



CCHR Briefing Note – February 2013

Political and Electoral Reform in Cambodia

Executive Summary

This Briefing Note outlines the current state of politics in the Kingdom of Cambodia (“Cambodia”) ahead of the 2013 national elections, analyzes shortcomings in the electoral process, and offers recommendations for reforms which would substantially benefit the state of democracy in Cambodia. The first section provides background on the structure of the Cambodian political and electoral system and an overview of political parties, including an analysis of the extent to which both the ruling Cambodian People’s Party (the “CPP”) and the opposition have traditionally targeted voters based on party personalities rather than on policies. The second section of this Briefing Note analyzes flaws in the electoral process, including the advantage held by the CPP during campaigning and electoral periods, irregularities during voter registration and at the ballot box, and the lack of independence of Cambodia’s electoral administrator, the National Election Committee (the “NEC”). The third section discusses the marginalization of three groups of Cambodian society from the formal political and electoral process: women; the youth; and the small-business sector.

In July 2013, parliamentary elections will be held in Cambodia, during which the electorate will vote for members of the National Assembly (the “NA”). In order for these elections to be genuinely free and fair and to result in positive change, however, a number of reforms must be undertaken. This Briefing Note recommends four key areas of reform:

1. Reforming the NEC to ensure the independence of its members and to reduce election irregularities.
2. Increasing women’s representation in politics by implementing electoral gender quotas for candidate lists of a minimum of 30%.
3. Incorporating civic education into the national educational system to increase the youth’s participation and representation in politics.
4. Developing party platforms and campaigns that incorporate concrete policy initiatives for developing and growing the nascent small-business sector.

By considering these areas, both CPP and opposition parties can campaign on issues that benefit all Cambodians and achieve progress towards establishing a liberal participatory democracy, with human rights properly protected and promoted in accordance with Cambodia’s domestic and international legal obligations. This Briefing Note is written by the Cambodian Center for Human Rights (“CCHR”), a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

Background: Politics & Political Parties in Cambodia

The Royal Government of Cambodia (the “RGC”) is a constitutional monarchy with a bicameral parliament composed of the Senate¹ and of the NA², which forms the legislative branch of government. The NA comprises 123 members elected for five-year terms by proportional representation, using provinces as constituencies of one to 18 members. The Senate consists of 61 members – two nominated by the King, two elected by the NA and 57 elected indirectly by commune councils and members of the NA. At the sub-national level, Commune/Sangkat Councils³ serve the local affairs for the interests of the communes and act as an agent of government, performing tasks designated or delegated by the RGC. A cornerstone of the 2004 Rectangular Strategy for Growth, the RGC’s policy of decentralization and de-concentration has cemented the importance of Commune Councils to the development of Cambodia.

The NEC,⁴ the main electoral administrator in Cambodia, is responsible for planning, organizing and administering all elections – including direct elections of NA members and Commune/Sangkat Councils and indirect elections of Senate members and Capital City, Provincial, Municipal, District and Khan Councils. Members of the NA and of Commune Councils are elected by proportional representation, with each registered party submitting a list of candidates in order of preference, meaning that independent candidates cannot run for election to these bodies. Seats are then allocated based on the number of votes that each party receives. The NEC’s responsibilities include announcing election results, producing and disseminating civic education materials, monitoring media, and registering voters and political parties. As a division of the Ministry of Interior (the “MOI”), the NEC receives its budget from the Ministry of Economy and Finance.

The NEC is made up of nine members, which are nominated by the MOI and appointed by Royal Decree at the request of the Council of Ministers upon approval by an absolute majority of members of the National Assembly. These members are required to relinquish affiliation with any political party, in line with the Law on Elections of Members of the National Assembly, which defines the NEC as “*an independent and neutral body*” and provides that “*in the carrying out of its duties Members of the [NEC] and those of Electoral Commissions at all levels shall be neutral and impartial in the implementation of their electoral duties.*”

Despite being a parliamentary, multi-party democracy on paper, the RGC is dominated by one political party – the CPP – and by Prime Minister Hun Sen. Nevertheless, opposition parties do exist in Cambodia. In 2012, the Sam Rainsy Party (the “SRP”) and the Human Rights Party (the “HRP”) merged to form the Cambodia National Rescue Party (the “CNRP”) in an attempt to consolidate opposition votes and to pose a more formidable and concerted challenge to the CPP in the upcoming national elections. Similarly,

¹ CCHR, ‘The Senate’ (Factsheet) (2012) <www.sithi.org/temp.php?url=media_view2.php&mid=5188>.

² CCHR, ‘The National Assembly’ (Factsheet) (2011) <www.sithi.org/temp.php?url=media_view2.php&mid=4960>.

³ CCHR, ‘Commune Councils’ (Factsheet) (2012) <www.sithi.org/temp.php?url=media_view2.php&mid=5259>; CCHR, ‘Law on Administrative Management of Communes/Sangkats’ (Factsheet) (2012) <www.sithi.org/temp.php?url=media_view2.php&mid=5546>.

⁴ CCHR, ‘The National Election Committee’ (Factsheet) (2012) <www.sithi.org/temp.php?url=media_view2.php&mid=5526>.

Cambodia's two royalist parties, the Norodom Ranariddh Party (the "NRP") and the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia Party ("FUNCINPEC") merged to form the new Nationalist Party. A number of additional political parties exist: the League for Democracy Party, the Khmer Anti-Poverty Party, the Khmer National Party, the Republic Democratic Party and the Democratic Movement Party. These parties, however, typically win very few seats, if any.

Political campaigning in Cambodia often revolves around personalities, with political parties traditionally being little more than projections of party leaders. As a result, during political campaigns, voters are encouraged to vote for individual personalities rather than on substantive policy issues and party platforms. This is exacerbated by the stifling of the political opposition over the past 20 years, which has resulted in those parties tending to promote radical causes as a last resort to win votes.⁵

Flaws in the Electoral Process

In the most recent national elections held in July 2008, the CPP won 90 out of 123 seats in the NA,⁶ its authority strengthened by a constitutional amendment passed in 2006 which lowered the majority required for the NA to grant a vote of confidence to the RGC from 2/3 of its members to an absolute majority, lessening the need to form coalitions and make deals with smaller parties. During Commune/Sangkat Council elections in June 2012, the CPP took 1,592 out of 1,633 seats,⁷ which together with its control of the NA illustrates the monopoly that it holds on political power in the country at both the national and sub-national level. The dominance of the CPP in all aspects of politics results in an electoral process that is not independent and rarely transparent.

Unequal Opportunities

Extensive control over all aspects of Cambodian society by the CPP results in little opportunities for opposition parties to make an impact upon the national political discourse and to effectively campaign for elections. The RGC exercises widespread censorship of all forms of traditional media, especially of TV stations which are all controlled by affiliates of the CPP. On 1 June 2012, the Ministry of Information contacted several radio stations in Cambodia to inform them that they were prohibited from broadcasting programs produced by Voice of Democracy, Radio Free Asia, Voice of America, Radio France International and Radio Australia – programs which provide balanced and impartial information – on 2 and 3 June 2012. This ban coincided with the commune elections, which were held on 3 June 2012.⁸ With an unclear legal basis for this ban, it seems clear that the radio ban was directly linked to the CPP's attempt to stifle political discourse and to secure votes in the elections.

There are also significant gaps in the financial capacities of political parties to campaign. The Committee for Free and Fair Elections in Cambodia ("COMFREL") noted that the CPP's campaign spending for the

⁵ Ou Virak, 'Cambodia's Political Merger: Maximising the Potential,' *The Phnom Penh Post*, 1 August 2012 <www.phnompenhpost.com/index.php/2012080157726/National-news/cambodias-political-merger-maximising-the-potential.html>.

⁶ CCHR, 'The National Assembly' (2011).

⁷ <www.necselect.org.kh/nec_khmer/index.php?option=com_content&view=article&id=957&Itemid=352>.

⁸ CCHR, 'Silencing the Airwaves' (Factsheet) (2012) <www.sithi.org/temp.php?url=media_view2.php&mid=5563>.

2012 commune elections vastly outweighed that of other political parties, with the CPP spending approximately US\$9,000 per local campaign, compared to US\$1,500 by the SRP, US\$300 by the HRP, US\$200 by the NRP and less than US\$200 by FUNCINPEC.⁹ This gap in resources between parties is exacerbated by the CPP's misuse of state resources to carry out political activities in support of the CPP, such as the use of state property and officials for CPP campaigning activities.¹⁰

Lack of Independence of the National Election Committee

Despite legal provisions, the nomination of NEC members by institutions dominated by the CPP results in a problematic lack of independence. This fundamental flaw is exacerbated by the lack of fixed terms for NEC members and of safeguards against the arbitrary removal of members, which means that NEC members can easily be dismissed by the ruling party if they undertake actions deemed contrary to the CPP's interests. Furthermore, the NEC's dependence on the Ministry of Commerce for its budget deprives it of the power to administer funds autonomously, and makes it more susceptible to executive control.

The NEC's lack of independence most dramatically impacts upon the NEC's complaint-hearing mandate regarding breaches of election laws. According to statistics released by the NEC in 2010, of 22 electoral complaints received by the NEC in 2010, 13 were dismissed while nine were resolved at the commune level.¹¹ These complaints related to: commune clerks' allegedly registering voters without sufficient proof of identification; voters' names missing from the list; and commune officials' allegedly deleting voter names from the list. During elections and following elections, however, there is a distinct lack of a comprehensive appeals process, with the current process riddled with loopholes. For example, in making a polling- or counting-related complaint in relation to national elections, such complaints must be filed before 11:30 a.m. of the day after the election. Complaints concerning misbehavior on the part of officials must be filed within three days of the event. The timeframe for submission of complaints is therefore insufficient for parties seeking to file complaints – the vast majority of whom are opposition-aligned – to gather evidence. The result is that complaints are routinely rejected.

Irregularities during Registration and at the Ballot Box

The lack of independence of the NEC and of the electoral process in general is most clearly seen in the irregularities witnessed during the voting process, as demonstrated by the types of complaints received by the NEC mentioned above. More than 3,000 irregularities were noted by independent election monitors during the June 2012 commune elections, including during the "cool-down" period preceding the elections, on election day, and during the counting days following the elections.¹² In addition to technical irregularities, it is well-known that civil servants, the military police and the Royal Cambodian Army Forces are all affiliated with the CPP; their presence at polling stations often acts as a deterrent from voting for opposition parties.

⁹ COMFREL, 'Press Statement on Final Assessment and Findings of 2012 Commune Council Elections' (2012) <www.comfrel.org/eng/components/com_mypublications/files/340543Press_Statement_Final_Assessment_Eng_Final.pdf>.

¹⁰ *ibid.*

¹¹ CCHR, 'The National Election Committee' (2012).

¹² COMFREL, 'Press Statement on Final Assessment and Findings of 2012 Commune Council Elections' (2012).

Irregularities are not limited to direct elections at the commune level: in January 2012, it was reported that two CPP-affiliated men had attempted to buy the vote of an SRP commune councilor, offering US\$700 to vote for a CPP senate candidate.¹³ These irregularities are likely to be repeated during the 2013 national elections if the electoral process is not reformed. Already, monitors have noted worrying irregularities as regards the voter registration process, including the taking of bribes by registration officers, the doubling of names on voter lists, a lack of respect for registration rules by election officials, including the shortening of opening hours at registration offices, and the registration of voters *in absentia*.¹⁴

Marginalization from Politics

In addition to the lack of independence and transparency of the electoral process and the control by the CPP of all organs of state, Cambodian politics is characterized by widespread marginalization and alienation of segments of Cambodian society which have so much to offer to the country: women, youth and small businesses.¹⁵ Political parties across the spectrum must strive to incorporate these various groups into the political process by developing policies that address their particular concerns and needs.

Under-Representation of Women

Due to a mixture of cultural, socio-economic, political and institutional reasons, the numbers of women election candidates and female representatives in leading positions are still very low at all levels of government. This under-representation of female voices leads to the neglect of women's rights and a lack of concern for gender-specific problems. The RGC has committed itself to promoting gender equality through Target 7 of Goal 3 of the Cambodian Millennium Development Goals ("CMDGs"), which seeks to "*eliminate gender disparities in public institutions*" by increasing the proportion of seats held by women in various governmental and administrative bodies.¹⁶ The targets are to increase female representation in the NA and Senate to a minimum of 30% and in the Commune/Sangkat Councils to a minimum of 25% by 2015. These commitments have been complemented by various other government policy documents, such as Neary Rattanak I-III, and the National Strategic Development Plan I-II, both of which provide an extensive outline of the goals, activities, monitoring indicators, conducting agencies and resources for the promotion of gender equality.¹⁷

Despite these commitments, women remain under-represented in politics, with the level of female representation in some bodies even decreasing in recent elections. In 2003, female representation on the candidate lists for the NA elections amounted to 27%, yet dropped to 14.8% in the 2008 elections, with the current overall level of female representation in that body to just 22%. In the Senate, women's

¹³ CCHR, 'Buying Senate Elections Vote' (Factsheet) (2012) <www.sithi.org/temp.php?url=media_view2.php&mid=5244>.

¹⁴ Eang Mengleng, 'Election Monitor Finds Irregularities in 2013 Voter Registration,' *The Cambodia Daily*, 27 September 2012, 16.

¹⁵ Ou Virak, 'In With the New,' *Southeast Asia Globe*, June 2012, 52.

¹⁶ United Nations Development Programme Cambodia, 'What is the difference between the Millennium Development Goals and the Cambodia Millennium Development Goals?' (2012) <www.un.org.kh/undp/mdgs/cambodian-mdgs/what-are-the-cambodia-millennium-development-goals>.

¹⁷ MoWA, 'Neary Rattanak III', (2009), 15-16; RGC, 'NSDP I', (2006), 5; and 'NSDP II', (2010), ii-iv.

representation has remained at only 14.75% for the past 13 years.¹⁸ Cambodia's sub-national level also appears to be in need of an affirmative action mechanism. In the recent 2012 Commune/Sangkat Council elections, women were elected to just 17.79% of council positions, with only 501 women (representing just 0.45% of total candidates) being placed in the first spot on the candidate lists.¹⁹

In addition to failing to achieve the CMDG targets, the recent commune elections demonstrate the disparity in female representation between political parties. Of the total number of seats won by the CPP, 21.5% went to women, the highest percentage of representation among all political parties. Women candidates of the SRP won the second highest percentage of seats allocated to their party with 11% – almost half that of the CPP. Other parties recorded either very minimal female representation – the NRP with 5.8%, FUNCINPEC with 3.3%, and the HRP with 1.5% – or none at all, which demonstrates that women's under-representation within Commune Councils is particularly problematic within smaller parties.

Lack of Involvement of Youth

Cambodia's population is the youngest in all of South-east Asia: youth from 15 to 30 years of age represent 33% of the total population,²⁰ and 15 to 24 year olds approximately 32% of the labor force.²¹ Young people are also active members of their communities: studies found that 32.1% of males and 43.7% of females below the age of 25 gave at least part of their time to activities benefiting their communities.²² There are approximately 50 to 60 youth-initiated organizations throughout Cambodia undertaking civic education and social change activities.²³

However, due to cultural and structural issues, the youth have thus far remained mostly excluded from the formal political and electoral process. In addition to a general lack of civic education and national policy aimed at increasing youth participation, cultural issues – including a hierarchal structure of society that holds that elders should be in decision-making positions and that the youth do not have the knowledge necessary to be in those positions – and a lack of encouragement to participate in politics by families, have fostered an environment that is not conducive to the youth taking an active part in politics. This lack of engagement has translated into a lack of youth representation in government bodies: there are no parliamentarians and only 163 (1.43%) commune councilors (as of the 2008 Commune Council elections) under 30.²⁴

In June 2011, the RGC adopted the National Policy on Cambodia Youth Development (the “NPCYD”), which is a positive step towards increasing youth participation and representation in politics. In

¹⁸ Ministry of Women's Affairs <<http://mwa.gov.kh/en/progress-women-decision-making>>.

¹⁹ Full data analysis available at http://www.sithi.org/temp.php?url=commune_election.php&tab_id=1&.

²⁰ As of the 2008 census. Ministry of Education, Youth and Sport, National Policy on Cambodia Youth Development (2011).

²¹ United Nations 'Situation Analysis of Youth in Cambodia' (2009) <http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/KH/UNCT_KHM_UPRS06_2009_document3.pdf>.

²² United Nations, 'Situation Analysis of Youth in Cambodia' (2009), 77.

²³ *ibid.*

²⁴ COMFREL, 'Participation of Youth in Elections' (2007)

<www.comfrel.org/eng/components/com_mypublications/files/4292581194830408NKM_on_YPE_En_.pdf>.

particular, the NPCYD calls for the promotion of “*youth representatives at national, sub-national, and regional committees or councils [and] youth integration in the decentralization and de-concentration process*”, and requests the establishment of Youth Development Councils at all levels of governance, both national and sub-national, to co-ordinate the implementation of these goals and objectives.²⁵ However, little implementation has taken place thus far, and it is unlikely that the NPCYD will have an impact with regards to youth involvement in the 2013 elections.

Absence of Small-Business-Oriented Policies

In the 20 years since the signing of the Paris Peace Accords, much progress has been witnessed in Cambodia, especially with regards to economic growth, including an annual economic growth rate of around 10% between 2004 and 2008, only slowing to around 6-7% with the onset of the global financial crisis, and a GDP of approximately US\$12.86 billion.²⁶ However, Cambodia’s rapid economic development has largely benefitted an elite class close to the CPP, which has benefitted from the extensive leasing and selling of Cambodia’s land and natural resources. At least 30% of Cambodians fall below the poverty line – while the trend of income inequality continues to grow apace.²⁷ Despite small businesses representing 99% of all enterprises and providing almost half of all employment in Cambodia,²⁸ the RGC has failed to formulate adequate policies to enable that segment of the economy to grow and to play a significant role in the economic development of the country.

Although the RGC’s Second Socio-Economic Development Plan and the National Poverty Reduction Strategy both recognize the importance of small- and medium-sized businesses, an inadequate legal and regulatory framework – including a lack of necessary institutions, laws and regulations – and limited access to financing continue to hinder development of the sector. Yet the need to develop such a regulatory framework and to provide opportunities for small businesses to grow is rarely featured in political discourse and in political parties’ policy platforms. Both the CPP and the main opposition parties are focused on the sale and leasing of land through Economic Land Concessions (“ELCs”) – with the CPP heavily benefitting from them and the opposition campaigning strongly against them – and devote little time to developing policies that would assist and support small businesses and create a landscape conducive to the engagement of those small businesses in the political and electoral process.

Conclusion and Recommendations

CPP dominance over government institutions has seriously undermined the provisions in the Constitution of the Kingdom of Cambodia and other relevant legislation that safeguard the democratic process and human rights: a politically pliant judiciary is utilized to harass opposition figures; powerful senators are able to ride roughshod over the land rights of communities; and security services serve the interests of the elite at the expense of the urban and rural poor. The combination of an increasingly repressive environment with a flawed electoral process is resulting in people losing interest in the

²⁵ Available at <http://www.moeys.gov.kh/en/policy.html>.

²⁶ CIA, ‘The World Factbook: Cambodia’ <www.cia.gov/library/publications/the-world-factbook/geos/cb.html>.

²⁷ *ibid.*

²⁸ United Nations ‘Situation Analysis of Youth in Cambodia’ (2009).

electoral process: voter turnout during the June 2012 commune council elections was 60%, down from 87% 10 years ago.²⁹

The 2013 elections represent a real opportunity for change. All political parties in Cambodia – and in particular the CPP³⁰ and the newly formed CNRP – must make a concerted effort to move beyond partisanship and personality politics and to present voters with real choices that are based on substantive policies that are inclusive of all segments of Cambodian society. This includes ensuring that the electoral process is transparent and independent, that political campaigning is equitable and based on policy rather than on rhetoric, and that all segments of society are included and considered. Enacting these reforms – and the specific recommendations outlined below – would help diminish the image of Cambodian politics as an old-boys club.

Lack of Independence of the NEC: An independent, neutral and competent election administrator that is capable of dealing effectively with complaints is fundamental to enabling voters to feel confidence in the electoral process. As such, CCHR recommends the following with regards to the reform of the NEC:

- **Creating an open selection process, with greater political diversity and wider membership within the NEC and local electoral administration;**
- **Ensuring security of tenure of members of the NEC and the absence of arbitrary removal;**
- **Amending the rules of the NEC so that members cannot work for a political party immediately after leaving the NEC;**
- **Creating an independent, legally-mandated budget to fund the NEC; and**
- **Revising the deadlines and the procedure for the submission of complaints following an election, so as to allow those looking to file complaints adequate time to gather evidence in support of their complaint.**

Under-Representation of Women: The Committee on the Elimination of Discrimination against Women (“CEDAW”) states in its general recommendation a “critical mass” of 30 to 35% of women’s representation is necessary to have an influence on the style and content of political deliberation and public decision-making.³¹ As such, CCHR recommends the following:

- **A binding gender quota of a minimum of 30% should be applied to the candidate lists, reinforced with an additional mechanism that stipulates a certain rank order, a so-called “zipper-system” which demands political parties alternate between male and female**

²⁹ Ou Virak, ‘Cambodia’s Political Merger: Maximising the Potential,’ *The Phnom Penh Post*, 1 August 2012.

³⁰ Ou Virak, ‘CPP Must Not Fear Reform’ *The Phnom Penh Post*, 23 August 2012

<www.phnompenhpost.com/index.php/2012082358227/National-news/cpp-must-not-fear-reform.html>.

³¹ UN Committee on the Elimination of Discrimination against Women, ‘Comment 16’ in ‘General Comment 23 (art. 7 of CEDAW)’ (16th Session, 1997) <www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23>.

candidates on lists. In the short-term, political parties should adopt voluntary gender quotas within their party policies;³² and

- **Women should be encouraged to participate in politics through the implementation of additional programs, including by increasing implementation of the gender initiatives that the government has committed itself to. These could include, amongst others, training and capacity-building opportunities for women, childcare provisions, flexible hours and a reduction in late-night meetings.**

Lack of Involvement of Youth: With such a young population, it is of primary importance to foster youth engagement in politics and to build up the next generation of leaders and politicians, which means both increasing their capacity to become engaged in politics and incorporating their needs and concerns into the political discussion. As such, CCHR recommends the following:

- **Incorporate civic education in the national educational system, including in the national curriculum, with the aim of encouraging the youth to vote and to become more engaged in politics;**
- **Support youth associations and organizations – and their activities – through financial, technical and educational support; and**
- **Consult with the youth in developing policy and programs and incorporating their specific needs and concerns into those policies and programs.**

Absence of Small-Business-Oriented Policies: A growing sector of the Cambodian economy, small-business owners are major stakeholders in the development process and must be actively encouraged to become involved in the political process. As such, CCHR recommends the following:

- **Develop party platforms and campaigns that incorporate concrete policy initiatives for developing and growing the nascent small-business sector;**
- **Consult with small-business owners in the process of developing policies and regulations; and**
- **Involve the small-business sector in the political and electoral process.**

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³² CCHR 'Female Political Representation and Electoral Gender Quota Systems,' (Briefing Note) (2012) <http://sithi.org/temp.php?url=media_view2.php&mid=5905&publication=1>.