

# **The Run-Up to Cambodia's 2003 National Assembly Election**

## ***Political Expression and Freedom of Assembly under Assault***

A Briefing Paper by Human Rights Watch  
June 2003

The year 2003, when Cambodia is to hold its third national election in a decade, began on a grim note with the murders of a high-profile politician and a senior monk in February. A judge and a court clerk were killed in April, and another judge was attacked and beaten. Twelve activists and supporters of parties not affiliated with the ruling Cambodian People's Party (CPP) have been killed since the February 2002 commune elections.

The Cambodian government has used the January 2003 demonstrations and violence against the Thai embassy and Thai businesses as an excuse to clamp down on fundamental freedoms of expression, assembly, and association. New electoral regulations also limit the ability of political parties to meet, while Cambodian voters continue to be denied access to the information needed to make meaningful choices at the ballot box as a direct result of the government's persistent refusal to open up the media to parties not aligned with the CPP.

Although there has been some reform of the governmental National Election Committee (NEC), its ability to act impartially to ensure fair media access, respond to incidents of political violence, ensure a transparent and accurate vote count, and manage the electoral complaints process will indicate how much independence and authority it really has achieved.

This report summarizes the major human rights issues in the run-up to National Assembly elections scheduled for July 2003, and includes recommendations to the Cambodian government, the NEC, the political parties, and Cambodia's international donors.

### **I. POLITICAL CONTEXT**

On July 27, 2003, Cambodia will hold its third national election since the signing of the 1991 Paris Peace Agreements. There has been one local, or commune, election, which was held in February 2002.

Despite the heavy involvement of the international community, political pluralism still has not established deep roots in Cambodia. International human rights standards require "genuine periodic elections ... guaranteeing the free expression of the will of the electors."<sup>1</sup> Cambodia now has periodic elections, but there is great doubt about how genuine they have been or will be.

All three elections in Cambodia since the signing of the Paris Peace Agreements have been conducted in an atmosphere of serious violence and intimidation. Reports by the United Nations and international and local non-governmental organizations (NGOs) have documented that the CPP has been responsible for organized violence and intimidation. The failure of the Cambodian police and courts to address these human rights violations has played a significant role in establishing the general climate of impunity that continues to characterize Cambodia. It has also contributed to widespread skepticism about whether power will ever be transferred peacefully from the ruling party to an opposition party if the election results so require.

---

<sup>1</sup> International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, article 25(b). Cambodia ratified the ICCPR in 1992.

Official coercion and intimidation force voters to make their choices at least in part based on fears for their personal security or livelihood instead of ideology or policy preferences. Prime Minister Hun Sen's CPP has not allowed more than nominal power to be transferred from the party to the legislature, judiciary, or many other government sectors, including the police and army. Ten years after Cambodia's first multi-party elections, it remains difficult to distinguish between the party and the state. Not only has the CPP done little to curb rampant corruption or the gross expropriation of state resources, it has also used these means to finance election campaigns and to enrich itself in order to maintain its dominance over the military, police, lucrative natural resources, and the national infrastructure. For example, Global Witness estimates that between January 1997 and February 1998, the national treasury lost U.S. \$184 million in revenue to illegal logging. As has been the case since 1993, elections in Cambodia must be considered in a context where the CPP's disproportionate and, in some respects, unlawful advantages are allowed to systematically influence all aspects of governance.

As part of the 1991 Paris Peace Accords, the United Nations Transitional Authority in Cambodia (UNTAC) conducted Cambodia's elections in May 1993. Although Funcinpec,<sup>2</sup> the royalist party, earned a plurality of votes, the CPP's threat to use force to hold onto power led to the creation of an uneasy coalition government. Relations between Funcinpec and the CPP deteriorated to such an extent that in July 1997 the CPP ousted Funcinpec from the government in a military coup that left at least 100 Funcinpec and opposition party supporters dead.

The elections that followed in July 1998 thus took place in an environment of fear in which the CPP controlled all important government and state institutions. The CPP reactivated its "cell system" used in the 1993 elections, in which party agents were assigned to monitor and pressure a set number of families to join the party and vote for the CPP, with quotas set for the number of votes these "group leaders" were to deliver. Tactics to persuade voters included coerced Buddhist oath-taking ceremonies at which holy water was drunk while voters promised their vote to the party. These and other efforts at intimidation helped to create serious doubts among the rural electorate as to whether their ballots would be secret.

Given the intense political violence in the run-up to the 1998 polls, the control by the CPP of the electoral administration, the military and police, and the lack of significant media access for other parties, the CPP's victory at the ballot box that year did not come as a surprise. Complaints about the electoral process led to post-election demonstrations and violence in the capital, leaving at least twenty-six people dead. Following a three-month stalemate, Funcinpec agreed in November 1998 to form another coalition government with the CPP, this time in a highly subordinate role. The Sam Rainsy Party (SRP) won fifteen of the 122 seats in the National Assembly and has functioned, often under threat, as a highly vocal opposition party.

In February 2002 Cambodia held its first-ever commune elections. Cambodia has 1,621 communes, which are administrative units consisting of four to seven villages. Commune chiefs are pivotal in the country's power structure, as they oversee the daily affairs of approximately 85 percent of Cambodia's population. Under the commune election system, chiefs were replaced for

---

<sup>2</sup> Funcinpec is the acronym derived from the party's French name (Front Uni National pour un Cambodge Independent, Neutre, Pacifique, et Cooperatif).

the first time with popularly elected commune councils and commune chiefs. Prior to the 2002 balloting, almost all of the country's commune chiefs were CPP appointees, and many had held these positions since the 1980s.

The commune elections were originally scheduled to take place before the 1998 national election, but were repeatedly delayed. When pressure from donors in 2001 finally forced the government to hold them as part of an overall decentralization strategy, the government decided to elect commune councils rather than chiefs and to elect them on a party basis, rather than on an individual basis.

In the year before the commune elections, fifteen SRP and Funcinpec activists and commune council candidates were killed and twenty-two SRP and Funcinpec supporters were illegally detained. In addition, there were 176 reports of threats or intimidation of candidates running against the CPP, forty-eight cases of property violations against Funcinpec and opposition party supporters, and dozens of complaints about voter intimidation and security violations that went unanswered. Although representatives of different political parties now serve on many of the councils, the party distribution of commune chief positions—ten for Funcinpec, thirteen for SRP, and 1,598 for CPP—reflects the ability of the CPP to force through electoral rules in its own favor. The result is that despite the large number of votes cast for other parties, the ruling party's apparatus remains almost completely in place.

## **II. CONCERNS ABOUT THE ADMINISTRATION OF THE ELECTION**

The parliamentary election to be held on July 27 will be conducted in twenty-four constituencies (twenty provinces and four municipalities). The 122 members of the National Assembly will be elected from a closed party list on the basis of proportional representation. Twenty-three parties have registered. The NEC oversees the electoral process, while the Provincial and Commune Election Committees (PECs and CECs, respectively) are chosen by the NEC and are responsible for local implementation.

In the earliest stages of preparation for the election, the government opted to ignore one clause of the election law, which dictates that the number of seats should increase with the population. Had this been followed, approximately twelve to fourteen seats should have been added. The government claimed that it could not afford to pay the additional members, though it has found the resources to pay hundreds of government, National Assembly and Senate advisors. As a result, the representation of some constituencies will be diluted.

### **Questions about the NEC's capacity and impartiality**

In past elections, the NEC has been severely criticized for its political bias and its questionable administrative capacity, particularly in light of its inability and unwillingness to respond to political violence and intimidation before the 1998 election, the utter failure of its complaints process after the 1998 election, and its failure to respond to political violence and intimidation before the 2002 commune elections. NEC decisions rarely, if ever, disadvantage the ruling party. In addition, the PECs and CECs, which are crucial arbiters of local electoral disputes, are typically composed almost exclusively of members or supporters of the CPP.

The selection process and composition of NEC members remains a contentious issue, as the election laws continue to give the right of selecting potential candidates to the CPP-dominated Ministry of Interior (MOI), with those candidates subsequently confirmed by the National Assembly. For the 2003 election, the NEC has been reduced from eleven to five members. Three are CPP loyalists, while two are Funcinpec appointees. The SRP, the third party in the National Assembly, was not given the opportunity to participate in the selection process, which lacked transparency.

### **Maintaining Security**

Security for the election is a point of serious concern. The election law charges the NEC, the National Police, and the Royal Cambodian Armed Forces jointly with maintaining security for the election. But each of these institutions is heavily politicized and supportive of the CPP, leaving them unlikely to report on government or party-based violence or intimidation. Reports of the United Nations and international and national human rights organizations have documented the fact that members of the police and military are the leading abusers—not defenders—of human rights. In most cases these abuses go unchecked, resulting in a pervasive culture of impunity.

In February 2003, the MOI established a Central Security Bureau for the Defense of Elections, a hybrid unit of military and national police that is to be trained specifically to handle violent demonstrations. Sar Kheng, the CPP Co-Minister of Interior, is the chief of this body, while Hok Lundy, Director-General of the National Police, is its secretary. Hok Lundy called a meeting on February 24 and announced that this force would “take down the demonstrators” of any party that challenged the election results. Opposition party activists and human rights NGOs have also expressed concern about the “Pagoda Boys,” an organization of Hun Sen loyalists who have helped police disperse rallies and have publicly threatened members of Funcinpec and the SRP. The NEC is running a series of public service announcements on state TV and radio discouraging violence and intimidation in the run-up to the election, but this is a far cry from offering real security to all candidates, voters, election workers, and observers.

## **III. HUMAN RIGHTS CONCERNS IN THE 2003 NATIONAL ELECTION**

Although to date the number of political killings in advance of this year’s national election has not reached that of the period before the 1998 national or 2002 commune elections, the SRP, Funcinpec, and election monitoring organizations have expressed concerns that the numbers could rise quickly in the final weeks before the election. In addition, constraints on freedom of expression, assembly, and association do not contribute to an open political climate, and past practices of voter intimidation and harassment and threats of opposition party supporters are again in use across the country.

### **Political Violence**

Elections in Cambodia have been violent affairs. In the run-up to the 1993 elections, at least one hundred opposition party activists or supporters were killed. In the final two months preceding the 1998 elections, the Cambodia Office of the U.N. High Commissioner for Human Rights (COHCHR) received 400 allegations of voter intimidation, death threats, acts of violence against

individuals, illegal arrests and detention, forced removal or destruction of party signs or shooting at party offices, coercion of voters to join the CPP, temporary confiscation of voter registration cards by local authorities, and barring of party members from access to communities. Eighty-two of these complaints were deemed credible. During the same period, the COHCHR investigated twenty-nine murders and determined that political motivations played a part in at least five of the cases.

The commune elections of 2002 also proved to be violent. Between January 1, 2001, and February 3, 2002, fifteen members of Funcinpec and SRP, most of whom were prospective or confirmed commune council candidates, were killed. The incidence of political killing increased as the election neared, with more than half of the cases occurring between November 2001 and January 2002. According to the September 2002 report of the U.N. Special Representative of the Secretary General for Human Rights in Cambodia, only six convictions had been obtained by the end of May 2002 for these cases. However, in none of these cases did the courts accept a political motive for the killings, attributing one to a business dispute and two to revenge for alleged acts of “black magic.” Observers of two trials that took place in February 2002 were concerned that in both cases key defendants were found guilty despite insufficient evidence, their convictions providing unwarranted justification for claims that the killings were not politically motivated.

In the eighteen months since the commune elections, twelve political activists have been murdered. In many of the cases, the victims were affiliated with the SRP or Funcinpec. While it can be difficult to determine whether a murder was politically motivated or a more routine crime—or a mixture of both—the government’s standard reaction to blame the violence—even before an investigation—on personal disputes, witchcraft, or other causes is unsatisfactory. In early June, the MOI announced that none of the murders committed since the commune elections were politically motivated.

In the context of elections, the history of unaddressed political violence and the prospect of yet more may prevent activists and even voters from freely exercising their political rights.

In the run-up to the 2003 election, Cambodia has been rocked by several high-profile killings. The most chilling of these was the February 18, 2003, assassination of Om Radsady. Radsady was a senior member of Funcinpec and a former chairperson of the National Assembly Commission on Foreign Affairs and Information. At the time of his death he was a senior advisor to Prince Norodom Ranariddh, the leader of Funcinpec. He was also a close associate of Prince Norodom Sirivudh and Princess Norodom Vacheara, who succeeded Radsady as chairperson of the foreign affairs commission.

Radsady was killed in broad daylight on a busy street outside a Phnom Penh restaurant. At the time, Radsady was helping Funcinpec navigate a bitter public battle between Princess Vacheara and Prime Minister Hun Sen. Although two members of a paramilitary unit have been arrested, tried, and found guilty, few believed that their motive was, as the court determined, theft of Radsady’s mobile phone. Questions have also been raised about the two men’s culpability. By late March, the MOI admitted that it, too, did not believe that theft was the motive. It formed an emergency committee to investigate, but little progress has been made since then.

Members of Funcinpec and the SRP have claimed that Radsady's murder has had a chilling effect on their members. The assassination prompted King Norodom Sihanouk to issue a statement in late February 2003 calling for calm.

Two weeks before Om Radsady's murder, the Venerable Sam Bun Thoeun, a senior monk based at a temple in Oudong, was killed in Phnom Penh while visiting Wat Ounalom. Sam Bun Thoeun was allegedly an opponent of Patriarch Tep Vong, who supports the CPP's ban on monks' voting.

The climate of fear was further reinforced in April 2003, when a judge and a court clerk were killed. Appeals Court Clerk Chhim Dara was shot and killed on April 10 as he returned home from work. One week later, a municipal court prosecutor, Nget Sareth, was beaten and kicked. On April 23, Phnom Penh Municipal Court Judge Sok Sethamony was killed while driving through morning traffic. Sok Sethamony had presided over a number of high-profile cases, including those of members of the Cambodian Freedom Fighters, an armed opposition group, and former Khmer Rouge commander Sam Bith. He was scheduled to preside over cases related to the anti-Thai riots of late January 2003. Nget Sareth has publicly called for the government to do more to protect members of the judiciary, who remain vulnerable to reprisals.

These high-profile killings have contributed to a tense political environment in the run-up to the election. In addition, at least twelve activists and supporters of parties not affiliated with the CPP have been killed since the February 2002 commune elections. Of these, arrests have not yet been made in five of the murders. Cases that are of particular concern include:

- The body of **Muth Phea**, a Pailin activist for the SRP's Youth Movement, was found on May 10, 2003. He appeared to have been hacked to death with an axe. No arrests have been made in this case.
- **Kim Chunly**, a Funcinpec supporter, was shot to death in his Kampot home on February 19, 2003. Chunly, a retired soldier, had in early 2003 encouraged two family members in the village to join Funcinpec. No arrests have been made in this case.
- **Sok Chan**, a Funcinpec activist in Kampong Cham, was shot and killed on January 14, 2003, after being driven out of his house by a fire that had been set underneath it. Chan's husband, Sam Saran, who had unsuccessfully run as a Funcinpec commune council candidate, and her daughter, Khon Vanthy, were killed under almost identical circumstances on August 21, 2002. One person has been arrested and charged with all three murders. He is in pre-trial detention.
- **Oun Enn**, an unsuccessful Funcinpec commune council candidate in Kampong Thom, was shot to death on August 12, 2002. Local authorities say Enn's death was a revenge killing. No arrests have been reported.
- **Yin Sok**, an unsuccessful Funcinpec commune candidate in Prey Veng, was shot to death in his home on March 21, 2002. No investigation has taken place.
- **Ty Sovann**, a Phnom Penh activist for the SRP, was shot and killed by an army major, Sam Sophy, on February 11, 2002. At the time of the shooting, Sovann a group of others were shouting pro-SRP slogans. Although Sophy confessed to the crime, his trial for

voluntary manslaughter and illegal possession of a weapon has been indefinitely adjourned.

### **Threats and Arbitrary Arrests**

Intimidation and arbitrary arrest and detention continue to be problems for party activists not affiliated with the CPP. These tactics are generally aimed at lower-level members who do not have the kind of prominence or protection their party leaders enjoy. Alleged perpetrators have largely been CPP members, including commune chiefs and other local authorities.

In the last two weeks of May 2003, three SRP activists were arrested for handing out party leaflets in Phnom Penh. Nou Sath, who was initially arrested on May 10 on charges of threatening public order (see below), remains illegally imprisoned on charges of defamation and disinformation after distributing party literature. (According to Cambodia's Penal Code, those who publish or broadcast defamatory materials can be arrested, but not those who merely distribute them.) A few days later, two other SRP activists were arrested on grounds of illegal campaigning after distributing similar material. After the negative publicity generated by Sath's case, they were quickly released.

At least four other similar cases in which opposition activists have been threatened or detained for leafleting have been investigated by human rights organizations in the past six months. Such behavior reinforces the idea that engaging in even seemingly innocuous political activity runs the risk of arrest and detention on fabricated or incorrect legal charges.

SRP and Funcinpec activists have reported approximately thirty-five instances of threats and harassment since the 2002 commune elections in Banteay Meanchey, Battambang, Kompong Cham, Kompong Chhnang, Kompong Speu, Kompong Thom, Kampot, Kandal, Kep, Oddar Meanchay, Phnom Penh, Pursat, Siem Reap, and Svay Rieng. SRP and Funcinpec party signs have been torn down in eleven provinces since June 2002. In late May 2003, the MOI rejected the SRP's request for an investigation into a case in Kompong Cham where a number of party signboards had been pulled down. The MOI argued that SRP members had themselves torn down the signs in order to attract attention. These tactics effectively communicate to grassroots organizers, usually in remote areas, that they can be targets of similar harassment should they work for opposition parties.

Potential voters in some areas continue to be intimidated, primarily by local authorities. Practices employed in past elections are once again in use:

- the illegal collection by village authorities of voter registration cards to create the impression that those individuals' votes will be traceable;
- local officials forcing public loyalty oaths by villagers to vote for the CPP;
- officials making overt threats about the fate of a community, such as violence or the end of government financial support, that does not vote for the ruling party;
- reports from election monitoring organizations about vote buying.

Incidents of collection of voter registration cards were first reported in December 2002 in Banteay Meanchay and continued through January in Kep and Phnom Penh. Pressure on

villagers to vote for the CPP, often conveyed through threats of retributive physical violence, has been reported in at least nine provinces since May 2002. Villagers in many localities, including Phnom Penh, Battambang, and Kampong Speu, report being told by local authorities that their land will be seized if the commune does not vote for the CPP.

### **Restrictions on Access to Information and Freedom of Expression**

Giving citizens the right to vote without allowing them access to information about their choices defeats the purpose of an election. Surveys conducted in January 2003 by the National Democratic Institute for International Affairs and in May 2003 by The Asia Foundation clearly reflected Cambodian citizens' desire for more information, despite (or because of) low levels of education and literacy. But the reality is that Cambodians get little information about politics other than what the CPP wants them to hear.<sup>3</sup>

The two primary ways Cambodians receive information about politics—through TV and/or radio and through their commune chiefs—are highly subject to bias. In the past, the laws on disseminating party information made it effectively illegal for parties to do so at any time outside the thirty-day campaign period that occurs every five years. These restrictions have never been applied to the CPP, however, which has always used state and private stations as party propaganda outlets. Although this temporal restriction has been dropped, parties and other organizations not aligned with the CPP still face an uphill battle to get their message out across the country.

The CPP dominates Cambodia's broadcast media. All six national TV stations are CPP owned or affiliated (the Party owns Apsara, a national TV and radio station, and Hun Sen owns the Bayon radio station). Of the thirteen national radio stations, only FM102, run by the Women's Media Center, a local NGO, and Beehive Radio are fully independent from the government. The SRP and a number of NGOs, including the Cambodian Center for Human Rights, have repeatedly applied for licenses to the Ministry of Information to start their own stations, only to be told that no more radio frequencies are available. According to staff at the Ministry of Information, however, a license was granted to the government's Human Rights Committee in January 2003. It has not yet begun broadcasting.

Although Funcinpec owns Ta Prohm Radio, the station only returned to the airwaves in 2001 after a lengthy battle with the Ministry of Information, and it did not begin broadcasting criticisms of its coalition partner until late May 2003. In an early June interview with Human Rights Watch, a senior Funcinpec official complained that after the first negative broadcasts about the CPP, the Prime Minister relayed to Funcinpec via a government minister that similar broadcasts would result in the party being "destroyed." Ironically, the following day the Prime Minister went on national TV to encourage other parties to criticize him, the CPP, and the government. As Ta Prohm continued its on-air attack of the CPP, Funcinpec also reiterated its allegation that the CPP was responsible for the July 1997 coup. On the evening of June 4, six

---

<sup>3</sup> Even the World Bank is expressing frustration about access to information in Cambodia. In 2000, the Bank subsidized the compilation of a database of the civil service, which would be used as the basis of the government's payroll; in 2001, the Bank subsidized a similar database for identical purposes as part of its military demobilization program. The government has now denied the Bank access to these databases on the grounds of national security (see below), which prevents the Bank from adequately monitoring corruption in the disbursement of funds.

CPP-affiliated private TV stations responded by simultaneously airing a “documentary” that accused Funcinpec of colluding with the Khmer Rouge in the coup. Funcinpec subsequently agreed not to repeat its claims.

Threats to journalists who criticize the government are not uncommon. The owner and operator of the popular Beehive Radio station, Mom Sonando, was arrested and imprisoned after anti-Thai riots of January 2003, as was *Rasmei Angkor* Editor-in-Chief In Chan Sivutha. The journalists, who were arrested without warrants, were charged with criminal incitement and “incitement to discrimination.” Sivutha was accused of spreading the original rumor that a Thai actress had made derogatory comments about Angkor Wat, and Sonando was accused of broadcasting allegations about supposed counter-demonstrations in Bangkok. They were released on bail on February 11, 2003, and are currently awaiting trial. Beehive was temporarily suspended, but is now back on the air. In 2002, the government criticized and occasionally blocked Beehive Radio for re-broadcasting Voice of America and Radio Free Asia programs.

### **Mixed Results of New Media Regulations**

Article 74 of the election law stipulates that all state-run TV and radio must make time available to the NEC free of charge for voter education and for “publicizing electoral work.” Article 75 says that the NEC will provide “equal and orderly access to media” for all registered parties.

Primarily as a result of pressure from international donors to increase media access, the NEC has put into place new media regulations for 2003. The first set of rules deals with the allocation of time on state-run stations, which includes only one TV station (TVK) and two radio stations (FM96 and AM918). During the campaign period, these stations will allocate four hours per day to the political parties.

The stations are to alternate coverage daily between two types of programs. One will feature round-table discussions between members of the twenty-three parties, while the other will consist of five-minute spots developed by the parties that will be shown repeatedly throughout the campaign. As was the case in 1998, the NEC can “correct” spots it determines to be “misleading.” While this does allow parties a way to get some information out, it hardly allows for adequate coverage.

The NEC appears to have implicitly acknowledged past bias in news coverage. Media monitoring efforts by NGOs and the COHCHR have since the mid-1990s demonstrated that “news” coverage regularly allocates about 75 percent of its time to the work of the government, which primarily shows CPP leaders, a further 10 percent to the Prime Minister himself, and another 7 percent to the Senate and National Assembly.<sup>4</sup> Funcinpec and SRP rarely obtain coverage at all. When they do, it is often negative. International financial institutions have privately expressed concern that coverage of their assistance is portrayed as support for the ruling party, rather than for the general welfare of the population.

The new regulations stipulate that state media must begin distinguishing in news coverage between government and party activities during and outside of the campaign period. It is not

---

<sup>4</sup> See “Final Report of the Media Monitoring for the Period from January 04 – February 08, 2002,” Committee for Free and Fair Elections in Cambodia (Comfrel), Phnom Penh, Cambodia, March 2002.

clear how this will be enforced. State-run stations are also now obliged to set aside a “news block” on the election, and coverage of each party is to be allocated according to a formula roughly proportional to the average of the number of valid votes cast for the three main parties in the 1998 and 2002 elections. The CPP will get 44 percent of the coverage, while Funcinpec will get 27 percent and SRP 19 percent. Another 10 percent will be given to the other parties. But the “block” is at most fifteen minutes, and will follow coverage of the King, the Senate, the National Assembly, and the government. These attempts to rectify imbalances are a step in the right direction, but it is hard to see how they will offset the overwhelming dominance of CPP-dominated media channels and provide voters with sufficient information about the competing parties to make an informed decision.

Much attention has been drawn to the new election law’s provision that private radio and TV stations can air political party spots. This was seen as real progress towards more equitable distribution of political information. The law stipulates that if a station agrees to run one party’s material, it must agree to show all parties’ material; conversely, if a station rejects a party’s material, it cannot show any party’s materials.

Unfortunately, in late May, the owners of the six private TV stations decided collectively that none of them would broadcast any party spots, suggesting that it was considerably less lucrative than regular advertisements. Ironically, all six stations readily aired the CPP’s “documentary” about the 1997 coup. As election monitoring NGOs have pointed out, these stations must be closely monitored to see if they maintain a position of neutrality, or, as they have in the past, if they continue to air shows highly supportive of the party and the Prime Minister. It is difficult to see how the new media regulations have in fact made a difference at all to equal or equitable media access.

The new regulations are kinder to NGO voter education efforts, which were often restricted or censored by the NEC during the 1998 elections. Permission of the NEC is no longer required for NGO-produced voter education materials, though NGOs can seek verification of accuracy from the NEC if they so choose. The law clearly stipulates, however, that any publisher or broadcaster who chooses to run NGO materials not checked by the NEC will be held responsible for any inaccuracies contained within them. Comfrel, a non-governmental election monitoring organization, reported that TVK rejected its voter education materials due to the lack of NEC approval.

Although NGOs also face bureaucratic hassles as they try to get election-related programs on TV or the radio, they have been somewhat more successful doing so than opposition parties. Currently, at least two NGOs, one local and one international, are trying to obtain permission from the NEC to broadcast political party debates. The Cambodian Center for Human Rights has been able to rent time on FM105 (Beehive) and on FM90, Funcinpec’s station, for its programs on democracy. “Cambodian Voices,” a current affairs program covering issues from voter education to weapons reduction, initially aired on TV3 before switching for administrative reasons to TV9.

Cambodian citizens continue to express their desire for more—not less—information about politics, but the new media regulations, restrictions on access to frequencies for parties not affiliated with the CPP, and threats to journalists make this unlikely.

### **Freedom of Assembly and Association vs. National Security and Public Order**

The Cambodian Constitution and the International Covenant on Civil and Political Rights, to which Cambodia is a state party, guarantee the rights to freedom of assembly, association, and expression. Yet groups and individuals that pose a challenge to the government have had difficulty exercising these rights, which are closely linked to the right to information, since the early 1990s. Even when an election is not imminent, the freedom to hold a public display of support for or against an issue is fundamental; when peaceful political rallies or partisan debates are organized in the run-up to an election, such activities should be encouraged.

In the past, groups that posed a political threat to the ruling party were labeled as members of the Khmer Rouge (the only organizational membership prohibited by Cambodian law) or the Cambodian Freedom Fighters in order to constrain their activities. Since the beginning of 2003, the government appears again to be using similar pretexts to prohibit public gatherings.

### **The Impact of the Anti-Thai Riots**

The anti-Thai riots that rocked Phnom Penh in late January 2003—during which the security forces refrained from intervening—have provided a convenient pretext for the government to deny virtually all requests for demonstrations in the past five months.

On January 18, 2003, *Rasmei Angkor* published an article alleging that a Thai soap opera star had insulted Cambodia. Her alleged comments were then repeated two weeks later by Prime Minister Hun Sen himself in a speech broadcast on national radio on January 27. His comments also featured an insult of his own to the actress.

On January 29, demonstrators gathered at 2 p.m. outside the Thai Embassy in Phnom Penh. Police failed to intervene when the crowd swelled later in the afternoon and their behavior became more violent. Rocks were thrown at the embassy at 6 p.m., and within the hour the Embassy was in flames. Shortly after the embassy was torched, callers to a Beehive Radio phone-in program recounted rumors, later proved unfounded, of the deaths of Cambodian nationals outside the Cambodian embassy in Bangkok. Meanwhile, roving mobs attacked Thai-owned businesses throughout the city.

Police did little to intervene and the government did not call for calm until later in the evening, after most of the damage had been done. A week later, Hun Sen explained that he had had to choose between not interfering at all and interfering with lethal force. A report on the demonstrations released by the U.S. State Department in early May strongly suggested that the government had allowed the security forces to let the demonstrations get out of hand.<sup>5</sup>

Since the riots, the government has denied virtually all NGO and political party requests to exercise their right to assemble and demonstrate, on the grounds that such gatherings will

---

<sup>5</sup> “Report to the Congress on the Anti-Thai Riots in Cambodia on January 29, 2003,” released by the Bureau of East Asian and Pacific Affairs, Department of State, May 14, 2003, [www.state.gov](http://www.state.gov).

jeopardize national security and public order. At a February 2003 meeting announcing the creation of the new security force (described above) for the election, one MOI official stated that, “From now on, we have received orders that we have to do anything [to prevent] what will be harmful to the nation.”<sup>6</sup>

In mid-March, a request by the Student Movement for Democracy to hold a small demonstration at the Faculty of Law was denied. Police broke up the small groups of students who gathered anyway, and also harassed the journalists and human rights monitors who had come to observe the gathering. In late May, a coalition of thirty-two Cambodian NGOs was barred from holding a peaceful gathering outside the National Assembly in support of a proposed law against domestic violence. In early June, dozens of NGOs were denied permission to conduct a march commemorating World Environment Day. None of these organizations was given an explanation of how their proposed gatherings demonstrated a threat to national security or public order. No CPP gathering has ever been denied permission by the authorities.

The alleged need to safeguard public order and national security is also being used by authorities to restrict access to information about the election. At least one election monitoring organization reports that its provincial coordinators refuse to organize public meetings on voter education for fear of police dispersal. In April 2003 the Cambodian Center for Human Rights wanted to hold a series of voter education and democracy awareness plays but the MOI denied permission on the grounds of public order. This was reminiscent of a similar refusal by the NEC in the run-up to the 2002 commune elections when Chheng Phon, then the chairman of the NEC, and at least one other NEC member justified the cancellation of political party roundtables as excessively “exciting” to the population and therefore a possible threat to public order.

On May 27, 2003, the MOI and NEC issued a joint directive. It states that outside the campaign period parties need only inform local authorities before holding meetings in their party headquarters or in private spaces. Given the experience of being required to “only inform” the authorities of demonstrations, this rule will undoubtedly discourage the convening of some gatherings. In addition, parties holding meetings in public places outside the campaign period must obtain permission to do so from the “competent authorities.” Such requests will be considered in light of “security, public order, beauty, and sanitation.” This directive makes it easy for requests for public party rallies to be turned down, further restricting the rights to free assembly, association, and expression under the guise of maintaining “public order.”<sup>7</sup>

Cambodians have real fears about participating in unauthorized demonstrations or rallies. Security forces have responded on occasion with disproportionate force to those who demonstrate or hold meetings without proper authorization from the authorities. Over the past

---

<sup>6</sup> Michael Coren, “Elections: Hok Lundy Reads the Riot Act,” *Phnom Penh Post*, Volume 12, Issue 05, February 28–March 13, 2003.

<sup>7</sup> Article 21 of the ICCPR only permits restrictions on the right of peaceful assembly which are in conformity with the law and which are “necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” Restrictions “necessary in a democratic society” has been interpreted to mean that any governmental interference in the right to assembly be absolutely necessary (not disproportionate to the harm to be avoided) and correspond to a common, minimum democratic standard. See Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Arlington, VA: N.P. Engel, 1993) pp. 378-79.

few years, a number of protests have been violently dispersed. On December 5, 2002, Cambodian police used excessive force to disperse a non-violent gathering of community representatives at the Department of Forestry and Wildlife in Phnom Penh. Approximately fifty security officials broke up a gathering of about 150 people by kicking them and hitting them with electric shock batons. At the SRP's May 21, 2003, demonstration, for which it had been denied permission, a few hundred peaceful protestors scattered when an almost equal number of heavily armed police began marching towards them swinging batons and beating on their plastic shields. At least a dozen people were wounded, and some demonstrators allege that they were struck with electric batons.

Although the MOI has on occasion attributed its bans on public rallies to the experience of the anti-Thai riots (which ironically the MOI itself failed to keep under control) or vague concerns about terrorism, it is rare that organizers are given a clear explanation about how their proposed demonstration will threaten public order. The regular denial of the right to assembly prevents people from exercising their right to freely and peacefully express political opinions. It is difficult to tell whether the authorities will be more or less lenient during the actual campaign period, when political parties are more clearly guaranteed the right to hold rallies, but the larger message to the population remains the same: active political expression will not be encouraged.

#### **IV. CONCLUSION**

As Cambodians prepare to go to the polls to elect a third legislature in ten years, they will do so with minimal information about their political choices and with concerns about their safety and livelihood if the ruling party is not returned to office. At a time when political speech and association should be encouraged, it is being increasingly restricted. Those who decide to protest the conduct of the election must face the threat of violent reprisals from state security forces. And little has been done to break the CPP's dominance of the electoral apparatus. In order for this election to be seen as genuine and not just periodic, the Cambodian government must give the Cambodian people reason to believe that their interests will be represented and their complaints will be answered.

#### **V. RECOMMENDATIONS**

- The Cambodian government should issue clear written instructions to government officials at all levels calling for an end to political violence, intimidation, coercion, and other human rights violations, and setting out the penalties for transgressions. These instructions should be delivered at national election security meetings, broadcast repeatedly on national television and radio, and closely followed up by government, civil society, and the international community. All violations must be investigated and promptly prosecuted.
- The MOI and NEC should ensure that political violence and other electoral violations are promptly investigated, prosecuted and punished according to article 124 of the National Assembly Election Law and Cambodian criminal law.

- The Cambodian authorities must respect the rights to freedom of assembly, association, and expression in the pre-election period. If national and local authorities fail to authorize organizations and political parties the right to hold peaceful meetings or demonstrations, there will be no basis for considering the election to be genuine.
- The NEC-MOI joint directive of May 27, which places arbitrary and unnecessary restrictions on political party meetings, should be repealed immediately. Parties should not have to notify authorities of private meetings outside the campaign period; moreover, only in extraordinary circumstances should the parties' public meetings during that period be restricted.
- The Cambodian government must immediately stop denying its political opponents access to the broadcast media and immediately grant licenses to those who have applied for them properly.
- The NEC and all its subordinate agencies must implement a thorough and impartial complaints process with respect to violations of electoral procedures. The NEC should continue to build on its administrative improvements by preparing and publicizing its procedures well in advance and making sure that parties and observers understand the process. Election monitoring NGOs have already expressed concerns that the NEC's legal unit is not yet adequately staffed or trained to handle party complaints. A failure by the NEC to address complaints could once again lead to post-election violence.
- Given the possibility of post-election demonstrations, the government's security forces should improve their competence in professionally monitoring rallies and public gatherings and, if absolutely necessary, dispersing such gatherings with non-lethal force.
- Before and during the campaign period, all parties must respect the laws governing their activities. The parties should refrain from violence, racist rhetoric, and vote buying.
- Donors should actively consider funding a permanent, independent national television and/or radio station that features impartial coverage of current affairs, public interest programming, and political party information. The coverage that is currently made available to voters on state-run TV and radio during the brief campaign period once every five years before national elections is wholly inadequate.
- The international community should widely disseminate the information gathered by its long- and short-term monitors. In addition, it should continue its long-standing support to civil society and human rights organizations.
- States and non-governmental organizations that intend to make public assessments of the election must not focus exclusively on the conduct of Election Day. Their analyses must also take into account the full context of the election and long-standing problems with violence, intimidation, media access, and the fears of voters, activists, and candidates. Final judgments about the election should not be made until the entire process, including investigations and prosecutions of political violence, have been completed.