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**Pre-Election Assessment Mission
Kingdom of Cambodia
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**TIME RUNNING OUT TO ADDRESS SERIOUS FLAWS
IN ELECTION PROCESS**

The International Republican Institute (IRI) conducted the second in its series of pre-election assessment missions from April 23 to 28. The assessment mission was led by Democratic Action Party of Malaysia MP Theresa Kok, former State Department official Mike Mitchell, and IRI Asia Regional Program Director Daniel Calingaert. The 13 credentialed observers from the IRI delegation met with government officials, political party leaders and activists, independent elections experts, and voters in eight provinces to assess the pre-electoral environment and preparations for the July 27 National Assembly elections. IRI greatly appreciates the willingness of all the people it met with to share their views and insights into the election process.

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 is designed to examine a pre-electoral environment and to provide recommendations for addressing shortcomings well before election day.

Summary of Findings

Given pervasive restrictions on political expression in Cambodia, IRI is seriously concerned about the credibility of this electoral process. Murders of political activists, widespread intimidation, and selective application of justice create a climate of impunity which curtails the ability of citizens to express their political views freely. This is further exacerbated by obstacles placed on political party and non-governmental organization (NGO) activities, by the continued dominance of the ruling parties over broadcast media, and by concerns about the electoral administration's partiality.

Based on IRI's assessment, village chiefs are a key source of the intimidation of voters at the local level. The February 2002 commune council elections and the Commune Administration Law gave authority to commune councils to select village chiefs. The Ministry of Interior's failure thus far to write the relevant guidelines, as the law explicitly requires, has prevented the selection of village chiefs from taking place. Since village chiefs exert substantial influence over the political environment at the most local level, procedures

must be implemented to allow the commune councils to appoint village chiefs who will be accountable to the elected commune councils for their actions.

Much time and effort has been put into the drafting of election laws and procedures by the election authorities, political parties and NGOs. IRI encourages all political actors to work within the framework of the laws and procedures that are already in place. However, IRI notes that the true commitment of the government and the electoral administration to a more legitimate process will be measured by their implementation and even-handed enforcement of the laws and procedures.

While concerns about the political environment and election administration run deep, there is sufficient time to correct the flaws in the electoral process in the two months left before the election campaign. At the conclusion of this report, IRI offers a set of specific and realistic recommendations designed to strengthen the electoral process.

Political Environment

A climate of intimidation and fear pervades the pre-electoral environment. The recent high-profile assassinations in Phnom Penh, the murders, attempted murders and serious assaults in the provinces, the threats designed to intimidate political opposition, and the general absence of credible investigations and convictions have had a chilling effect on political participation at all levels. In addition, arbitrary arrests, such as the arrests of student leader Ken Sara and Beehive Radio owner Mam Sonando, point to the deliberate manipulation of Cambodia's justice system for political ends.

While compared to past elections there are fewer reports of serious politically motivated crimes, forms of intimidation have become more subtle and sophisticated. There are widespread and well-founded fears among voters that support for parties other than the Cambodian People's Party (CPP) carries risks to their life and livelihood. IRI's assessment confirms numerous incidences of the intimidation and attempted vote buying that have been reported by political parties and human rights groups. Voters have received threats from village chiefs and local authorities that retaining their jobs or their land is linked to their support for CPP. Though complaints have been filed, these cases have yet to be credibly investigated by the authorities. During the course of this assessment, all reports that IRI received of intimidation by parties were attributed to CPP.

The climate of impunity extends to the electoral administration itself. Numerous complaints were filed regarding the administration of voter registration. These complaints include alleged violations of the electoral law, such as registration of underage voters and non-citizens, and inconsistent application of registration requirements by the commune clerks. A significant portion of these complaints was rejected outright by the NEC, citing lack of supporting evidence. Many other complaints were dismissed or resolved through "reconciliation." There have been no punishments imposed, as provided for in the Law on the Election of the National Assembly (Articles 124 and 131).

Political parties also operate under continuing threats and face bureaucratic impediments to carrying out their lawful activities, despite constitutional guarantees to free expression and assembly (Constitution of the Kingdom of Cambodia, Article 41). Under various pretexts, local authorities have disrupted regular activities of opposition political parties and prevented public meetings by select advocacy groups. For example, last week the Ministry of Interior

denied the Cambodian Center for Human Rights (CCHR) the right to use a theater group to perform voter education messages, and the voter education activities of several youth organizations have been prohibited for similar reasons.

Access to Media

In Cambodia, almost one-third of the population is illiterate, and most people get their news from television and radio. Therefore, balanced access by political parties to broadcast media is critical to the integrity of the elections.

All of the country's television stations and the vast majority of radio stations are controlled or closely affiliated with the ruling parties, mostly with the CPP. There are only two independent radio stations. Both have limited coverage beyond Phnom Penh, and one—Beehive Radio—was temporarily taken off the air. As a result, broadcast news normally serves as a promotional vehicle for the ruling parties, while opportunities for opposition parties to communicate with citizens over the airwaves are severely limited.

The government has consistently blocked efforts to redress the huge imbalance in access to media. The Ministry of Information turned down the Cambodian Center for Human Rights' application for a radio license and continues to deny a radio license to the opposition Sam Rainsy Party (SRP), claiming that there are no FM frequencies available. However, in January 2003, the Ministry of Information provided a license to a new government-affiliated radio station.

Preferential access to broadcast media has also worked against U.S. broadcasters. While the British Broadcasting Corporation (BBC) and Radio France Internationale (RFI) reach Cambodian listeners on FM frequencies, Radio Free Asia (RFA) and Voice of America (VOA) Khmer language programs are kept off the FM airwaves and can reach only a much smaller audience via shortwave.

For the 30-day campaign period, the National Election Committee (NEC) is responsible for ensuring equal access by political parties to broadcast media. The NEC plans to do so by providing for equal blocks of free airtime on state media to all parties that compete in the elections. What the NEC has yet to decide is how to make broadcast news coverage balanced. According to reports by media monitors of the 2002 commune council elections, about 90 percent of broadcast news coverage was devoted to CPP officials. Funcinpec officials received about 10 percent of broadcast news coverage, while SRP officials were never shown on TV news. A similarly huge imbalance in news coverage is likely to recur in the July 2003 National Assembly elections unless provisions are put in place for broadcast media to provide balanced coverage of political parties during the upcoming election campaign.

Access to private media is also critical to the ability of political parties to communicate with voters. According to the Election Regulations (Article 7.13.5), private media may provide political parties with equal access to paid airtime but have the choice to refuse paid campaign advertisements. Given that choice, private media are unlikely to accept paid campaign advertisements. Virtually all private media are closely aligned with ruling parties, and past requests by SRP to buy airtime on private media were denied.

Electoral Administration

All NEC members were nominated by the CPP and Funcinpec co-Ministers of Interior, without public consultation, and were aligned with the ruling parties. The opposition Sam Rainsy Party and civil society had no input in the selection of NEC members. As a result, the NEC is not genuinely independent and is perceived as biased. Although the NEC has begun to consult regularly with political parties and with NGOs, the NEC's impartiality remains open to question.

By May 1, the NEC will finalize the selection of Provincial Election Committee (PEC) members. Once the PECs are in place, Commune Election Committee (CEC) members will be selected. The Election Regulations (Articles 3.7 and 3.8) require the NEC to ensure "independence and neutrality" by selecting PEC and CEC members who "represent all interest groups of the entire Cambodian society." The selection of PEC and CEC members creates an opportunity for the NEC to provide equitable representation in the election administration to genuinely independent experts and to opposition supporters. Unless this opportunity is seized, the entire election administration will consist of individuals aligned with the ruling parties and will be viewed as biased.

The perceived NEC bias exacerbates concerns about several technical issues raised by independent experts and by opposition parties. These issues include the lack of transparency in the printing and distribution of ballots, the definition of what constitutes a valid versus invalid ballot, provisions to seal and secure ballot boxes when voting ends, vote count procedures, and provisions for CECs to make official copies of the results. Against the background of perceived NEC bias, these issues call into question the election's transparency and, if left unaddressed, will raise doubts about the integrity of the electoral process.

Implementation of Electoral Results

The Law on Commune Administration (Article 30) gives commune councils, which were elected in the February 2002 commune council elections, the authority to select village chiefs. Before they can exercise that authority, however, commune councils must receive instructions from the Ministry of Interior on the implementation of the Law on Commune Administration. The Ministry of Interior has yet to issue those instructions.

Village chiefs exert strong influence over their communities and have used their influence to pressure villagers to vote for CPP. The Ministry of Interior's delay in issuing instructions on the selection of village chiefs is allowing CPP to retain its grip on village politics.

The Constitutional Council ruled in January 2003 that the Ministry of Interior must issue instructions on the selection of village leaders "within an appropriate period of time." While the Law on Commune Administration gives no deadline for the Interior Ministry to issue these particular instructions, the Constitutional Council noted that the Law on Commune Administration requires the Ministry of Interior to issue instructions on the implementation of other articles of the Law within six months.

Over a year since the commune council elections and over three months since the Constitutional Council's ruling, the Ministry of Interior has failed to implement a key result of the commune council elections. Failure to implement this result before the campaign for the next election will confirm the strong impression of an electoral process manipulated by CPP and may raise questions about the integrity of elections generally in Cambodia.

IRI Recommendations

Despite the serious concerns identified by IRI, the next two months provide sufficient time for the government and the NEC to create a political environment conducive to free expression and to develop an election administration that generates confidence across Cambodian society. In the interests of strengthening the electoral process for the July 2003 National Assembly elections, IRI offers the following recommendations:

Political Environment

- To end the climate of impunity, the Ministry of Interior must first acknowledge that certain crimes committed in recent months are politically motivated. These crimes contribute to a climate of fear and intimidation and thereby discourage political participation.
- The Ministry of Interior and provincial authorities should investigate and prosecute the perpetrators of politically-motivated murders, attempted murders, arsons, and other violence. These prosecutions will lack credibility unless they are conducted transparently, are open to NGO monitoring, and are free of arbitrary arrests and forced confessions.
- In addition, the Ministry of Interior and the National Election Committee should enforce the Law on the National Assembly Election, particularly investigate and prosecute such violations as the use of threats, coercion, or offers of material

incentives to gain votes. Enforcement will lack credibility until such violations are punished in accordance with the Election Law (Article 124).

- Victims of arbitrary arrest should be released.
- Selective application of the constitutional rights to free expression and assembly are likely to continue unless the Ministry of Interior takes decisive action to uphold these rights. The Interior Ministry should immediately, publicly, and explicitly instruct provincial and local authorities to allow *all* political party and NGO events and public meetings that are not specifically prohibited by the Election Law.

Access to Media

- The Ministry of Information should provide radio licenses to the Sam Rainsy Party, to the Cambodian Center for Human Rights, and to any other entity without regard to political affiliation.
- To provide U.S. broadcasters with the same media access as other foreign broadcasters, the Ministry of Information should allow the broadcast of Radio Free Asia and Voice of America on FM frequencies.
- The NEC should carry out its plan to provide for equal blocks of free airtime on state media to all parties that compete in the elections.
- In addition, the NEC will need to issue and enforce specific guidelines, in cooperation with the Information Ministry, to ensure balanced news coverage on broadcast media. Effective enforcement of such balanced coverage will require daily monitoring by the NEC or Information Ministry, and by NGOs, and correction of any imbalance within 24 hours.

Electoral Administration

- To avoid a situation where the ruling parties gain complete domination of the election administration, the NEC will need to select PEC and CEC members who represent all interests of society. The selection of PEC and CEC members should result in substantial representation of genuinely independent experts and of opposition party supporters.
- To ensure transparency in the electoral process, the NEC will need to resolve the technical concerns raised by independent experts and by opposition parties. Resolution of these concerns will include—but will not be limited to—the following actions:
 - Party agents should be allowed to observe the printing and distribution of ballots and to verify a full accounting of the ballots printed and distributed.
 - A clear definition of what constitutes a valid versus invalid ballot should be provided in an illustrated poster produced or arranged by the NEC. This poster should be placed in a visible location at every polling station and counting center.

- The NEC should provide adequate materials and clear procedures to seal ballot boxes completely and securely when voting ends.
- Party agents should be given clear authority to accompany ballot boxes from the polling stations to the counting centers and to observe the entire vote count.
- The NEC should adopt regulations to allow no more than three simultaneous vote counts at each counting center, so that party agents can observe all of the vote counts.
- The NEC should require CECs to provide three official, signed copies of the results to party agents from the parties that receive the three largest shares of the vote in the commune.

Implementation of Electoral Results

- The Ministry of Interior should issue instructions on the selection of village chiefs by May 15 in order to give commune councils enough time to implement the last election's results before the campaign for the next election gets underway.

During this assessment, IRI team members visited the following provinces: Battambang, Banteay Mencheay, Kampong Cham, Svay Rieng, Kampong Speu, Kampong Chhnang, Pursat and Phnom Penh.

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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