



**គណៈកម្មាធិការដើម្បីការបោះឆ្នោតដោយសេរី និងយុត្តិធម៌នៅកម្ពុជា (គ.ប.ស.យ)**

**Committee for Free And Fair elections in Cambodia (COMFREL)**

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**THE REPORT AND STATEMENT**

**ON**

**RIGHTS TO PARTICIPATION IN ELECTIONS**

**IN CAMBODIA**

**FOR UPR**

**SUBMITTED BY: THE COMMITTEE FOR FREE AND FAIR  
ELECTIONS IN CAMBODIA (COMFREL)**

**June 2013**

## **Introduction**

1. The following report and recommendations on rights to participation in elections is based on the findings of The Committee for Free and Fair Elections in Cambodia (COMFREL), Government Watch, Parliamentary Watch, Media Watch, Election Watch and Gender Watch. Besides these primary sources, secondary sources from other national and international stakeholders and media have been included in this report.

2. The Royal Government of Cambodia (RGC) should be recognized for accepting and implementing the recommendations of the first UPR and its efforts to follow established international human rights treaties.

3. As a signatory of the International Covenant on Civic and Political Rights (ICCPR), and committed to the Universal Declaration of Human Rights under provisions of the Cambodian Constitution, Cambodia has obliged itself to genuine democratic elections in order to determine political power. The Universal Declaration of Human Rights states, "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (...) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures" (Article 21). Furthermore, the ICCPR states, "Every citizen shall have the right and the opportunity (...) to take part in the conduct of public affairs, directly or through freely chosen representatives; (...) to vote and to be elected at genuine periodic elections, this shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors... (Article 25)," as well as the, "right to hold opinions without interference and the right to freedom of expression," (Article 19).

4. Cambodia is a constitutional monarchy with a liberal democracy and a multi-party political system. The constitution is the highest law in the country and guarantees the Cambodian people the right to vote and to stand as candidates for election according to articles 34 and 51. The Cambodian Constitution states in several provisions, "Khmer citizens of both sexes shall enjoy the right to vote and to stand as candidates for the election. Khmer citizens of both sexes, at least eighteen years old, have the right to vote. Khmer citizens of both sexes, at least twenty-five years old, have the right to stand as candidates for the elections of the members of the National Assembly... Provisions restricting the right to vote and the right to stand as candidates for the elections shall be determined by the Electoral Law, (Article 34)."

## **Elections**

5- Cambodia has conducted four elections using the proportional representation system. The National Assembly elections and Commune Council elections used a direct party list election system. The Senate elections and Sub-national Council

elections (capital, provincial, town, district/khan and council elections) all used an indirect election system.

6. The freedom of the 2012 Commune Council and 2008 National Assembly elections was limited and showed no improvement in terms of fairness. Much of the conduct was not conducive to free and fair elections; major weaknesses were present throughout the democratic process, including voter registration and candidate registration. There is a continuing lack of confidence in the election administration and an unequal playing field lacking political competition due to the dominance of the ruling Cambodian People Party (CPP). CPP controls the media and uses state resources for their own purposes. COMFREL observed in some communes an atmosphere of intimidation and fear amongst voters that was created by the CPP. Creates an

7. The National Election Committee (NEC) should be reformed to be an independent of the state and an autonomous status. There should be consensus among the major political parties represented in parliament when appointing a president or member to the NEC or Provincial Election Committees (PECs).

8. The current regulations in place to ensure a level playing field and encourage political competition are insufficient. Currently elections in Cambodia cannot be called free or fair. One political party clearly dominates elections and campaigns because of a lack of clear provisions on campaign finance, media campaigns and the use of state resources in campaigns.

9. In regard to campaign finance there is a recommendation suggesting the adoption of regulations and procedures to ensure that it becomes more equal and transparent; this includes limits on finances as well, also be adopted. At the same time, procedures need to be put in place that allow for a close monitoring of the campaign spending of each political party.

10. In regard to media, there is no basis in Cambodian law giving the government the authority to require licenses of Cambodian broadcasters that they exclusively provide. This has not and will not ensure freedom in the media. All major political parties should have fair and equal access to the mass media to convey their messages to the electorate. The way forward is to establish an independent committee on the management and use of state-run television and radio stations. There needs to be an independent entity, responsible for regulating the distribution of licenses and media broadcasts on an open and transparent basis.

## **The Right to Vote and Voter Registration**

11. Maintaining an accurate list of registered, eligible voters is a major obstacle and has caused prevented many individuals from exercising their voting rights. There are frequently irregularities in the voter list. For the 2013 National Assembly elections, 13.5 percent of people who registered to vote were not recorded on the voter list. (Their name could not be found at all or their data had been completely changed. This means that some 1.25 million registered voters are likely to be unable to vote in the election in July<sup>1</sup>. This issue also impacted the 2008 National Assembly election and 2012 Commune Council election; approximately 440,000 eligible voters went to cast their vote on polling day could not do so because either their name was not on the voter list or they could not find their polling station code or location.<sup>2</sup>.

12. The RGC and major political parties need to have an open discussion in order to make desperately needed changes the current voter registration system. Procedures should be simplified and improved in order to ensure accurate voter registration data and verification. A permanent voter registration system should be set up; one which allows voters 18 years of age or older to register to vote at any time throughout the year at their place of residence. Additionally, the government should amend the regulations on issuing National ID cards, allowing permanent lifetime use. Under these rules, a citizen, for practical reasons, should be renew and update their ID photo every 20 years. .

### **Right to Stand for Elections and Election System:**

13. The election system of Senate and Sub-National Councils does not reflect the principle of universal suffrage. While universal suffrage emphasizes inclusiveness and non-discrimination within the group of persons to whom the right to vote is granted, ordinary Cambodian citizens cannot choose their representatives in the senate or in the Sub-national Council. This has resulted in a loss of confidence in the electoral system amongst the public.

14. In keeping with ICCPR standards the RGC safeguards the right of the individual to freely choose their representative. The RGC recommends that all indirect elections, including Senate and Sub-national Council elections, should be changed to universal elections. Universal suffrage, allowing Cambodia's whole electorate of citizens to directly elect the Senate and Sub-national Councils and Khan Councils, should be implemented. Independent candidates who are not affiliated with any political party should be allowed to participate in these elections.

15. The partisan system used for Senate and Sub-national Council elections stipulates that the political parties prepare their candidate list. Eligible voters are sitting elected

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<sup>1</sup> Results from COMFREL's survey, audit and verification on voter list and registration (SVRA-Plus) 2012

<sup>2</sup> Result from COMFREL rapid survey in 2008 and 2012 elections

officials; for Senate elections this includes the 123 members of the National Assembly, and for Sub-national Council elections voters are existing commune councilors. This system encourages Commune Councilors and members of the National Assembly to vote along party lines, and almost ensures that all branches of government will be controlled by the same party.

16. Most political parties have no clear democratic procedures to select their candidates. Furthermore, the party has the power to remove the candidate from their position even when they have been elected to a seat by their constituents. This does not give elected officials incentive to vote independently, but rather along party lines to avoid losing their seat. Independent citizens are also unable to stand for elections; a person must be a member of a political party to become a candidate. Cambodian citizens do not have the right to choose their representatives when it comes to the Senate and Sub-national Council.

17. For a modern democracy to emerge, it is recommended that the electoral system be reformed for the next election in one of two ways. The first option is to continue using the indirect election with the preferential system, but allow Commune Councilors to vote for individual candidates. The second option is to use the direct election system for all bodies of government. In order to avoid high costs, the elections can take place on the same day as National Assembly and Commune Council elections; simply add two ballot papers for Senate and Sub-national Council votes. Elections should include both candidates from each political party as well as independent candidates. Such elections are being implemented in other Asian countries with similar cultural and economic backgrounds to Cambodia, such as Thailand, Indonesia and the Philippines.

18. During the 4th Legislature of the National Assembly at least 29 members of the National Assembly were removed from their position because they had conflicting viewpoints on policy from the ruling political party.

19. The new National Assembly should be strengthened and allow the non-ruling parties be more involved in the policy-making process. The current trend of the multi-party system moving towards a one-party system should be immediately stopped and reforms put in place to strengthen of the party system by providing public finance and training to political parties, as well as legal changes allowing independent candidates to run for elections.

20. The new RGC should foster institutional and procedural reforms to enforce current constitutional provisions requiring a separation of powers. Current fusions of powers between the executive, legislative and judiciary branches need to be overcome. An inclusive political process involving the three branches in the policy-making process should be fostered in order to construct a parliamentary system based on the principles of a free democracy.

## **Political Participation**

21. The RGC should create a curriculum about democracy and integrate it into the formal education program. This will educate the youth in the population and in turn increase the participation of youth in the political process. Today's young people are the future political leaders of Cambodia.

22. The introduction of a quota-system should be considered in order to reach a more proportional representation of female elected officials at all levels. It should be required by law that at least 30 percent of candidates nominated by each political party should be women. An increased participation of women in the political process would help to advance a more inclusive democratization process.