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Statement by Dr. George A. Folsom and Mr. Chase Untermeyer
On the International Republican Institute's Third Election Assessment Mission to
The Kingdom of Cambodia
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The International Republican Institute (IRI) www.iri.org conducted the third in its series of election assessment missions from June 25 to 30. Dr. George A. Folsom, President of IRI, and Mr. Chase Untermeyer, former Voice of America Director and senior advisor to President George H.W. Bush, led this assessment mission of 19 credentialed observers. The IRI delegation met with senior government and political party officials in Phnom Penh, and with government officials, political party activists, independent elections experts, and voters in eleven provinces to assess the pre-election environment, the opening days of the official campaign period and preparations for the July 27 National Assembly elections.

Based on extensive experience in observing elections around the world, IRI's assessment of elections encompasses all phases of the electoral process, from the registration of voters to the vote count and tabulation and the announcement of results. IRI's current assessment builds on its own prior assessments, as well as the contributions of other observer groups. IRI greatly appreciates the willingness of all the people it met with to share their views and insights into the election process.

Summary

With less than a month until Election Day, Cambodia's ruling party remains the chief obstacle to fair elections. Access to media is far from equitable, levels of intimidation remain unacceptably high, the complaints process is inadequate, and Village Chiefs continue to commit numerous election law violations. IRI traces these shortcomings to the ruling party's strict control over relevant institutions and processes. While the opening days of the campaign period have passed with relative calm, it is clear that the myriad problems relating to the electoral process that existed prior to the opening of the official campaign period cannot be turned around in 30 days.

We have not overlooked other important problems with the electoral process including widespread gift-giving practices, and exploitation of ethnic tensions by leaders of all three major parties. It is, however, the structural role of the ruling party that is the critical flaw.

While government officials and the National Election Committee (NEC) have made some recent statements about creating a safer, fairer environment, actions will speak louder than words. It is not enough to have adequate laws. Officials of the Royal Government of Cambodia must not issue regulations that throw up obstacles to an improved election process or implement the laws and regulations in a partisan or unjust manner.

Political Environment

The electoral environment is still tainted by intimidation and impunity. Many election monitors and party officials have commented that the current environment is somewhat better than that prior to the 1998 and 2002 elections and that the levels of overt violence are reduced. Since November 2002 however, the Cambodian Center for Human Rights (CCHR) has reported over 200 instances of electoral violations and intimidation, and 10 cases of killings that may have political motivations—a stark reminder that “better” in Cambodia is relative. As noted by IRI in previous reports and by several other election monitoring organizations, the majority of violations were committed by the Cambodian People’s Party (CPP).

Intimidation remains widespread. IRI’s assessment again confirms reports from political parties and human rights groups such as Human Rights Watch, the UN’s Cambodia Office of the High Commission for Human Rights, CCHR and other local groups, that voters are often visited in their homes and threatened by local officials or CPP “group leaders” who are assigned to monitor 5-10 families in each village. IRI team members heard that voters feel that their security, their ability to continue living in their communities, and their livelihoods will be under direct threat if they choose a party other than CPP in the election.

One of the main concerns expressed by political parties was the fear of widespread vote-buying and intimidation on the night before the election—the “night of the barking dogs”—as was done by the CPP in the 1998 and 2002 elections. In many areas in those elections, some party officials went door to door bribing and threatening voters. Party officials and human rights groups also warned about the potential for fraud in the vote counting and tabulation process.

Criminal impunity is a pervasive problem in Cambodia, and this is clearly evidenced in the lead up to the July polls. Not one electoral law violation has resulted in a prosecution, although some complaints have been handled through mediation at the local level. While the local level mediation is an important and culturally acceptable way to handle minor offenses, human rights groups expressed concern that simply asking offenders to refrain from repeating their activity has been ineffective both as a deterrent and as a means of building confidence in the process.

IRI reiterates its concern that until the Royal Government of Cambodia acknowledges the existence of politically motivated crime, very little can or will be done to reduce the current state of impunity. The Ministry of Interior’s May 2003 report on violence against political party members dismissed the idea that any crime could be politically motivated. This blanket dismissal robs the population of confidence in the government’s ability to investigate and resolve violations of the election law and other criminal activity, particularly in light of concerns of local and international human rights groups that there is insufficient credible investigation of these crimes.

Furthermore, IRI is concerned about the effect of a government crackdown against protesters at a Phnom Penh textile factory earlier this month. This excessive use of force, which resulted in two deaths, and a government policy banning all demonstrations through the election period, has the effect of silencing all Cambodian political voices outside of political party campaigns. This broadside against free speech and assembly, guaranteed by the Constitution of Cambodia, has no place in any democracy.

As IRI noted in its April assessment, Village Chiefs, who have been indirectly appointed by the Ministry of Interior, wield significant power within their communities over the property, legal status and provision of services to nearly all Cambodians. Village Chiefs, many of whom have been in office since 1979, continue to pressure people to choose CPP or to instill fear of repercussions in those who might make a different choice. In April, IRI recommended that the Ministry of Interior quickly issue instructions to the commune councils, elected in February 2002, to enable them to select Village Chiefs *before* the 2003 election. Though the Ministry did not do this, it issued a joint directive in May with the NEC on the role of local authorities in the electoral process. It stated that “the Village Chiefs...must hold on to the neutral and impartial stance in fulfilling their duties without showing any support or opposition against any party or candidate at all.” (*Joint Directives On the Cooperation of Local Authorities at all Levels in the Conduct of the Third Parliamentary Election*, May 27, 2003).

Though the directive was an important gesture, it fails to adequately address IRI’s concern over the fusion of the role of the Village Chief as a part of the Government’s administration and as a CPP party functionary. In some areas of the country, Village Chiefs are asked to help the Provincial Election Committee (PEC) and Commune Election Committee (CEC) with administrative matters relating to the elections—for example, checking to see how many voters have photographs on their voter cards. While this should be a routine administrative task, the partisan role of Village Chiefs means that voters are fearful of the motives for these activities. At the same time, IRI has received several reports that these same Village Chiefs require voters to give a thumbprint in support of CPP to receive gifts and services, and collect voter cards with the effect of damaging voter confidence in the secrecy of the ballot.

IRI observers received reports that Village Chiefs had been given instructions to actively campaign for CPP, in direct contravention of the joint directive. In Oddar Meanchey, one Village Chief reported that all of the Village Chiefs in his commune had been called together for a meeting with a provincial party leader and told that they would be “campaign chiefs” for CPP.

Access to Media/Information

Information and instructions from local officials and from broadcast media continue to be the two most important sources of information for Cambodian voters, most of whom do not read or lack access to print media. The dominance by CPP over commune and village governance magnifies the necessity of diverse and independent broadcast media for providing voters with information about their political rights and choices at the ballot box.

IRI is pleased with minor steps that have been taken to diversify Cambodia’s media in recent weeks. Despite being denied a broadcast license, CCHR is able to broadcast Voice of Democracy programming to more than half of Cambodia’s population for several hours a day, and the number of electoral roundtables and debates that are broadcast on radio and television has increased. The NEC’s equal access media plan has provided minimal space to parties outside the ruling coalition to access broadcast media, while the UNDP is giving technical support to a 15 minute news segment of original and diverse election programming on one national television station each day and a similar amount of time on national radio.

These minor positive developments, however, must be viewed in context. All Cambodian television stations slant their coverage in favor of CPP. A senior official in the Ministry of Information admitted to IRI that CPP “dictates” the media, and that decisions relating to

broadcasts come “from the top”. CPP demonstrated its absolute control of television stations when on June 3 six out of seven of Cambodia’s stations simultaneously broadcast a CPP propaganda video on the July 1997 coup d’etat in response to criticisms from Funcinpec. All private stations jointly agreed to refuse all paid political advertising, effectively blocking opposition parties from buying time. All but two Cambodian radio stations are affiliated with the ruling parties, CPP and Funcinpec, and both CCHR and the Sam Rainsy Party (SRP) were denied radio broadcast frequencies.

Cambodian citizens have been exposed to pro-government media for the entire government mandate, which were dominated by coverage of the Prime Minister and credited the government for foreign-funded emergency relief and infrastructure projects. One recent broadcast of the UNDP-sponsored election coverage was sandwiched inside of more than an hour of footage of high-ranking CPP officials distributing gifts to citizens and presiding over various openings and events. The addition of several minutes per day of information from opposition parties cannot counter the near monopoly of CPP controlled media at this stage.

Election Administration

Compared with the previous National Election Committee, the current body maintains better relations with domestic and foreign observer groups, is more forthcoming with information in many areas of electoral administration, and has made statements and issued directives that on the surface could create a more open electoral environment. In spite of these changes, IRI believes that praise for the NEC is premature and potentially misplaced.

The NEC remains a body that has no representation from opposition or independent groups. The recent appointment of PECs and CECs has yet again yielded bodies dominated by members of the CPP, maintaining an appearance of partisanship that could easily have been avoided. IRI assessment teams heard repeatedly that the PECs have failed to be effective in acknowledging and addressing election violations.

IRI welcomes the implementation of weekly coordination meetings organized by the PECs and believes that these meetings can play an important role in increasing communication between the electoral officials, political parties and other election stakeholders. IRI notes that in some provinces, the PEC has achieved some success in this area.

Based on reports from political parties in several provinces, IRI is concerned that voters will be disenfranchised because of the failure of electoral authorities to process and return voter cards to citizens who registered to vote. In many cases, these cards were confiscated by Village Chiefs. Without these cards, voters are required to obtain a waiver from CECs that will allow them to vote, but again voters will either need to produce a photograph of their own, or rely on the CECs to provide them with one between now and the election.

Following the 1998 election, millions of ballots remained unaccounted for, leading parties to wonder if ballots had been fraudulently added or removed. Political parties and local election monitoring organizations expressed to IRI that safeguards are once again insufficient to ensure that all of the 7.6 million ballots printed for the 2003 election will be properly reconciled. In addition to accounting for all ballots, all political parties should develop their own independent electoral tallies as a safeguard against fraud in the consolidation of vote totals.

IRI learned from the NEC that Village Chiefs will be able to register as political party agents

as long as they “temporarily” leave their positions as Village Chiefs. The presence of Village Chiefs inside polling stations poses the risk of intimidating voters, party agents and polling station officials drawn from the same area. This appears to be a direct contradiction of the “neutral and impartial” requirement of the joint MoI-NEC directive to allow Village Chiefs to take on such a partisan role, no matter how temporary it might be. Though the electoral authorities in some provinces state that they will not allow Village Chiefs to register as party agents, this issue needs to be clarified by the NEC without delay.

Complaints Process

As it currently stands, the complaints process offers no real protection to political parties or voters. The mechanism of the complaints process should empower participants in the electoral process to seek redress for violations of the electoral law and of their right to participate in the process. In IRI’s judgment, complaints resolution remains very weak. The procedure for filing complaints using the NEC’s Form 1202 is overly complicated and poorly understood at all levels. There is inconsistency in the information given by the NEC and its provincial officials to political parties.

The NEC insists that complaints for all phases of the election be filed using NEC Form 1202, and that if the complaints are filed correctly and with sufficient evidence then they can be investigated and prosecuted. The form itself, however, is best suited for reporting of Election Day complaints, and is not written to accommodate problems that might arise during the pre-campaign, campaign, or counting periods. In addition, there is a lack of clarity about how the form must be filled out. For example, incorrectly defining an incident as a “complaint” or an “objection” can lead to authorities rejecting the form.

The UNDP will provide the NEC with three mobile teams of advisors to help PECs and CECs administer the complaints and appeals process. IRI questions whether the addition of these teams can make up for the already evident shortfall in understanding about the complaints process, let alone help the PECs and CECs handle the complaints and objections that will arise from now through the Election Day and the counting.

The weekly PEC coordination meetings are being used as the primary point for mediating disputes. This use of conciliation and mediation is a misapplication of Cambodian law. Indeed, Chapter 11 of the regulations implementing the Election Law limits mediation to minor offenses not covered in the Election Law. Instead, the formal complaints process should be used.

Not only is the mediation process being misapplied, it is also proving to be an ineffective deterrent to election offenses. For example, Kampong Cham where the PEC stated that although they had managed to mediate offences such as threats to property and destruction of signboards, they have not seen a reduction in the level of these activities. Furthermore, they acknowledged that most of the offences were committed by people affiliated with the CPP, and yet no sanctions against the CPP had been implemented.

To date, none of the penalties for electoral crimes outlined in the Cambodian election law, such as fines beginning at 5 million riel (\$1,300 USD) have been implemented. Thus far, mediation by PECs and CECs has meant only that guilty parties apologize. Failure to assess penalties to these crimes has meant that there is no deterrence for future crimes. The failure of the complaints process to deter electoral violations has led some political parties to ignore the process of coordination meetings because they do not bring justice.

Recommendations

In its pre-election assessment statement of April 28, IRI made several recommendations for improvements to the electoral process in the areas of political environment, media access and electoral administration. Of these recommendations, only a small number have been implemented, each involving the execution of existing plans and each relatively minor in impact, such as the decision to allow parties a minimal amount of air time in equal amounts during the campaign.

Many of IRI's recommendations from its April 28 statement remain unimplemented. Most important of these is IRI's insistence that the Ministry of Interior must acknowledge that politically motivated crimes exist. These crimes contribute to a climate of fear and intimidation and thereby discourage political participation. Time is running out for the Ministry of Interior and provincial authorities to investigate and prosecute the perpetrators of politically-motivated murders, attempted murders, arson, and other violence prior to Election Day. The Ministry of Interior's failure to credibly investigate and prosecute politically motivated crimes has the effect of aiding and abetting a culture of impunity.

Given the fundamental flaws that have been detailed in this and many other reports, IRI cannot state with confidence at this time that international election standards can be met. In hopes of ensuring that what remains of the election process reflects the will of Cambodian voters, IRI offers the following recommendations. IRI believes there is sufficient time to implement these recommendations if the Royal Government of Cambodia has the political will to do so.

Political Environment

- The Ministry of Interior and the NEC should immediately and publicly investigate and prosecute violations of electoral regulations, applying the penalties outlined in the Law on the Election of the National Assembly. The authorities should focus on Village Chiefs for possible prosecution, and news of their being charged should be widely disseminated in state and private broadcast media.
- The NEC should enforce the directive of May 27, 2003, signed by the Ministry of Interior and NEC, which prohibits Village Chiefs from demonstrating support for any political party – thereby prohibiting Village Chiefs from acting as political party agents or entering the voting area for any reason other than casting their own ballot.

Election Administration

- The NEC should simplify the complaints and appeals process and provide clear definitions on how to complete the official complaint forms, such as Form 1202. In addition, the NEC should publicize to voters how they can file complaints.
- The NEC should ensure that voters and polling station officials are aware of exactly what form of identification is required from the voter in order to vote.
- Political party agents must be empowered to observe all aspects of the election. This includes sufficient access to confirm the safe keeping of ballots between polling and counting. The authorities also need to provide party agents Form 1101 which summarizes the activity on voting day, and Form 1105, which documents election results at the end of the counting.

- The NEC should increase confidence in the counting process through maintaining full transparency in the printing, use and disposal of all ballots, by allowing these processes to be observed and audited by partisan and non-partisan groups.

In conclusion, IRI welcomes the arrival and deployment of several groups of international observers. IRI urges international and domestic observers to also look at the election process as more than a day or even a month, but as a process going as far back as the formation of the NEC, and extending through the formation of a new government.

Correctly assessing these elections is not merely a matter of whether the Cambodian people accept the quantitative outcome. Nor is it a matter whether these elections are an improvement over past polls. IRI strongly believes it is important for observers to assess the quality of the elections.

IRI's recommendations involve fundamental issues such as access to media, intimidation, dispute resolution and ballot custody. These recommendations should be used as qualitative benchmarks to determine whether the ruling party has facilitated or frustrated attempts of the Cambodian people to express their will, and whether the election meets international democratic standards.

During this assessment, IRI team members visited the following provinces: Battambang, Kampong Cham, Kampong Speu, Kampot, Kep, Oddar Meanchey, Pailin, Phnom Penh, Prey Veng, Siem Ream, and Svay Rieng.

IRI has observed more than 100 elections worldwide and has sponsored observation missions to Cambodia's 1993, 1998 and 2002 elections. IRI will conduct an election observation in Cambodia for the July 27, 2003 parliamentary elections.

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