



ខុមហ្វ្រែល COMFREL

គណៈកម្មាធិការដើម្បីការបោះឆ្នោតដោយសេរី និងយុត្តិធម៌នៅកម្ពុជា (គ.ប.ស.យ)

COMMITTEE FOR FREE AND FAIR ELECTIONS IN CAMBODIA (COMFREL)

ទីស្នាក់ការកណ្តាល ផ្ទះលេខ ១៣៨ ផ្លូវ ១២២ សង្កាត់ទឹកល្អក់ ១ ខ័ណ្ឌទួលគោក រាជធានីភ្នំពេញ ព្រះរាជាណាចក្រកម្ពុជា
Central Office: #138, St. 122, Teuk Laak I, Tuol Kork, Phnom Penh, CAMBODIA. P.O. Box 1145, Tel: (855) 23 884 150 Fax: (855) 23 883 750 E-mail: comfrel@online.com.kh URL: www.comfrel.org

គណៈកម្មាធិការនាយក
BOARD OF DIRECTORS

លោក ធីន សារាយ
Mr. THUN Saray
ជាប្រធានគណៈកម្មាធិការ
នាយក និងជាប្រធាន
សមាគម ADHOC

លោក សុក សំរឹត
Mr. SOK Sam Oeun
ជាអនុប្រធានគណៈកម្មាធិការ
នាយក និងជាមេធាវី CDP

លោក យ៉ិម ប៉ូ
Mr. YIM Po អគ្គនិរ្តិក
និងជាមេធាវី CCPCR

លោក យ៉េង វណ្ណា
Mr. YEANG Vanna
ប្រធាន KKKHRA

លោក ជីវ យូម៉េង
Mr. CHIV You Meng
ប្រធាន KYA

លោកស្រី ព័ន យ៉ុងហ្គីប
Ms. PEUNG Yok Hiep
នាយិកា LAC

លោក យ៉ុង គីមអេង
Mr. YONG Kim Eng
ប្រធាន PDP Center

លោក តូច តូច
Mr. TOUCH Tum
នាយក VIGILANCE

លោកស្រី ព័ន សារាយត
Ms. TIV Sarayet
សមាជិកា WMC

លោក ម៉ុំ សារិន
Mr. MOM Sarin
នាយក HRCDO

កញ្ញា សាយ សារា វ៉ាថានី
Ms. SAY Sara Vathany
នាយិកា CWCC

លោក ផួង សិវី
Mr. PHUONG Sith
និស្សរថ

លោក ស៊ិន ស៊ិន
Mr. SEN Set
និស្សរថ

P.R./No 17/08 COMFREL/M.U.

8th Monitoring Report On Findings and Conclusions of Cooling Day, Polling/Counting Day and Post-Election Period on the 4th Mandate 2008 National Assembly Elections

Phnom Penh, August 7, 2008

For the July 27, 2008 elections, the **Committee for Free and Fair Elections in Cambodia (COMFREL)** deployed over **11,000 observers**, including staff members from around **20 non-governmental organizations (NGOs)** and international organizations (IOs). In addition, COMFREL cooperated closely with international observer groups, including the Asian Network for Free Elections (ANFREL) and the People's Forum on Cambodia-Japan (PEFOC, J).

COMFREL concludes that voting and counting process of the July 27, 2008 National Assembly elections were in general conducted in a **good manner** in terms of the technical administration of the regulations and procedures inside the polling/counting rooms. However, although the overall number of irregularities and complaints (both written and unwritten) was similar to that in the 2003 elections, in this election **there were more serious irregularities affecting people's voting rights than in previous elections. Irregularities where people lost their right to vote refer mainly to obstacles faced by voters at polling stations**, which resulted from several factors: (1) eligible voters could not find their name on the voter list, (2) eligible voters did not know which polling station to go to (did not receive their voter information notice – VIN –or were not aware of changes in the polling station code), and (3) voters were confused about whether they could use their VIN to vote. Such cases took place in the following provinces/municipalities: Phnom Penh, Kampong Cham, Takeo, Banteay Meanchey, Kampong Thom, Siem Reap, Kratie and Battambang. We also found that the second assistants of polling officials did not completely fulfill their duties or did not have capacity to help voters who faced the above-mentioned problems.

A comparison of the primary electoral results announced by the National Election Committee (NEC) with the **unofficial** results collected from counting stations by COMFREL electoral observers shows a small difference of **± 0.2%**, which **might not affect the average percentage of total votes received by each political party**, but might affect the number of seats allocated to each political party in the various constituencies, but by less than 0.7%.¹

Reports by COMFREL electoral observers show that the **number of irregularities** recorded at polling/counting stations on July 27, 2008 was similar to the total number of irregularities in 2003, when **15,000 electoral observers** recorded approximately **3,723 cases** in 90% of all polling stations across the country. In the 2008 elections, COMFREL's **11,000 observers** reported **2,012 cases** of irregularity, covering 70% of all polling stations in **15 provinces/municipalities** and 5% of polling stations in the 9 other provinces/municipalities.

¹ Please see the unofficial results table collected and prepared by COMFREL on July 29, 2008.

In addition, there was a large number of unsolved irregularities outside polling/counting stations. These included the presence of commune and village authorities close to the station and activities aimed at influencing voters, both of which are considered violations of the electoral Regulations and Procedures.

COMFREL uncovered several irregularities and complaints involving commune officials who did not abide by the electoral Regulations and Procedures or the NEC Guidelines regarding the **issuing of Form 1018 on polling day**. This occurred in Labanseak commune/district of Ratanakiri province, Prek Pnau commune, Ponhea Leu district of Kandal province, Kampong Cham province, Sihanoukville municipality, Kampong Speu province, Pursat province and Phnom Penh municipality. Moreover, many provincial/municipal and commune/sangkat election commissions (**PECs and CECs**) **did not want to accept and/or resolve complaints, rejecting up to 45% of the complaints filed by political parties**.

Only about 74.8% (approximately 6 million people) of the **8.12** million registered voters cast their ballot in the July 27, 2008 National Assembly elections.² COMFREL observers noted **1,148 cases** of eligible voters going to the polling station but **facing difficulties** that prevented them from casting their ballot.

More detailed information is presented below:

1. Irregularities Observed on Cooling Day and Polling/Counting Day and Results Consolidation

On cooling and polling/counting day, a total of **2,012 cases** of irregularity occurred across almost every province/municipality. 616 of these cases took place in Phnom Penh, 354 in Banteay Meanchey, 177 in Kampong Cham, 116 in Koh Kong, 107 in Takeo, 93 in Kampong Chhnang, 74 in Prey Veng, 67 in Kampong Thom, 62 in Siem Reap, 59 in Kampot, 56 in Kratie, 36 in Pursat, 30 in Svay Rieng, 29 in Battambang, 27 in Kampong Speu, 23 in Sihanoukville, 22 in Preah Vihear, 10 in Kep, 8 in Monduliri, 6 in Oddar Meanchey, 5 in Pailin and 3 in Stung Treng. These irregularities, reported by electoral observers, included the following:²

1.1 Cooling day (July 26, 2008)

- COMFREL noted that most radio and TV stations abided by the electoral Regulations and Procedures and the NEC Guidelines by not broadcasting programs in favor of any political party on cooling day. Nevertheless, Maha Norkor FM 93.5 MHz radio station was closed by the Ministry of Information at around 11pm on July 26, 2008, ostensibly because its Candlelight radio program had broadcast a biography of Mr. Sam Rainsy which criticized Prime Minister Hun Sen. This radio station resumed its broadcasting on August 6, 2008 after the radio owner obtained permission from the Ministry of Information.
- At least 24 cases of electoral campaign violation, such as gift giving or vote buying on cooling day, were reported in Kampong Cham, Kampong Chhnang, Kampong Thom, Kampong Speu, Kampot, Koh Kong, Prey Veng, Pursat, Phnom Penh, Siem Reap, Ratanakiri and Takeo. 2 complaints regarding such violations were filed by political parties, but these were not addressed.
- 20 cases of political insecurity around polling stations occurred in Banteay Meanchey, Kampong Cham, Kampong Chhnang, Kampot, Prey Veng, Pursat, Siem Reap, Svay Rieng, Takeo and Kep, among others; 5 of 6 complaints filed by political party agents were not addressed.

² This is an estimate based on COMFREL's direct observation while the primary results issued by the NEC indicate a voter turnout of 75%.

² 159 complaints (both those written on Form 1202 (the complaint form) and those unwritten) were filed by political party agents at polling/counting stations; 70 of these cases were not resolved by the electoral officials in charge.

- 16 cases of late delivery of election materials, which affected the opening of polling stations, occurred in Banteay Meanchey, Battambang, Kampong Cham, Kampong Chhnang, Kratie, Siem Reap and Takeo.

1.2 Polling day (July 27, 2008)

- 703 cases of people losing their right to cast a ballot occurred in the following provinces/municipalities: Phnom Penh (247 cases), Banteay Meanchey (162 cases), Kampong Cham (48 cases), Takeo (33 cases), Kampot (26 cases), Kampong Thom (24 cases), Siem Reap (21 cases), Kampong Chhnang (18 cases), Sihanoukville (17 cases), Prey Veng (14 cases), Preah Vihear (10 cases), Battambang (8 cases), Kampong Speu, Mondulhiri, Koh Kong, Kratie and Svay Rieng. It should be noted that such cases involved eligible voters who had or had not received the VIN or whose names were on the voter lists but who did not have identity documentations; cases also involved eligible voters who had cast their ballot in the 2007 commune council elections but who did not have their name on the 2008 voter list. With regard to such cases, political parties filed 71 complaints, but only 22 of these were addressed.
- About 445 cases of eligible voters not being able to find their name occurred in the following provinces/municipalities: Phnom Penh (215 cases), Banteay Meanchey (110 cases), Kampong Cham (29 cases), Siem Reap (17 cases), Kratie (16 cases), Takeo (13 cases), Kampot (12 cases), Battambang, Kampong Thom, Kampong Chhnang, Koh Kong, Mondulhiri, Preah Vihear, Prey Veng and Svay Rieng. With regard to such cases, political parties filed 35 complaints; 15 of these were not addressed.
- Some political party activists, particularly those of the ruling party, provided large-scale transportation or money to voters in order to stimulate them to vote for their particular party. This occurred in Sampov Loun commune, Sampov Loun district of Battambang (Polling Station 0722), Balabanseak district of Ratanakiri and Svay Rieng, Oddar Meanchey and Kampong Cham provinces, among others.
- 28 cases of campaign violation, such as gift giving, the distribution or posting of party posters and leaflets aimed at seeking support for the respective party occurred in the following provinces: Sihanoukville, Kampong Cham, Banteay Meanchey, Kampong Chhnang, Kampot, Koh Kong, Kratie, Kampong Thom and Siem Reap.
- 22 cases of observers or party agents being prevented from observing the polling process occurred in some polling stations in the following provinces/municipalities: Banteay Meanchey, Prey Veng, Kampong Thom, Phnom Penh and Takeo.
- There were 141 cases of illegal presence of local authorities, village chiefs in particular, around polling stations, watching voters or instructing them to vote for their party, sometimes intimidating them. Such cases happened in some polling stations in the following provinces/municipalities: Banteay Meanchey, Battambang, Kampong Cham, Kampong Chhnang, Kampong Thom, Kampot, Koh Kong, Kratie, Phnom Penh, Prey Veng, Siem Reap, Sihanoukville, Stung Treng, Svay Rieng, Takeo and Pailin.
- There were 133 cases of allowing armed forces personnel wearing uniform and carrying weapons and/or explosive devices to enter polling stations. These cases occurred in some polling stations in the following provinces/municipalities: Kampong Cham, Phnom Penh, Mondulhiri, Takeo, Kampong Thom, Kratie and Siem Reap.
- 4 cases of eligible voters being prevented from casting their ballot by means of gifts of money or other materials occurred in Kampong Cham, Kampong Speu and Siem Reap.
- There were 207 cases of polling station officials not complying with the electoral Procedures and Regulations. These cases occurred in the following provinces/municipalities: Phnom Penh, Kampong Cham, Preah Vihear, Siem Reap, Takeo, Kampong Chhnang, Kampong Speu, Kampong Thom, Battambang, Pursat, Svay Rieng, Oddar Meanchey and Koh Kong. The irregularities reported in these cases included the following:
 - 25 cases of not showing the empty ballot box before the polling station was opened;
 - 23 cases of late opening of polling stations (not following the determined opening time of 7am);

- 89 cases of not ensuring the secrecy of balloting;
 - 50 cases of not checking voters' forefingers for indelible ink, not staining voters' forefingers with indelible ink, not verifying identity documents against the lists before providing ballot papers or giving voters more than one ballot paper;
 - 20 cases of postponing the polling process or the closure of polling stations during the polling process, which took place in the provinces of Kampot, Banteay Meanchey, Prey Veng, Siem Reap and Takeo as well as Phnom Penh municipality.
- 12 cases of allowing eligible voters whose forefingers were stained with indelible ink to cast their ballot again occurred in Banteay Meanchey, Kampong Cham, Phnom Penh, Kratie and Siem Reap.
 - 1 case of taking a ballot paper out of the polling station to let another voter mark it occurred in Preah Vihear.
 - 10 cases of polling station officials dismissing or ignoring voters' or political party agents' requests or refusing to give them a complaint form (Form 1210) occurred in Banteay Meanchey, Kampong Chhnang, Phnom Penh and Svay Rieng.

COMFREL found 158 additional cases of irregularity in almost every province/municipality.

1.3 Irregularities during the process of ballot counting and the tallying of results

1.3.1 Irregularities with regard to securing ballot papers

After the polling process ended at 3pm on July 27, 2008, COMFREL continued to observe the process of securing the ballot papers by electoral officials and found the following irregularities:

- 18 cases of allowing **persons who were not on duty** to go in and out of the polling stations during the closing process occurred in Banteay Meanchey, Kampong Chhnang, Phnom Penh, Siem Reap and Takeo.
- 4 cases of **not putting on the lid to cover the ballot-insertion holes**, or **not locking the large boxes** used for packing the ballot boxes, occurred in Battambang and Prey Veng.
- 23 cases of disturbing the counting process occurred in Banteay Meanchey, Kampong Chhnang, Prey Veng, Phnom Penh and Takeo.

1.3.2 Irregularities during the process of counting and tallying at counting stations

During the ballot-counting process, COMFREL observed some counting station officials did not comply with the electoral Regulations and Procedures or the NEC Guidelines, resulting in the following irregularities:

- 13 cases of postponing the counting process inside the polling stations occurred in Banteay Meanchey, Kampong Cham, Kampong Thom, Phnom Penh, Prey Veng and Takeo.
- At least 2 cases of **not allowing observers and political party agents to observe the counting process** occurred in Prey Veng.
- 2 cases of not allowing observers and political party agents to observe the sealed lock of the ballot box before removing the lid covering the ballot box occurred in Kampong Cham.
- 26 cases of **counting too fast or of not clearly showing the ballot papers** to observers or political party agents occurred in Banteay Meanchey, Kampong Cham, Kratie, Phnom Penh, Preah Vihear, Prey Veng, Svay Rieng and Takeo.
- 14 cases of **announcing electoral results inaccurately** occurred particularly in Takeo, Phnom Penh and Kampong Thom.
- 5 cases of **accepting valid ballots and rejecting invalid ballots** but not showing them to observers or political party agents occurred in Kampong Chhnang and Phnom Penh.
- 3 cases of **important electoral materials** being lacking, which disrupted the counting process, occurred in Banteay Meanchey and Phnom Penh.

1.3.3 Verification and consolidation of electoral results by CECs and PECs

COMFREL observers noted that, during the **CEC consolidation of electoral results, Cambodian People's Party (CPP) observers were present at every commune office; Sam Rainsy Party (SRP) observers were present at only some commune offices. Observers and agents of other political parties were not present.** With regard to the verification and consolidation of electoral results, COMFREL observers found that almost **no PECs carefully checked or verified the electoral results tallied by the CECs against the records made by the polling station commissions (PSCs).**

1.3.4 Irregularities with regard to preparing and packaging electoral documents and materials

There were some irregularities with regard to preparing and packaging electoral documents and materials:

- There were 8 cases of **not showing polling and counting records** to observers and political party agents.
- There were 9 cases of **not allowing** observers and political party agents to observe every part of the process of preparing and packaging the electoral documents and materials before transporting them from the counting stations to the CECs. This occurred in Banteay Meanchey, Phnom Penh, Kampong Thom and Takeo.
- There were 9 cases of **not informing observers** and political parties **about the safe place or the location at the PSC** where the ballots would be kept.

2. Complaints about Irregularities on Polling/Counting Day

According to NEC reports on the reception and resolution of complaints at CECs, PECs and the NEC, until August 4, 2008, **143 complaints were recorded during the polling and counting phase at CECs. 84 of these complaints were submitted to PECs, and 24 complaints were appealed at the NEC.**

2.1 Complaint process at CECs

Even though polling station officials in some cases hesitated to provide complaint forms, and although political party agents were scared when lodging complaints, political parties lodged most of their complaints at the CECs. The complaints related to the issuance or confiscation of Form 1018 by commune and village chiefs, the presence of commune and village chiefs or the rejection of electoral results at polling stations.

Our observation showed that at least 60 of the 143 complaints, or 42%, were rejected by CECs simply CEC said that complaints **were not clear which law applied.** The SRP lodged the highest number of complaints, in total 112. However, 54 (or 48%) of the SRP complaints were rejected; thus, 58 cases brought by the SRP were taken up, including 39 cases that were resolved and 8 cases in which a meeting was organized to discuss the complaint. Moreover, in 4 out of the 112 complaints lodged by the SRP, the plaintiff withdrew the complaint. Another 7 cases could not be resolved.

None of the 12 complaints filed by the CPP was rejected by the CECs; 7 of the 12 complaints were taken up. 1 case was resolved, 1 case led to a meeting and 3 cases could not be resolved. Out of the 10 complaints filed by the Norodom Ranariddh Party (NRP), 2 were rejected, 2 were taken up, 1 was resolved and 4 could not be resolved. Out of the 2 complaints filed by Funcinpec, 1 was taken up and the other was resolved. Out of the 3 complaints filed by the Human Rights Party (HRP), 2 were rejected and the other was taken up.

According to Point 8.17.2 of the Regulations and Procedures for Election of Members of the National Assembly, a complaint form submitted after the deadline cannot be accepted for ruling by the CEC (the deadline for accepting a complaint was 11:30am of July 28, 2008). Thus, CECs can not reject or

not take up complaints that are lodged before the deadline, for example complaints on the polling/counting phase. Rejection of complaints lies under the authority of the CEC advisory council, which must meet to come to a decision on the rejection. All such rejections must use Form 1203. The decision to reject more than 36 complaints submitted using Form 1202 exceeds the authority of the CECs and does not correspond with electoral procedures.

2.2 Complaint process at PECs


84 complaints were brought to the PECs; 49 complaints, or 58%, were rejected. The reasons were explained that the complaints **did not qualify or comply with the complaint procedure**. Only 16 complaints were decided in favor of the complainants.

Subjects for the above-mentioned complaints included: the presence of local authorities close to polling stations; confiscation of voters' identity documents; the illegal issuance of Form 1018; gift giving; vote buying; the transportation of voters to polling stations; and polling station chiefs helping voters to mark their ballot paper. In addition, PECs received various complaints calling for the rejection of electoral results. However, according to Article 114 of the Law on Election of Members of the National Assembly, political parties can lodge complaints against electoral results within 72 hours of the NEC announcing its primary results. Such complaints must be submitted to the NEC or the Constitutional Council, not to CECs or PECs.

Most complaints on irregularities on polling/counting day were rejected on the basis of **inadequate evidence**. In addition, a small number of complaints was rejected for technical reasons, for example because a plaintiff did not have a letter giving him/her the right to represent the person who was present at the incident.

The NEC has received 24 complaints, 22 of which were brought by the SRP, 1 by the NRP and 1 by the HRP.

To sum up, the NEC and the commune/sangkat authorities are responsible for the large number of cases of voters who lost their right to vote. The NEC, political parties and observers should carefully investigate the number of irregularities that occurred, mostly in Phnom Penh, Kampong Cham, Takeo, Kampong Thom and Battambang. In addition, the NEC and the Constitutional Council should do their best to resolve all disputes and electoral complaints in accordance with existing laws and based on the principles of fairness and impartiality. COMFREL will continue to investigate cases of voters who lost his/her right to vote. In addition, we continue to observe the complaint settlement process as well as the post-election period, during which discrimination and threats to villagers might still occur.

 **For more information, please contact:**

- Mr. **Koul Panha**, COMFREL Executive Director, Tel: 012 942 017
- Mr. **Mar Sophal**, COMFREL Head of Monitoring Unit, Tel: 012 845 091

*COMFREL's first mission is to help to create an informed and favorable democratic climate **for free and fair elections** through lobbying and advocacy to establish a permanent and suitable legal framework; education to inform citizens of their rights; and monitoring activities that both discourage irregularities and provide comprehensive data to enable an objective, non-partisan assessment to be made of the election process.*