



Asian Network for Free Elections

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ANFREL post-election summary report 25th December 2007

1 - Administration of election day and advance voting

Management of elections

The Election Commission should be commended for the generally good administration of polling on advance voting days (15th-16th December) and on election day. Voting stations were well situated and set up, barring a minority where the secrecy of the vote was not ensured (e.g. in Maha Sarakham, Chonburi, Pattani, and Songkhla). There were a sufficient number of polling stations and voters rarely had to queue for long on election day, though the unprecedented turnout on advance voting days tested the capacity of polling station staff. Ballot papers and voting aids were sufficient in number. Counting of ballots was conducted transparently.

Errors

However, some infractions of election law and polling procedure were observed:

- *Secrecy of vote* - at the locations noted above, some polling booths were visible to the general public.
- *Voter disenfranchisement* - red lines were crossed through names on voter lists, indicating they were not eligible to vote, but without polling staff being able to clearly explain why. In one polling station in Nakhon Phanom, 110 names were marked as such.
- *Multiple voting* - some voters in Samut Prakan who had voted in advance wanted to "test to the system" (to use their own words) and found that their names remained on the voter roll. Given the high number of people who chose to vote in advance, the administration of the voter roll must be improved for the next election.
- *Undue influence on voters* - in Maha Sarakham a polling station committee member was actively encouraging a voter to select a particular political party (Chart Thai) under the pretence of 'educating' the voter about the election system
- *Unauthorised entry* - village headmen (*phuyaiban*) were granted unauthorized access to polling stations, as well as prominent local officials e.g. in Surat Thani, polling stations were visited by the wife of the vice mayor, a known supporter of the Democrat Party¹
- *Inconsistent counting procedures* - in some polling stations the two ballot boxes were counted simultaneously while in others it was one after the other. Individual ballots were punched with a nail as they were counted in some polling stations but in others were punched after all ballots had been counted.

¹ (Polling stations no. 7,8 and 9 of Mueang district)

2 - Voter education and campaigning

Spoilt ballots show need for better voter education

Many voters interviewed by ANFREL observers had received voter education materials from the ECT and were well aware of the date of the election. Voter turnout was reasonably high at 67%, reflecting popular desire to restore democratic government. However, the high number of spoilt ballots for the party-list seats (about 6.5% of ballots cast) underscores the need for more effective voter education. Changes to the electoral system left many confused, particularly older voters. Incorporating voter education into the curriculum of schools, rather than just raising awareness during elections, would help to build understanding of elections in the long-term.

Knowledge of party policies was limited amongst the electorate. Party campaigns were generally superficial, publicizing parties and candidates through loudspeakers set up on vehicles. The low awareness of policies is also reflective of the polarised political environment where candidates stressed which side of the political divide they lay on rather than their policy ideas.

Election-related violence

Despite the heated competition between political parties, the elections were generally peaceful. However, Human Rights Watch have documented the killings of a number of canvassers during the course of campaigning - three from PPP, and one each from the Democrats and Chart Thai. Candidates themselves have been threatened and assassination attempts made.

There is also evidence to suggest that insurgents in the three southernmost provinces were preparing attacks, with 60-70 sticks of dynamite found prior to the election. Few security breaches took place in the south on election day itself - with heavy flooding possibly limiting mobility of insurgents - though one convoy transporting ballot papers to Trok Bon Subdistrict, Sai Buri, in Pattani, was shot at on election day.

3 - Observation and monitoring

Though ANFREL is grateful to the Election Commission for its invitation to observe the elections, it is hoped that the ECT will adopt a more proactive and open approach to the invitation of other international observation groups in the future.

The domestic monitoring has been less extensive than in previous elections - both on election day and in the pre-election period. To maintain their independence, the People's Network for Elections in Thailand (P-NET) has not taken funds from the ECT, with the result that there was no nationwide coordinated monitoring effort that covered every province in Thailand. The disclosure of vote buying cases in Maha Sarakham to P-NET highlights the need for stronger domestic monitoring in the future.

ECT volunteers/observers that were present were not well trained and consequently were very passive. An alternative funding mechanism should be developed to avoid a potential conflict of interest between the ECT and NGOs, so that the latter can independently judge the performance of, and act as a check on, the ECT.

Political parties must do more to recruit more partisan observers and train them well. The majority of polling stations observed by ANFREL did not have party observers present.

4 - Election Commission

Good cooperation with ANFREL

The Election Commission has extended very good cooperation to ANFREL, accrediting our observers and briefing them on election law. Provincial ECT and polling station staff were, except in a few instances, helpful and accommodating.

Overregulation

With election day passing off peacefully and with few major complaints from political parties, the ECT should be applauded for its organisation of the polls, especially given how recently the organic laws governing the elections have been passed. However, these time constraints also meant that implementing regulations issued by the ECT were not done sufficiently in advance of the polls. Provincial ECT staff, political parties and candidates, and voters themselves complained of confusing regulations issued too close to election day. For example, contradictory advice was given to political parties on whether or not campaigning on advance voting days was allowed.

The ECT has attempted to create a 'level-playing field' between political parties and clamp down on vote buying by issuing punitive and detailed regulations. However, the risk in having laws that govern every aspect of campaigning is that the ECT and its provincial offices become overburdened with minor infractions of election law instead of focusing on serious breaches. Candidate forums organised by the ECT were extremely poorly attended - limited resources should be redirected for the next election.

Bolder investigations required

It is disappointing to note the limited number of cases successfully prosecuted by the ECT. While the administrative arm of the ECT is strong, the investigations side needs far more resources if it is to effectively deter election violations. There is also a perception amongst some election stakeholders that provincial ECTs were not vigorously investigating reports of vote buying because they did not know who the next government would be and were reluctant to anger anyone that may take revenge on them if they took office. This criticism was also leveled at the police e.g. in Maha Sarakham, police actively discouraged voters from returning money that had been given to them for their votes to the ECT.

Need for more credibility

To build credibility, the decision making of the ECT must become more transparent. An important case in point is the ECT's ruling on the memo issued by the Council for National Security concerning the PPP. A fact-finding subcommittee ruled that the CNS had acted with bias, though the five election commissioners excused the CNS on the grounds that they had not implemented the plan. Unlike the Supreme Court, no written ruling is made publicly available immediately. Nor has the evidence the CNS submitted to the ECT to prove they had not implemented the plan been made available. The same applies to cases of high public interest, such as the distribution of

VCDs featuring former Prime Minister Thaksin Shinawatra. Without the public and observers being able to scrutinize such rulings, the ECT leaves itself more vulnerable to accusations of bias.

5 - Neutrality of government officials

Village headmen

Though regulations prevent most government officials or civil servants from playing an active political role, it is clear that this law has been widely flouted. The role of *phuyaiban* (village headmen) and *kamnans* (sub-district heads) as political party agents and canvassers is well known, with some *phuyaiban* interviewed by observers clearly showing their support for a particular party.

Given this, and the power that local chiefs wield over their communities, their presence on polling station committees (PSCs) should be disallowed (they were observed serving on PSCs in in Khon Kaen, Chonburi, Samut Prakan, and Maha Sarakham). In some cases, *phuyaiban* were granted access to polling stations even when they did not serve on PSCs, as were other prominent local government official (e.g. in Surat Thani).

6 - Military

Application of martial law

At the time of the election, martial law was applied in districts in 26 out of 76 provinces - a measure inconsistent with international norms. However, its provisions were not used in equal measure across the country. The most egregious aspects of martial law such as arbitrary detention were not used. Indeed, in some areas voters were grateful to the military for providing voter education e.g. in Sakhon Nakhon province some voters appreciated an army radio station based at Krit Sri Wara that had disseminated information about political parties manifestos, including that of the PPP.

Anti-PPP sentiment

However, the military has not met its obligation of remaining neutral in these elections, as illustrated by the plan by the Council for National Security (CNS) to hinder the PPP's campaigning. To have approved this plan and to head the government's anti-vote buying panel is a conflict of interest for General Sonthi Boonyaratklin.

A senior army officer in Chiang Rai confided to ANFREL observers that officers in the area has been instructed to vote for Chart Thai party and candidates (PPP's main rival in the area) during advance voting on 15th December. In the same province, between 50-100 homes of PPP supporters were searched by the police on the pretence of 'searching for weapons' - no other homes from supporters of other parties were searched. PPP candidates have complained about monitoring by army institutions such as ISOC. Human Rights Watch have documented a case where three armed soldiers from ISOC were arrested by police on 18th December while monitoring the house of Sanguan Pongmanee, a PPP candidate in Muang district, Lamphun.

7 - Vote buying

While limited hard evidence of vote buying was collected by ANFREL observers, many reports and allegations were received. ANFREL believes that the problem remains widespread, committed by all major political parties, and has not been successfully tackled despite vote buying being placed on the 'national agenda' and the ECT issuing tougher legislation.

Methods of vote buying allegedly varied widely, including in-kind gifts, cash handouts, electronic transfer of funds, payment to attend party rallies, politicians funding birthday parties of journalists, free telephone cards and supermarket coupons, and free 'sightseeing' trips to different parts of Thailand.

The timing of vote buying also differed. Anticipating tougher legislation from the ECT, political parties and candidates allegedly 'locked in' support by buying votes in August and September in an attempt to avoid scrutiny closer to elections. Traditional techniques of vote buying close to election day, such as cash handouts on 'barking dog night' (22nd December, the night before the election) were still allegedly practised, but canvassers have adapted their methods to reflect changes in election law. For example, one voter in Klong Toei in Bangkok explained how a vote buying system took advantage of the fact that results were available at a polling station level. Canvassers would draw up a list of those in the area who expressed a willingness to vote for a party and would compare the number on that list to the number of votes cast for the party at the polling station. If the two numbers roughly tallied, voters would be paid by the canvasser 200-300 baht.

A key challenge in tackling vote buying is the fear that prevents witnesses from coming forward. Those that may disapprove of vote buying have told observers that they are afraid of retribution from vote sellers if they report cases to the ECT or police, and do not have faith in these institutions to bring the perpetrators to justice. Such fear also explains why few voters have taken advantage of new laws offering financial compensation for returning money gained from selling their votes

The problem is compounded by a lack of resources and sometimes a reluctance to investigate. Provincial ECT officials themselves admit that that resources to conduct investigations are insufficient. A focus by the ECT on what happens inside polling station themselves risks neglecting more important election violations outside it.

8 - Post-election

While the election itself may have been held successfully, the ECT must also be seen to exercise its strong adjudication powers impartially in the post-election period. The administering of yellow and red cards for vote buying and other election violations must be seen by all election stakeholders as fair and just, or the credibility of the election may yet suffer. ANFREL will observe any re-elections that take place.