problems to see if we can resolve or not – but if we can’t then at least we can understand the issue clearly.*²⁵⁸

*“We found that COPCEL can’t do much to prevent violence, but that’s not the mistake of COPCEL, it is the willingness of MOI and NEC to do the work. But it gives a chance for the NGOs to revise the case, to make them know what happens. The answer is quite a contrast to what they have found, but that is the nature of politics between the MOI, the political parties and the NEC. They just state their position – they are constrained by the wider political situation.*²⁵⁹

A commonly raised concern, among interviewees from political parties and NGOs, was whether government representatives at COPCEL were sufficiently powerful to be able to change the situation. This was mentioned in particular with respect to the problem of political violence. Although the NEC attended COPCEL regularly, the NEC did not have responsibility for the punishment of criminals, which fell under the purview of the Ministry of the Interior. A number of interviewees felt that the Ministry of Interior had shown insufficient commitment to the COPCEL process, had not sent sufficiently high-ranking representatives to meetings, and had consequently missed the opportunity to be accountable for their actions in pursuing offenders:

²⁵⁶ COMFREL national representative (1), personal interview, Phnom Penh, 6 Aug. 2003.

²⁵⁷ NCFEC national representative (69), personal interview, Phnom Penh, 11 Aug. 2003.

²⁵⁸ Centre for Social Development representative (66), personal interview, Phnom Penh, 14 Aug. 2003.

²⁵⁹ Cambodian Human Rights Centre Representative (55), personal interview, Phnom Penh, 13 Aug. 2003.

“But the members – the main important figures from the NEC, MOI, they don’t give much response and they are not decision makers. They need more commitment from MOI and NEC.”²⁶⁰

Some participants also questioned the commitment of those who did attend, suggesting that they attended in order to make excuses rather than to tackle issues in a constructive way.

“The NEC comes to all the meetings, but we found that the NEC comes to represent the NEC – they come to defend what they have done. Most of the political parties criticised the NEC, and complained about the registration, the list of voters, the campaign. When they raise these questions, the NEC tries to defend itself by referring to the legal framework. But in this country the law is not applied properly. It is not implemented. But the senior officials just talk about the law, which is very different from the real situation.”²⁶¹

These criticisms contrasted with the view of a different group of interviewees who suggested that the success of COPCEL was that it had managed to bring together high ranking officials from different organisations. For example:

“COPCEL has the capability of pulling people together from different sources – from government, NEC, and civil society. Not many can do that. That is what is special about COPCEL and Ok Serei Sopheak. If you only have the organisations but not the right person, it won’t work. You can’t put a junior or inexperienced person in that position.”²⁶²

It is very difficult to bring political parties from different backgrounds to the table, and listen calmly to the issues, rather than to be very confrontational and emotional. COPCEL creates a constructive dialogue, lets us understand how other stakeholders work. “Sometimes we can coordinate our work better, then. And it establishes links between organisations.”²⁶³

The difference in perspective can perhaps be attributed to different expectations. Many of those who saw the main purpose of COPCEL as the management of conflict believed that the very highest levels of political actors were needed to work as effectively as possible in the resolution of problems. Without this sort of participation, little could be done to affect events on the ground. Others, by contrast, saw actually occurring conflicts, as in part at least, the result of the incapacity for dialogue between the highest levels of political players. Consequently, steps in this direction were viewed as positive achievements for creating a less hostile political atmosphere in the future.

A further commonly cited limitation to COPCEL was the inability of interviewees to persuade their counterparts of their view of a particular question. The most difficult question in this regard was again political violence. One NGO representative commented:

“Most of the time COPCEL tries to find a solution, but the person who could provide the solution is not COPCEL – it is the MOI or the NEC, and really we don’t see the MOI participating. Only when there was a case in Kompong Speu and Prey Veng, the MOI came to try to explain that that was an accident – they just came to

²⁶⁰ Cambodian Human Rights Centre Representative (55), personal interview, Phnom Penh, 13 Aug. 2003.

²⁶¹ Cambodian Human Rights Centre Representative (55), personal interview, Phnom Penh, 13 Aug. 2003.

²⁶² FUNCINPEC national representative (65), personal interview, Phnom Penh, 12 Aug. 2003.

²⁶³ National Democratic Institute representative (70), personal interview, Phnom Penh, 13 Aug. 2003.

*portray the incident as an accident. We couldn't persuade them.*²⁶⁴

A representative of a state agency, similarly, stated:

*"Many problems [of political violence] came up in COPCEL... then we have a duty to go and do research. We hear the information at COPCEL and we make contact with the provinces about the case that arose in this province, this district, on this day and when.... Sometimes the parties are satisfied. But sometimes they still hold the view that there was a political motive. This is one problem – we explain about the reality from the grass roots and the local authorities, but they are sometimes not satisfied. ... We always follow up the complaints of all the political parties, but it is sometimes difficult, because sometimes the political parties are very stubborn and don't understand their mistake."*²⁶⁵

In these comments, the persistence of different views of “reality” is apparent. It is significant that these comments were made with reference to cases of political violence, perhaps the most highly contested issue of the election. In other areas of conflict, a number of interviewees were able to cite instances where COPCEL had made a difference. The most commonly cited case, offered as an example by four of fifteen COPCEL participants interviewed, one from the SRP, one from the CPP, and two from NGOs, was the issue of a statement by the NEC and MOI on the role of village chiefs:

*"They never take decisions in the meeting about what has to be done to prevent conflict. But there were NEC, MOI joint statements to order officials to be neutral. It was partly due to COPCEL – COPCEL put pressure on the government to release that letter. And our experience in the field is that that letter was very good."*²⁶⁶

However, in certain fundamental respects, civil society advocacy was unsuccessful. First, the stance of the NEC and MOI with regard to investigation of violence during the election period, and the attitude of NGOs to this issue, remained fundamentally incompatible. No trust in the Ministry of Interior's mode of investigations was established, and no confidence in their pronouncements was achieved. Second, the stance of the NEC and NGOs on the most appropriate means of dealing with violations of the regulations remained sharply at odds. The NEC continued to pursue an approach that emphasised facilitation, in the light of the NEC's lack of jurisdiction over actors outside the NEC, and the overriding concern to retain peace, stability and order as a fundamental necessity for a successful election. NGOs, by contrast, called for an approach to violations based upon the authority of the law. They called for perpetrators of violations to be punished, particularly where their actions were criminal, or abused human rights. The use of facilitation and reconciliation processes between perpetrators of crimes and abuses and their victims was considered by NGOs to represent an abdication of the NEC's responsibility to protect the rights of all voters. This issue once again highlighted the importance of the Ministry of Interior – responsible for investigating and prosecuting criminal offences – and the relative weakness of the NEC in comparison with the MOI.

5.2 Conclusions

5.2.1 Institutions in Cambodian Elections

As in 1998, this study has found that institutional weakness continues to be a major obstacle to the effective management of conflict in Cambodian elections. Compared to 1998, we found

²⁶⁴ Cambodian Human Rights Centre representative (55), personal interview, Phnom Penh, 13 Aug. 2003

²⁶⁵ Ministry of National Defence representative (9) personal interview, Phnom Penh, 11 July 2003.

²⁶⁶ Cambodian Human Rights Centre representative (55), personal interview, Phnom Penh, 13 Aug. 2003.

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

- Broader participation in drafting and passing the election law and regulations greatly increased the legitimacy of the legal framework, and, consequently, also strengthened the legitimacy of institutions and processes;
- 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;
- The working practices of the NEC at national level, particularly before polling day, and particularly increased accessibility to political parties and NGOS was important in strengthening the attachment between political and institutional actors;
- This was also true, but to a lesser extent, at local level, in the communes we visited;
- 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:

- Serious continued weaknesses in institutions other than the NEC: for example, 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; and 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;
- 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 – for example, through the continued resort to reconciliation rather than punishment;
- Continued lack of supervision of the NEC itself; for example, through the creation of an independent body to appoint NEC members and an independent body to handle complaints;
- Lack of transparency in certain key aspects of electoral procedure; for example, appointment of PECs and CECs and handling of complaints;
- Design of conflict management procedures is focused on parties and does not always take into account rights-based perspectives.

These weaknesses suggest a number of ongoing structural issues which hamper the functioning of Cambodian institutions, namely:

- Lack of separation between state and party, particularly at local level;
- Distrust of the neutrality of state institutions; and
- Inadequate exercise of authority by institutions vis-à-vis political actors.

It has been noted that these issues are not merely electoral issues, but are fundamental to the ongoing democratization of Cambodian social, political and economic life. It is notable that one of the successful ameliorative programmes of the 2003 elections – the equity programme designed to tackle political bias within the state media – was abandoned immediately

after the election with some complaints, but little effective resistance from viewers or from state media employees. Although the equity programme was successful in promoting the legitimacy of the elections, there are fundamental economic and political constraints preventing a continuation of such a programme to facilitate the ongoing process of broader democratization. Similarly, the directives from the Ministry of Interior and the NEC, calling upon village chiefs to show neutrality during the election campaign, underlines the fact that village chiefs are rarely neutral at other times of the electoral cycle. The neutralization of the bureaucracy is fundamental to both democratization and the guarantee of equal rights for citizens, and continued lack of a neutral state apparatus represents a major obstacle to both these processes.

Equally, the tendency in Cambodian life for political actors to dominate over institutions is also evident in the conflict management strategies adopted by the electoral institutions during election times. The focus on facilitation, rather than adjudication, of conflicts by the NEC is an example of this. The NEC sees this as a reflection of the dominance of political actors, who can cause political and social instability and must consequently be treated with caution; however, continued reliance upon bargaining between political actors is detrimental to institutional development and thus perpetuates the power of political actors to threaten the security of the state. A shift from rule by parties to rule by institutions and law would allow the development of conflict management processes that could be applied equally and in a non-discriminatory manner, to all offenders.

5.2.2 Impact of Institutional Weakness on the Development of Political Community

The evidence for the development of a stronger sense of political community amongst all parties is equivocal. On the one hand, there is a greater sense of pluralism down to village level which implies the growth of tolerance, to a certain degree, on the part of local authorities. The case study of Ta Khaen showed a clear example of expanding tolerance for opposition parties, although it also showed the limits to this. On the other hand, political contestants clearly do not live easily or happily together in many parts of the country, and the gulf which divides them is exemplified by persistent conflicts over “Vietnamese” voters and alleged threats to expropriate the land of political dissidents.

The rejection of results by SRP and FUNCINPEC in 2003 was based upon a number of assertions:

- that five hundred thousand eligible voters were unable to register because of “obstacles” created by the NEC;
- that a million registered voters were unable to vote because of NEC “ploys” including “allowing confiscation of their voter cards, relocation of voting stations without sufficient notice, voter lists being marred with errors making it impossible for a large number of voters to find their names, and improper deletion of names from voter lists”;
- that hundreds of thousands of voters were threatened by local authorities, acting as “tools” of the CPP in collusion with the NEC;
- that hundreds of thousands of voters voted according to their conscience but had their vote “stolen or rigged” because the NEC “failed in its task”; and
- that hundreds of thousands of voters had been targeted by vote-buying or forced to participate in oath ceremonies.

To a great extent these complaints resemble those of 1998; however, the crisis following the rejection of the results was not as severe as in 1998. There were no demonstrations – although this was in large part due to the rapid deployment of highly visible military forces both in the major public spaces in the city and on major highways leading into Phnom Penh. Fewer complaints were submitted, and they were more closely targeted towards matters that

could affect the outcome of the election. However, the SRP and FUNCINPEC maintained their stance that institutions of state remain the creatures of the CPP and that the population is intimidated into silence by the grip that both state and party have over their lives. In 2003, as in 1998, the SRP and FUNCINPEC identified the threatening nature of the CPP with the person of the Prime Minister, and insisted for three months that they would not enter a government of which he was the head. The extent of the rift between the SRP and Hun Sen in particular was indicated in a letter to the King written by Sam Rainsy on 15 September:

“Several more days needed for ballot recounting as demanded by the SRP would not cause additional hardship to the Cambodian people, since they are already suffering intensely in a country that is dying slowly. Neither the reconvening of a dubious National Assembly nor the formation of a new government headed by the same corrupt leaders implementing the same devastating policies will be able to either relieve the sufferings of our people or prolong the death of our nation.”²⁶⁷

The concern that the country is “dying” has been heard in Cambodian politics for generations, and has long been used by all sides to dispute the legitimacy of opponents and to contest their right to participate in politics. This fear of national demise, prominent at local level as well as at national level, entrenches contrasting positions and renders compromise difficult. Emerging both from very real and threatening problems, such as the spread of HIV infection and deforestation, and from rather less well-documented issues such as an apparent influx of illegal immigration, it paralyses Cambodia’s democratic process and permits the assertion of party interest as equivalent to national interest.

The creation of institutions that can maintain order and win respect in this environment is difficult; on the other hand, respected institutions, if they do a good job of implementing procedures fairly, can also help to reduce the sense of imminent emergency. The 2003 elections suggest that Cambodia’s electoral institutions have achieved a lot, but that there still remains a lot to be achieved.

5.2.3 Lessons Learned for Conflict Management Strategies

The implications of these structural issues for conflict management are profound, as this study has demonstrated. The lessons to be drawn from the case studies of conflict investigated here can be condensed into a brief set of criteria for assessing the likely success or failure of conflict management measures.

Conflict management is successful where:

- 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; and
- Mechanisms for managing conflict are efficiently implemented, transparent and accessible.

In the case of equal access to the media almost all these conditions were met:

- The main conflict was over access to time on television and radio;
- The obvious solution was to find ways of offering more time to disadvantaged parties;

²⁶⁷ Sam Rainsy, Letter to His Majesty the King of Cambodia, Phnom Penh, 15 Sept 2003.

- The NEC and its various NGO and international partners were able to use state television and radio to make and show their programmes;
- Media monitoring by local and international monitors gave a clear evaluation of the situation, especially vis-à-vis quantity of airtime for each party. Quality was more difficult to monitor; and
- The nature of media meant that all parties could monitor the results for themselves.

Conflict management is unsuccessful where:

- There is no agreement on the nature of the conflict;
- There is no agreement on the mechanisms for managing conflict;
- Managers of conflict are unsure about their powers to implement conflict management processes, if there is likely to be resistance from other institutions;
- There is no agreement on the criteria for measuring success; and
- Mechanisms for managing conflict are poorly implemented, lacking in transparency and inaccessible.

In the case of the conflict over village chiefs, all the conditions for unsuccessful conflict management were met:

- There was no agreement on the nature of the conflict: what form did it take? How widespread was it? What is the relationship between the village chief and the people?
- There was no agreement on the best way of managing conflict: exclude village chiefs from the election process (and if so, how?) or regulate their role through guidelines? Punish or reconcile?
- There was no certainty about NEC powers over village chiefs in the election law, although the NEC said that cooperation with the Ministry of Interior was positive.
- There was no agreement on how to measure success, especially as the NEC did not punish any village chiefs and the gravity of the situation remained disputed.
- Reconciliation at local level, especially by CECs, was inconsistently implemented, poorly documented, and tended to leave bargaining power in the hands of the parties rather than affirming the CEC as in charge of the situation.

The challenge for future elections is to build both the capacity and legitimacy of institutions and the relationships between political actors to provide a foundation for collaboration in establishing conflict management measures that fulfil these criteria.

Appendix:
Case Study Provinces

Table 1: Percentage Share of the Vote Gained by Major Parties Nationally and in Case Study Provinces at Successive Elections since 1993

| | CPP | FUNCINPEC | SRP | Total no. votes |
|--------------|------|-----------|------|-----------------|
| National | | | | |
| 1993 | 39.2 | 46.5 | - | 3916430 |
| 1998 | 41.7 | 32.0 | 14.4 | 4835642 |
| 2002 | 60.9 | 22.0 | 16.9 | 4348564 |
| 2003 | 47.4 | 20.8 | 21.9 | 5168837 |
| Battambang | | | | |
| 1993 | 30.9 | 48.2 | - | 266945 |
| 1998 | 35.9 | 27.5 | 21.4 | 300326 |
| 2002 | 65.7 | 22.1 | 12.1 | 263901 |
| 2003 | 48.8 | 14.9 | 27.1 | 325965 |
| Kompong Cham | | | | |
| 1993 | 30.7 | 54.0 | - | 597327 |
| 1998 | 34.4 | 38.7 | 13.7 | 715985 |
| 2002 | 57.6 | 24.0 | 18.1 | 616926 |
| 2003 | 39.9 | 22.9 | 22.9 | 717765 |
| Kampot | | | | |
| 1993 | 40.1 | 42.1 | - | 190858 |
| 1998 | 46.7 | 28.2 | 10.5 | 223794 |
| 2002 | 55.3 | 26.1 | 17.4 | 188142 |
| 2003 | 47.6 | 26.4 | 15.5 | 229856 |
| Takeo | | | | |
| 1993 | 40.3 | 43.0 | - | 292501 |
| 1998 | 42.9 | 36.1 | 10.6 | 358647 |
| 2002 | 64.2 | 24.1 | 11.5 | 346375 |
| 2003 | 53.1 | 24.9 | 16.8 | 402666 |

(Source: For 1993 to 2002 elections, figures are taken from COMFREL, "Comparison of Election Results Throughout 1993-1998-2002," Phnom Penh nd. For 2003 elections, figures are taken from the NEC website, www.necselect.org. Note that for the purposes of this table all figures are given to one decimal place).

Figure 1: CPP Vote (%) in Case Study Provinces: Comparison to National Performance

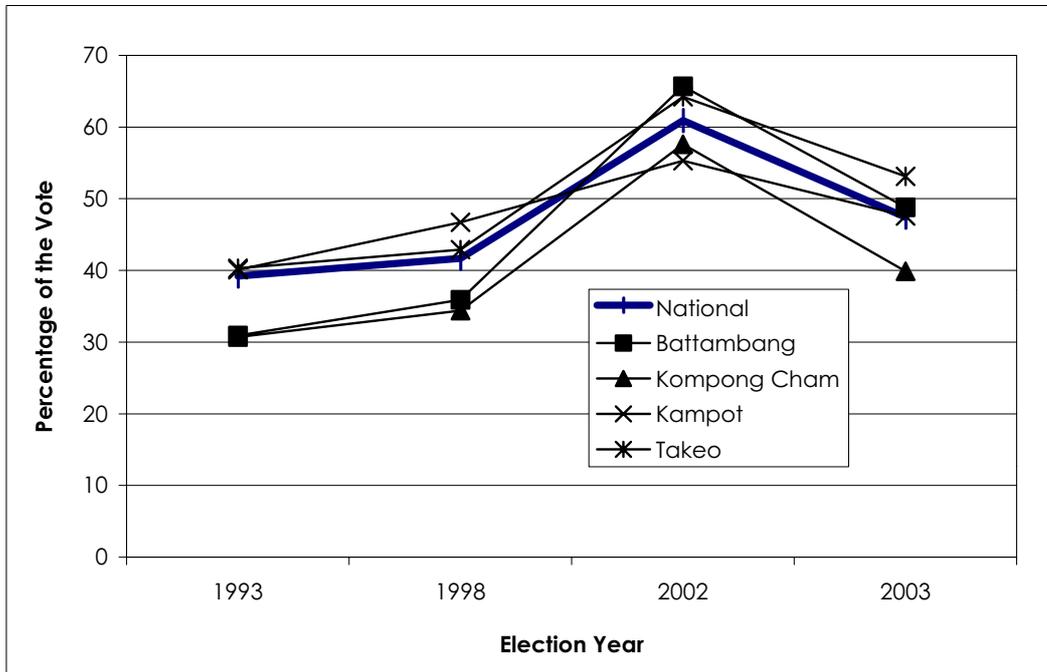


Figure 2: FUNCINPEC Vote (%) in Case Study Provinces: Comparison to National Performances

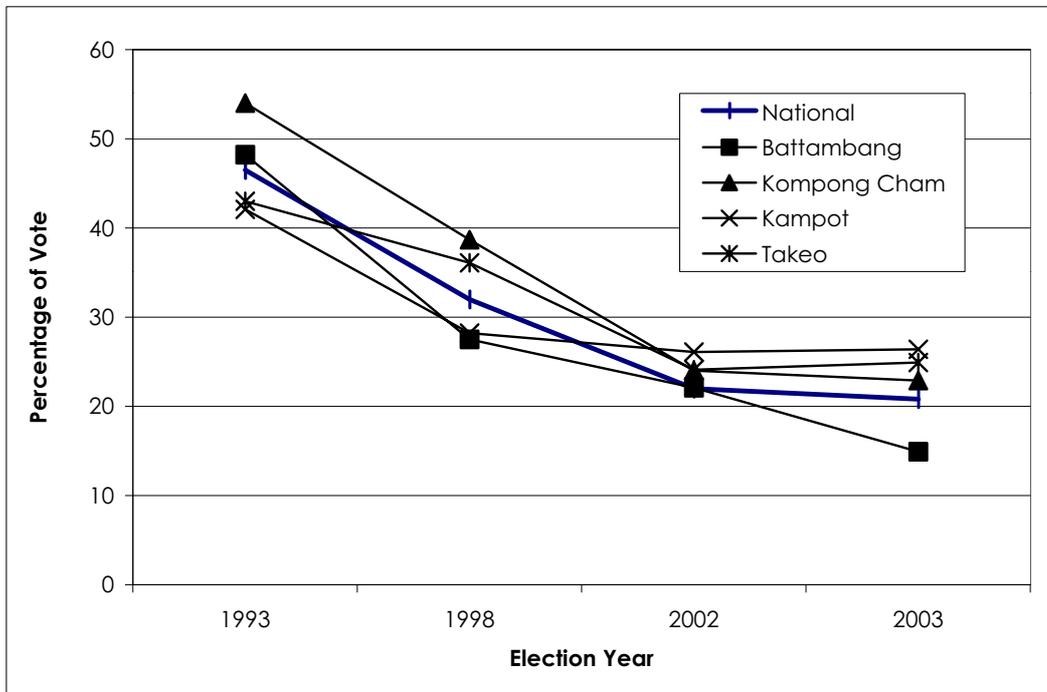


Figure 3: SRP Vote (%) in Case Study Provinces: Comparison with National Performance

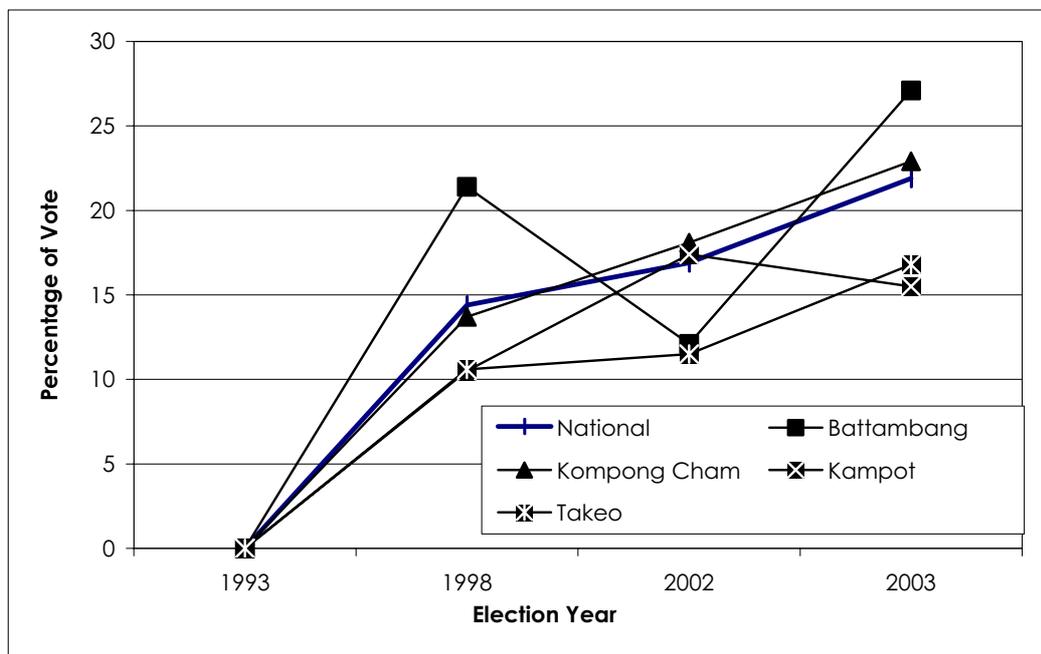
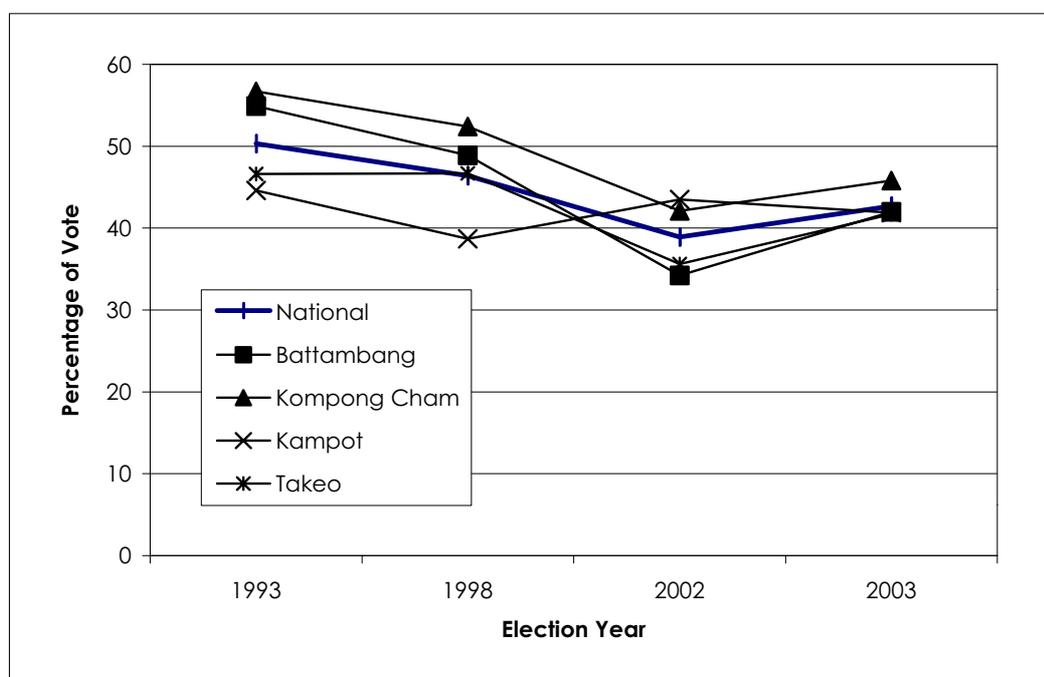


Figure 4. "Opposition" Vote (%) in Case Study Provinces: Comparison with National Performance



(Note: The term "Opposition" here is used loosely to denote non-CPP parties who gained a significant share of the vote nationally. In 1993, the "opposition" vote is calculated by combining the votes of FUNCINPEC and the Buddhist Liberal Democratic Party. From 1998 onwards, it is calculated by combining the votes of FUNCINPEC and the Sam Rainsy Party).

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The Evolution of Democratic Process and Conflict Management in Cambodia: A Comparative Study of Three Cambodian Elections

This study examines the evolution of mechanisms for conflict management since 1998, and their effectiveness in preventing conflict escalation during the general elections of 2003. The study draws on extensive field research carried out by CDRI researchers on the 1998 and 2003 elections, and on the practical experience of conflict management gained by staff of CDRI's Centre for Peace and Development which, through its Committee for Conflict Prevention in Cambodian Elections, hosted a four year programme of meetings between election organisers and representatives of political and civil society.

The present study looked in detail at three specific developments relevant to conflict management that took place between 1998 to 2003, namely the reform of government institutions involved in electoral conflict management, particularly the NEC and the commune level of government; the development of civil society programmes for conflict management; and the changes in electoral procedures, including the overall legal framework for elections, the complaints procedure, and the voter registration procedures. Fieldwork was conducted during the 2003 election period to investigate the impact of these changes on the ability to manage electoral conflict at national and local level. Ability to manage conflict management effectively is regarded in this study as a function of the technical capacity and political legitimacy of institutions, and the level of trust and goodwill between political actors. It is also noted that effective conflict management can itself improve the political legitimacy of institutions and the level of trust between political actors.

Overall, the study drew two sets of conclusions. First, it drew conclusions with respect to the impact of the key developments identified on the technical capacity and political legitimacy of institutions charged with conflict management – primarily the NEC, PECs and CECs, and commune authorities. Second, it drew conclusions as to the types of conflicts that are most easily managed by existing mechanisms in Cambodia, as well as identifying problematic elements that lead to conflict escalation.

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