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**AN ASSESSMENT OF PROGRESS TOWARD
LOCAL AND NATIONAL ELECTIONS
IN THE KINGDOM OF CAMBODIA**

sub July - August, 1995 *etc*

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an
Paul S. DeGregorio, IFES Consultant

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EXECUTIVE SUMMARY

The Kingdom of Cambodia is a country in southeast Asia that has gone through decades of strife and political turmoil since becoming an independent nation in 1953. It is also an area that experienced a brutal annihilation of one million people during the mid-1970s. However, beginning with the peace accords secured between 1990-1992, Cambodia has embarked on a new course which is moving the country toward self-determination and stability. In what has been described as one of the United Nation's finest accomplishments, the people of Cambodia were given the opportunity to begin the process of deciding their own destiny through the ballot box in an election which was held in May of 1993; an election in which 90% of the eligible voters cast ballots to elect their national leaders. The results of that balloting has led to a coalition government which has brought a modicum of stability to the country.

The 1993 election was a mere beginning to restore the democratization process to Cambodia. It was also a costly one: an estimated \$1.7 billion dollars was spent by the world community to administer the election, much of it on security measures.

Now in 1995, Cambodia has begun the long but important process of continuing the transition to democracy by forming a committee to develop new laws on local and national elections. The need for local elections is abundantly clear. The current situation allows for a 120 member Constituent Assembly which meets only sporadically and has helped to continue the rather distant relationship between the people and their government. Local elections would provide an important constituent link with the governmental leadership.

The code and procedures used for the 1993 Constituent Assembly election were developed under the auspices of the United Nations. At the present time, Cambodia does not have a law for national or local elections. Indeed, officials at the local and provincial levels of government are administrators appointed by the central government. In June of this year, a seven-person committee was appointed by the co-Ministers of the Interior to draft new laws for local and national elections. This Committee, with members tied to the two major political parties--the United National Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia (FUNCINPEC), and the Cambodian People's Party (CPP)--have been working slowly and cautiously to formulate a new election law. Their present timetable calls for the draft law on local elections to be completed by August, 1995. The draft law will then be submitted to the Interior Ministry who may or may not involve the public, political parties, NGOs, the press and other groups in the review process. After Interior examines the draft law on local elections, it will then move to the co-Prime Ministers who will subsequently submit it to the Constituent Assembly for approval. A similar procedure is expected to be followed for the development and approval of the draft law for the national elections which is expected to be completed by the Committee this November. However, because of the complexities involved in completing such an important task, there may be changes in the process. Conceivably, the Interior

Ministry might wait until both laws have been drafted before they permit public scrutiny and debate or attempt to move them forward simultaneously in the administrative and legislative process.

The committee drafting the local election law appeared to have considerable details to finalize as they formulate a workable and financially feasible registration and balloting system. Indeed, they welcomed the technical advice that was given regarding several elements of the draft. At the same time, members of the Committee made it clear that any request for assistance would have to come from the Interior Ministry or other high-ranking officials.

There are several important issues that need to be monitored and addressed during the next stage of development of the new laws for local and national elections. This would include opening the process to public scrutiny and debate; beginning long-term preparations for implementation of the new law; and ensuring that the fiscal implications of any proposed new law are fully understood before they are enacted. In addition, while there were several verbal indications of the need for technical and other aid, a formal request for election assistance should be made by the government to appropriate organizations such as IFES or donor nations.

The process of formulating, enacting and implementing a new election law and system will be a major undertaking for a country that is one of the world's poorest nations. However, it is a goal that must be accomplished if Cambodia is to continue on the road to democracy. Short and long-term assistance to Cambodia from the International Foundation for Electoral Systems could prove to be the most important element that facilitates this important transition. The establishment of an IFES field office in Cambodia is strongly recommended.

In the short term, it is clear that the various entities charged with the responsibility of drafting and passing a new election law could use considerable technical advice. At the present time, it appears that they are not considering enough options. Perhaps most importantly, during their deliberations, these leaders need to be made aware of the cost factors regarding various elements of their proposals in light of the realization that international financial assistance will be (at best) a fraction of what was donated in 1993.

Long-term assistance to implement a new election law will be crucial to ensure fairness and a timely development of the procedures and policies that will be required to hold elections. Some of those efforts would include statute and procedural drafting; logistical planning; legal interpretation; training of election commissions, poll workers, political parties, candidates, NGOs and observers; civic and voter education; commodities assistance; communications assistance; data-processing assistance; and donor coordination and solicitation.

Most of the details found in this document are based on information obtained from a series of discussions I had with various government and political leaders, non-governmental organizations (NGOs) and citizens from the Kingdom of Cambodia during the week of 24-29 July, 1995. I would



like to acknowledge the assistance of Mr. Sos Kem of Cornell University for arranging these meetings, for his excellent translation and for imparting to me some of his vast knowledge of Cambodia.

I. COUNTRY BACKGROUND

The Kingdom of Cambodia is a nation of an estimated 9.7 million people in southeast Asia and is bordered by Thailand on the west and northwest, Laos on the north and Vietnam on the east and southeast. Cambodia became independent from France in 1953 after nearly a century of domination. It is a nation with an economy based on agriculture employing an estimated 80% of the labor force. Social cohesion and continuity have traditionally been derived from a common language (Khmer).

The people of Cambodia have experienced tremendous strife and political upheaval during their short period of nationhood. After relative peace during the monarchy and governing of King Norodom Sihanouk in the 1950's to mid-1960's, the political situation in the country deteriorated as a communist insurgency developed throughout southeast Asia and the Vietnam War ravaged next door. During the reign of terror of the Khmer Rouge from 1975-1979, an estimated one million Cambodians were exterminated. The Khmer Rouge were ousted by a Vietnamese-led communist regime who subsequently did not permit a market-based economy to develop.

All of this turmoil resulted in one of the lowest standards of living of any nation in the world. Life expectancy in Cambodia is a mere 49 years for women and 46.3 years for men. Nationwide, health care is poor and practically non-existent in many rural areas. An astounding 88 percent of the rural population does not have access to safe water. Because of the dismantling of the schools, massive emigration, lack of food, and genocide during the reign of the Khmer Rouge, most of the population aged 19-37 lack basic skills and education. Also, the country's infrastructure is in a sad state of disrepair due to the many decades of war and neglect. It is estimated that millions of land mines still dot the countryside resulting in the killing or injury of about 200-300 people every month.

Through the persistence of the United Nations, peace accords were signed in 1992 which facilitated an election in May of 1993 for a unicameral Constituent (national) Assembly. In that election, which was boycotted by the Khmer Rouge, 120 representatives were elected by the people to serve a five year term. Fifty-eight of the Assembly members were representatives of the Sihanouk-led FUNCINPEC party while 51 came from the former-communist CPP. Ten members represented the national liberation BLDP and one member was elected under a minor party banner. The close election resulted in the formation of a coalition government between all parties winning seats in the Assembly. While this shared power arrangement has resulted in relative stability for the people of Cambodia, it also has had the effect of minimizing the debate and public discussion regarding major issues. At the same time, the Royal Cambodian Government (RCG), which took over in September, 1993, has allowed for improved development opportunities for the country.

The Assembly approved a new constitution on 21 September, 1993 which again allowed for the monarch to be the head of state. The King still enjoys some latitude in regard to the formal branches of government including the dissolution of the Assembly during times of emergency.

II. ELECTION HISTORY

a. National

The right of the Cambodian people to determine their own destiny through the ballot box has been severely limited since independence from France was achieved in 1953. The first election for the Constituent Assembly was held in September, 1955 with subsequent Assembly elections conducted in 1966, 1972 and 1975. In many of these elections, competition was limited and all members of the Assembly came from the same political party. The May, 1993 national election was achieved through an agreement brokered by the United Nations. In addition, the U.N. developed the law and procedures that were used in that election. Nearly \$1.7 billion dollars was spent on that election, most of it on security measures to ensure peaceful balloting. It is estimated that there were 1,500 civilians, 16,000 military staff and 3,600 police from the U.N. involved, in addition to the thousands of Cambodians who assisted in the process. Each voter had to be registered in order to cast a ballot in that election. When the registration process was completed after a six month period, over 96% of those eligible or 4,764,430 Cambodians were on the voter rolls.

With over 90% voter participation in the 1993 national election in which 20 political parties sought power, the United Nations proudly achieved its goal of allowing the Cambodian people the opportunity to select their leaders through the ballot box. The new constitution adopted in September, 1993 provides for the right of suffrage in Article 34, and states "Regulations limiting the right to vote and the right to run for election shall be defined in the electoral law."

b. Local

In 1955-56, a new election law was established which allowed for the election of local officials. It appears that from 1956-1970, and then for a short period in the late 1980's, elections were held to elect local leaders at the Khum or "commune" level and in the provinces. A Khum is usually described as an area consisting of four to six small villages. However, a Khum could also be a larger city such as Phnom Penh or Kampong Cham. At times, voters were also given the opportunity to elect "Governors" of the 20 or so provinces in the country.

It should be noted, however, that the local and national elections that were held from 1955-1988 were not generally inclusive or overly competitive and were conducted at a time when basic civil and human rights were almost non-existent. Articles 126 and 127 of the Cambodian Constitution describe the Administration of Cambodia as:

"The territory of the Kingdom of Cambodia shall be divided into provinces and municipalities. Provinces shall be divided into districts and districts into khum. Municipalities shall be divided into khan and khan into sangkat. Provinces, municipalities, district, khan, khum, and sangkat shall be administered in accordance with conditions set

in an organizational law."

III. AN ESTIMATED TIMETABLE FOR DRAFTING, REVIEWING, ENACTING AND IMPLEMENTING NEW CAMBODIAN LAWS ON LOCAL AND NATIONAL ELECTIONS

Event	By Whom	When
<i>Drafting of law on local elections</i>	Seven member committee appointed by Co -Ministers of Interior	June-August, 1995
<i>Drafting of law on national elections</i>	Same seven member committee appointed by Interior Ministry	September-November, 1995
<i>Review of draft laws by Interior Ministry</i>	Co-Ministers of Interior and their staff	local-Fall, 1995 national-Winter, 1995
<i>Draft law reviewed by Co-Prime Ministers</i>	Co-Prime Ministers and staff	local-Fall/Winter, 1995 national-early 1996
<i>Constituent Assembly reconvenes</i>	Constituent Assembly	October 18, 1995
<i>Legislation submitted to Constituent Assembly for enactment</i>	Constituent Assembly Committees on the Interior and/or Special Committee established to review election law	local-early 1996 national-Spring, 1996
<i>Constituent Assembly enactment of election laws</i>	Constituent Assembly	local-Spring, 1996 national-Summer, 1996
<i>Implementation of new election laws</i>	Election Commissions	local-late Spring-Winter, 1996 national-1997
<i>Local Elections</i>	Election Commissions	late 1996, early 1997
<i>Constituent Assembly Elections</i>	Election Commissions	May, 1998

IV. THE COMMITTEE DRAFTING THE LAW ON LOCAL AND NATIONAL ELECTIONS

a. Background

In the Spring of 1995, the co-Ministers of the Interior appointed a seven member committee to formulate a draft of new laws regarding local and national elections. During my assessment mission, we had a series of discussions with five of the members (the other two were out of the country). Three members of the Committee were associated with the political party known as CPP, while three others were aligned with FUNCINPEC. The Chairman of the Committee, Mr. Chhay Kim, indicated that he was "neutral" even though he worked for the CPP Interior minister. It was determined that four of the seven members lived overseas during the period of 1975-1993. Most members had experience in law or administration and all worked for the Ministry of the Interior in some capacity.

Members of the Committee with whom I met included:

<i>Mr. Chhay Kim</i>	Counselor to the Vice-Prime Minister
<i>Mr. Klok Buddhi</i>	Director of the Cabinet
<i>Mr. Cheav Theng Huot</i>	Advisor to the Minister
<i>Mr. Ang Vong Vathana</i>	Advisor to the Minister Sar Kheng
<i>Mr. Yen Savannary</i>	Counselor to the Vice Minister regarding political matters

b. Discussions

During the week of July 24-29, I had several opportunities to meet with members of the Committee to discuss their progress in developing the draft law on local elections. In addition, I was able to provide the Committee with technical advice regarding various aspects of the law and answer many questions they had in that regard.

In our discussions, we touched upon many subjects which included:

1. the status of the draft law;
2. civic education of the voters;
3. voter registration options;
3. procedures needed at the polling place;
4. ballot and ballot box security;

5. the counting process;
6. how candidates file and are listed on the ballot;
7. accounting of ballots/materials;
8. fiscal considerations during the development of the election laws;
9. NGO participation in the review of the draft;
10. the need for technical and commodity assistance; and
11. the implementation process.

I attempted to convey to the Committee the importance of the fiscal elements involved in the election and that the strong financial donor support that was available in 1993 would simply not be there in 1996, 1997 or 1998. Therefore, whatever system they created had to be not only workable, but realistic in approach. I told them that trade-offs would probably be necessary.

The Committee stressed the following points several times during our discussions:

1. *It is their intent to meet international standards in the development of the draft election laws; and*
2. *They would like for their election law to meet donor standards to encourage financial assistance in the conduct of the election.*

The Chairman of the Committee, Mr. Chhay Kim, said that he had met with the co-Minister of the Interior, Mr. Sar Kheng (CPP) after our meeting with the Minister the day before. Mr. Chhay expressed to him the Committee's desire for assistance in drafting the election law. The Chairman thought that a request would be made by the Interior Ministry for short and long-term technical and other forms of assistance.

c. Request for technical assistance

The Committee asked how they could obtain immediate technical assistance to help in the drafting of the election laws. We suggested that they ask the Ministry to send a formal request to the U.S. Embassy or IFES. The committee felt that the government needed immediate assistance to plan for the election. They emphasized that it required significant planning and preparation to facilitate the transfer of information to outlying areas of the country.

Examples of technical/equipment needs the Committee cited included:

1. helping to develop procedures and training materials to establish and organize the polling stations throughout the country;
2. assisting in the collection of data such as the potential for voter registration and the establishment of mechanisms for the registration of voters;
3. providing radios, telephones and faxes which could be used to provide a constant link between the provinces and Khums as well as with the supervisors of the polling stations; and
4. the need for computers, copy machines and other processing equipment which would help in the administration of the election.

d. Timetable for completing drafts

The Committee started their work on the local election law in June and expect to have a completed draft to give to the Interior Ministry by the end of August.

This same group will begin to draft the law for the 1998 national elections in September. They plan to have that draft completed by the end of November of this year.

The Committee does not work every day on the election law project. Since members have other administrative duties and responsibilities, they seem to be devoting 5 to 16 hours per week on this project. As of 25 July, the Committee had completed most of the work on the first 7 (of 9) chapters and was in the process of developing chapter 8.

V. THE DRAFT LAW FOR LOCAL ELECTIONS

a. Chapters

The Committee indicated that there were nine chapters in the draft of the local election law. Those chapters include:

- 1 GENERAL DISPOSITION (the administration of the election)
- 2 VOTER QUALIFICATIONS (who is eligible to cast a ballot)
- 3 THE ELECTORAL PROCESS
- 4 THE REGISTRATION OF CANDIDATES



- 5 THE VOTER REGISTRATION PROCESS
- 6 CAMPAIGNING PROCEDURES AND RULES
- 7 ELECTION DAY-VOTING PROCEDURES
- 8 THE COUNTING PROCESS
- 9 PENALTIES FOR VIOLATIONS

b. Foundation for the draft law

While the Committee would/could not give us a copy of the draft law, we inquired about some of the details contained in the draft which, by the way, has been written in the Khmer language.

The foundation of the draft election law is based on the law that was used to conduct local elections in Cambodia from 1955-1970. Committee members said that while the old election law actually described the duties of the village chief, their election law would not since local administrative law will be covered under other legislation. However, portions of the law that were used to conduct the 1993 national elections have been incorporated into the draft. The Committee indicated that two French advisors assisted in formulating parts of the law and, therefore, some of the draft law is based on the French system of local elections. While the Committee welcomed NGO participation in any public discussion of the draft law, they said that it was up to the Interior Ministry to permit such review. It appeared that some members of the Committee may have had minor discussions with some of the NGO's about portions of the draft.

c. Timetable for the elections

According to the Committee, the earliest date local elections can be held is in late 1996. They indicated that it will take some time for the legislation to pass the National Assembly. In addition, members said that the implementation process will be long and difficult. The Chairman mentioned that the United Nations Transitional Authority in Cambodia (UNTAC) had 129 full-time technical advisors and administrative support staff on site for 10 months in 1993 for the national elections. According to the current timetable, the next Constituent Assembly elections are currently scheduled for May of 1998.

VI. TECHNICAL ELEMENTS OF THE DRAFT LAW

The following is a description of various technical aspects of the draft law on local elections which was obtained from our discussions with the Committee.

a. The Election Commission

The Committee was rather vague in describing the commission that would oversee local elections. On one hand it appeared that the Interior Ministry would be administering the election, at the same time it was suggested that King Norodom Sihanouk should be appointed as the head of the commission and therefore have complete control over the process. It was apparent that the Committee had not finalized this aspect of the proposal. Upon request, I gave the Committee members the following advice regarding the establishment of a commission: The commission should be a permanent body which is independent, yet inclusive enough to allow all candidates/political parties and NGO's adequate representation. In addition, members should be well-versed in the law, administration and in resolving conflict. I suggested that all meetings and records of the commission should be open to public inspection.

b. The Voter Registration Process

We asked the Committee which voter registration method they were contemplating. They replied that the chief of each commune (Khum) will probably be the person in charge of registration since it is he/she "who has records of all of the people in the Khum". They said each family has a family "card" and are supposed to register with the Khum. If a person or family does not have a card then they are not a legal resident. The chief will ask the people in his area to register. A person not on a registration list can complain to the commune chief or a higher authority.

c. Candidate Filing and Election Process

It is envisioned that each Khum will elect a chief and four to six people who will run the village government. The current draft allows that any group may assemble a "slate" of people to run together for election. To secure a place on the ballot, the slate must obtain signatures equal to at least 5% of the registered voters in the Khum. The slate will not be identified by political party. However, members of the political parties may run for office on the slates. A slate will have to file its signatures no later than 35 days before the election. Voting will take place by slate, that is each voter can cast one vote for one slate, not individual candidates. When voting takes place, the slate that receives the most votes will be elected. The person listed at the top of the winning slate will become the Mayor or Khum chief. The others on the slate will divide their power and duties amongst themselves. No minimum turnout requirement to validate the election is being contemplated at this time. It is clear the Committee has not worked out all the details regarding this aspect of the law. They said they are "still debating" the system of representation.

d. The Ballot

Voters will cast only one ballot. They will either be given one ballot which contains all the slates and then mark their choice or they will be given separate ballots for each slate and then choose one to



drop in the ballot box. The committee has not finalized this element of the election process nor determined whether symbols or other slate identifiers would be allowed on the ballot.

e. Period/Process of Voting

The Committee is leaning toward having all voting completed on one day. Police and candidates will not be allowed inside the polling station. No electioneering will be permitted on election day.

VII. GOVERNMENTAL, LEGISLATIVE, AND CITIZEN DISCUSSIONS REGARDING THE ELECTION PROCESS

a. Discussion with His Excellency Prince Norodom Ranariddh

I had the opportunity to meet with First Prime Minister and Prince Norodom Ranariddh and listen to some of their comments regarding the electoral process and other matters. Also at the meeting were Ron Gould of Elections Canada and John Bosley, former Speaker of the Canadian Parliament. The meeting was initially set up for Messrs. Gould and Bosley, I was added at the last minute through contacts Sos Kem had made with Sina Than, Secretary-General of the Constituent Assembly.

The Prime Minister's initial remarks included a statement that he believed Cambodia has made significant progress in the past two years and that the world community will have to be a little more patient when it comes to democracy building. He cited increased freedoms of press, religion and assembly as examples of Cambodia's progress and described his country as moving much faster than neighboring Thailand and Vietnam. The Prince then discussed the electoral process and made the following observations:

- ▶ He believes that progress has been made in the electoral process. As evidence of that He pointed to the fact that the two political parties are effectively working closely together on many fronts.
- ▶ There should be a neutral election commission which would supervise the election process.
- ▶ The King should be the head of such a commission since He is the most neutral person in the country and also the person most respected by the people.
- ▶ During the election period, the police and army should be under the direction of the King so that the army and police can be "neutral and neutralized" during the process.
- ▶ Cambodia should ask the United Nations and other donor countries to provide funds to conduct the elections.

- ▶ Electoral laws should contain strong provisions against vote buying.
- ▶ Foreign observers should be allowed to be present for the elections to help keep them free and fair.
- ▶ His country welcomes all initiatives and ideas to help establish good electoral laws and procedures.

My only comment to the Prince was to state that the United States and foundations such as IFES were interested in providing technical and other election assistance to Cambodia during the development and implementation of their new election laws.

b. Political party discussions regarding electoral laws

In a meeting with Sina Than, Secretary-General of the Constituent Assembly, we learned that the two main political parties (CPP & FUNCINPEC) have had discussions regarding the 1998 Constituent elections. Among other issues, they have discussed how the districts/subdistricts should be divided. At this time, there is general agreement not to support the concept of proportional representation in the new election law. The coalition parties prefer a direct vote (winner take all) in each district. There is some thought that the two main parties may divide the territory (country) and only file candidates in areas where they are strong (presumably to keep smaller parties from being successful), which may have the effect of keeping the coalition government intact. Some members have talked of forming a new political party which would be a combination of CPP and FUNCINPEC.

Mr. Than indicated that the permanent standing committee of the Constituent Assembly will review the draft law after it is received from the Interior Ministry and then forward it on for debate. He was not sure if the draft election law would then be distributed to various groups for public comment and debate (he cited the Press law as precedent). Mr. Than said he would welcome and support any type of assistance for the election. He told us that The Asia Foundation has provided consultants and advisors to the Assembly committees of Defense, Investigations and Interior and may be able to provide advisors regarding electoral law.

The General Secretary Than pointed out that Mr. Bou Thang is Chairman of the legislative committee that will deal with elections. He said a special committee will be created to hear the electoral law, and added that the full assembly will meet again on October 19 and may start debating the electoral law at that time.

c. Assembly Committee unaware of progress

On 27 July we met with 3 (of the 9) members of the Assembly Committee on the Interior and



Defense. There was one member from each political party at the meeting.

When asked what timetable had been established to pass the new local election law, the Committee seemed to be completely unaware of what progress the Interior Committee had made on the draft laws and was not sure when the draft laws would get to them.

We had a general discussion regarding the role of the province governors and Khum leaders. They said that "after 1996" they will have a new law dealing with the duties of those who will be elected in the local elections.

Committee members said they needed and welcomed assistance and advice when they begin the process of reviewing the draft election law that will be presented to them by the Ministry of the Interior. They hope to survey NGO's and other groups to get their input. Some of their goals included: 1. ensuring that the new election law is compatible with the constitution; and 2. developing an election law that meets international standards so as to attract donations which would assist in the implementation of the law.

The Committee also expressed a strong desire to visit the United States in 1996 to observe the U.S. Presidential and Congressional elections.

d. NGO Concerns regarding the process of developing a new law

While completing this assessment, I had the opportunity to meet with individuals who represented seven different non-government organizations (NGOs) which were active in Cambodia. This group had a diversity of interests yet were all united in the belief that the democratization process must move forward.

There was a general consensus among the group that NGOs need to be very involved in the process of developing the new local and national election laws. Representatives were fearful that their organizations (and the general public) will be kept out of the debate. In the past, most agreed that "everything was kept secret until the last minute". They believe that at least one month of open public debate on the draft laws is needed to assure minimal public participation in the development stage.

Some of the NGO recommendations/concerns regarding the local and national election law included:

- The system needs to be different from the one used in the 1993 national elections and should allow for non-partisan (independent) candidates.
- NGOs should be specifically mentioned in the law; they need to play a clearly defined role.
- The constitution should provide for an independent commission to conduct the election.

- How independent and how powerful will the election commission be?
- Cambodian nationals working overseas should be allowed to vote.
- Results should be credible; there is a need for strong ballot security measures.
- Voter registration efforts should be extensive: every Cambodian should be able to vote and have the opportunity to be a candidate in the election.
- The government (i.e. Interior Ministry) should not run the election; an independent commission should be charged with that responsibility.
- The new election law should not be a back door return to dictatorship (as new Press Law was a step back to censorship).
- Will they use the old system or develop a totally new one?
- There should be a continuity in the local and national election laws; different procedures would be confusing to the voting public.
- The local elections should be completely non-partisan; no party identification should be on the ballot.
- If the election law is not implemented adequately, there should be a mechanism to invalidate the results.
- Cambodia needs better security in rural areas; Khum leaders place political party signs on their offices which can intimidate people and keep them from registering and voting.
- The new election laws need to have strong laws against vote buying (to prevent what happened in Thailand).

e. Discussion with Constituent Assembly Leaders regarding election law development

In a meeting with the 1st and 3rd Chairmen of the Constituent Assembly, one of whom was Mr. Son Soubert (FUNCINPEC & BLDP), the leaders asked what kind of assistance could the Assembly receive when they start debating the new electoral laws. They liked the idea of the King being the chairman of the election commission and agreed that NGOs should be formally included in the

electoral process.

The 1st and 3rd Chairmen were worried about the administrative structure of the election process since there are so many Khums; they indicated that the communication and administration process in implementing the election could be very difficult. They also believed that the Ministry of the Interior should divide the country into various constituencies and force the CPP to divide the power at the local level equally.

The leaders indicated that there needs to be a new province in the north due to the population growth in that region. Mr. Soubert of BLDP suggested that perhaps the local elections could be delayed and combined with the national elections in 1998 to save costs. I explained to him the logistical problems with such an approach and also emphasized that combined elections could be very confusing to the voters.

f. Local Party Concerns in Kampong Cham Province

On 29 July I met with Pot Boun, Secretary-General of FUNCINPEC, in Kampong Cham province. Mr. Boun told me that his party is planning for local elections and added that they are training leaders at the local level to strengthen the party. They receive information from the party and NGOs in Phnom Penh and then disseminate the information to rural areas through letters and meetings. He believes there is support for his party at the local level. Under the Sihanouk regime, the Secretary served as Province director. He showed us a diagram of party hierarchy and structure in the province.

The Secretary-General indicated that while his party supports local elections, they do not have a connection to the Khum level since it is controlled by the CPP. He emphasized that the current system is not fair and unless his party has representation at the district level, any elections held will not be honest. In the 1993 Constituent Assembly elections, his party had representatives at polling stations who served as observers.

Also on the 29th, I met with the 2nd Vice Governor of Kampong Cham Province (CPP). This gentleman was appointed to his position by the current national government. He had been elected to the position in 1988 and then was appointed to the same position by the new government in 1993. Prior to his government service, he was a professor of Philosophy at a high school in Phnom Penh. This gentleman said that his duties included overseeing the general economy, the local peace, catastrophes and prisons. He indicated that there were 131 prisoners incarcerated in the province for crimes such as thefts and fighting.

The Vice-Governor said the standard of living was better in the province this year because there had been no severe flooding. He said he works with the leaders at the Khum level; as an example he mentioned that they worked together recently to put out a fire. He frequently travels with local Khum

leaders to visit farms.

He strongly believes there should be elections at the local level to "elect people who the people know". He stated, "People need to do this!" .

g. International Republican Institute Seminar

On Saturday, 29 July, during my stop in the city of Kampong Cham, I had the opportunity to briefly participate in a seminar being conducted for local members of the CPP by the International Republican Institute (IRI). Paul Grove, Mission Chief for Cambodia for IRI was the moderator for the discussion which was organized to impart various campaign techniques used by political parties and candidates in the United States to those present. In regard to my comments and discussions with them regarding the local elections, CPP members seemed very interested in any information regarding plans for the elections. It was readily apparent that they knew nothing about the committee that was formed to develop a draft law and wanted to know as much information as they could learn regarding what system was going to be used in the election.

h. Discussions with rural Cambodians

During our trip to and from Kampong Cham, we made random visits to rural Cambodians who lived in huts along the road. When we stopped, it was not hard to attract a crowd as neighbors came out of their huts to see us.

We learned:

- Some villagers supported the CPP while their next door neighbors said they voted for (and still supported) the FUNCINPEC party.
- Those that supported FUNCINPEC said that the party represented change and that change is what was needed for Cambodia. Those that supported CPP said they knew the party officials (at the local level) better.
- Most indicated that local elections to elect a village chief would be good.
- They said that life had improved in the past two years but that more rain was needed to ensure a good rice crop.
- We asked a boy of about ten years old where he went to school and whether he could read or write. He indicated to us that he dropped out of school this year to help with the rice crop and that he could not read or write well; his father added that they could not afford the cost of the school supplies.

While the standard of living of rural Cambodians was a lot different compared to that in most of the world, those we met generally seemed to be content and happy with the lives they lead. Even though they lived what some might describe as a primitive lifestyle, most huts were well-constructed and kept very orderly. In the "suburbs" just outside Phnom Penh, newer "huts", some made out wood and painted, were being constructed. In a few of the huts we observed televisions which were being run by small Honda electric generators. In several of the huts we heard (and saw) small battery-operated radios.

VIII. RECOMMENDATIONS

Election-related issues that need monitoring and resolution

a. Improve the transparency of the process to encourage public participation.

If elections are to take place on a timely basis or at all, it is clear that those in positions of power will have to be encouraged to open up the process by passing an electoral law allowing public scrutiny and debate. NGOs, political parties and the general public should have the opportunity to review and debate the various aspects of the draft election law. Without such openness, it is likely that many segments of society will be suspicious and critical of whatever the Assembly finally enacts into law.

b. Begin election preparations.

Because the governmental structure of the country has not had hands-on experience in conducting a free and fair election, planning and preparations for the election should begin as soon as possible. The registration process alone could take a minimum of six months to complete. Voter registration documents from the 1993 election are obsolete.

c. Conduct a financial assessment.

While the Constituent Assembly and others involved in developing the new election laws will need to understand the importance of conducting the elections, they will also have to be realistic regarding the cost factor. It is not apparent that the drafting committee fully understands or is realistic about the financial implications of implementing a new election law.

d. Need official request for assistance.

While numerous members of the government, the Drafting Committee, the Constituent Assembly and others stated that they welcomed technical advice in the drafting of the law and other assistance for the election itself, no formal request has been made. It appears that permission to receive such assistance would have to come from the Ministry of the Interior or others at higher levels of the government.

e. Need for new administrative or organizational law.

Even though the government has a committee drafting a new law to conduct the local elections, there are no current statutes which define the specific authority of those who would be elected. The Royal Cambodian Government should be encouraged to form a committee

which could begin to address this issue.

IX. PROPOSED PROJECT ASSISTANCE

IFES is ideally prepared to offer short and long term election assistance to the government of Cambodia. This aid from IFES may include, but is not limited to, the following:

a. Short term

1. *Technical Advice and Assistance*

IFES could provide the Cambodian government with experts in election law and administration who could work with the committee drafting the laws and/or the Constituent Assembly on a short-term but continuing basis. Thus far, any advice given by other countries (France, Canada) to officials involved in the process has been sporadic. It is very important that the Constituent Assembly enact a workable law which can then be implemented in a timely manner to achieve a free and fair election process. It does not appear the Drafting Committee fully understands the fiscal implications and trade-offs that may be necessary to achieve a realistic law. Therefore, it is strongly recommended that the Cambodian government be offered the expertise of election administration advisors who could analyze the draft election law at various phases of development. These experts could provide officials with a sound fiscal analysis of the draft law and present various options to the Committee so that they can develop an election law that meets basic standards and is fiscally responsible. In addition, the election committees could utilize the resources available at the F. Clifton White Resource Center, located at IFES-Washington, by requesting a comparative analysis of the draft law.

2. *Pre-election Assessment*

Once the laws on local and national elections are passed by the Constituent Assembly, it is recommended that a thorough pre-election assessment be undertaken to clearly identify the proper administrative and management procedures needed to implement such laws. Such an assessment could also determine important civic education elements of the election process. In addition, the team could ascertain what commodity and technical needs exist.

b. Long-term

1. *IFES Field Office*

Administering the election itself will be a major undertaking by the Cambodian government. It is strongly recommended that an IFES field office be established in Cambodia. With such an office, IFES will be in a position to serve as an on-site resource center from which the body responsible for implementing the election law can obtain information, advice, and technical election support regarding election preparation, administration, and management; voter and civic education initiatives; and election commodities and equipment. The provision of resources and services on a full-time basis during the entire campaign and election period will further support and reinforce specific implementation programs.

IFES assistance programs would be designed to promote the honest, impartial and efficient administration of new elections in Cambodia as well as public understanding of and participation in the new electoral system. IFES could work with the administrative body responsible for the conduct of the election and could provide specific technical assistance which may include, but not be limited to, the following examples:

- a. Coordinate international donations for equipment/services. This could include computers, radio/telephones, printing of ballots, ballot boxes, etc.;
- b. Assist in the process of registering the voters. This could include the development of forms, procedures, etc. as well as voter education.
- c. Develop a training program and written guidelines and procedures for administrative personnel, poll workers, NGO groups and domestic and international observers of the election;
- d. Facilitate the printing, distribution and security of ballots;
- e. Coordinate civic education activities of NGOs and other groups to ensure that voters are aware of their electoral rights and obligations and that they are motivated to participate in the electoral process.
- f. Provide continuous technical advice to the governmental body which is charged with conducting the election (such as a Central Election Commission) and provide various opinions and options regarding issues such as elections complaints by candidates and the public, conflicts in the laws and procedures, election fraud and other similar problems that develop in the course of an election cycle.

An on-site project manager would be necessary to coordinate IFES assistance activities in the areas of technical election assistance and voter education. An Election Administration Specialist could complement the Project Manager's expertise by traveling to Cambodia for consultations with the body charged with conducting the election.

X. CONCLUSION

There is considerable work to accomplish if the people of Cambodia are going to have the opportunity to decide who will represent them at the local level within the next 18 months. In addition, if an election for the Constituent Assembly is to be held at all in 1998, a comprehensive law for that election must be addressed immediately and preparations for that election will also have to begin simultaneously, since the local elections will, in actuality, be a precursor to the Assembly elections.

If Cambodians are to achieve these goals in a timely fashion, and are to enact election laws which meet international standards and yet are fiscally responsible, it is clear that they will need outside donor assistance and advice.

Cambodia is at the crossroads. Slowly but steadily, the people are beginning to emerge from of the oppression and turmoil that they have faced for decades. Beginning in 1993, the country embarked on a new course for its people; a course which is based on self-determination and fundamental human rights. Since Cambodia still has a long way to go to achieve these objectives, it must have the strong support and encouragement of the world community to stay on the right course.

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