

Finding and Summary Report on the Commune/Sangkat Councils Election 2022

Summary of key findings

Legal framework: The amendments to the Law on the Election of Commune/Sangkat Councils, Regulations and Procedures for the 2017 Commune/Sangkat Councils Election in 2015 and the subsequent amendments following the 2017 Commune/Sangkat Councils election are more negative than positive. Some positive changes or improvements include the following: reform of the voter registration system and the preparation of new voter lists; the administration over the installation of political party logos in public places; prohibition of military officials, police, civil servants, local authorities, and court officials from taking part in political activities of a political party during working hours or their duty time during the election campaign period as well as the acceptance and recognition of election observers and political Party's election observing agents, all of which have been precisely stipulated in the Election Law, Regulations and Procedures while the timeline for implementation has also been set forth and well implemented by the National Election Committee (NEC).

The negative changes which have led to dire implications embrace the following: the amended Law on Election of Commune/Sangkat Councils does not broaden a scope conducive to election campaign activities. In contrast, it restricts the rights and freedom or narrows the space for Civil Society Organizations' participation in the election campaign season and confines their freedom of expression. Other negative points are the shortened period for a registered political party's election procession as well as the maintaining of loopholes under the Law, enabling civil servants, armed forces, military personnel and court officials to participate in election campaigning activities within any specific political party outside working hours or by submitting a leave form during the election campaign period so that they can freely join campaign activities in support for their Party and against other political parties. Further, there are two unprecedented changes, which have been viewed as severely negative, such as (1) the mandate of elected representatives is not guaranteed, including the will of the electorate, because the amended Election Law contains a provision that allows distribution of seats belonging to a political party dissolved by the court to other political parties, which does not reflect the stance or will of the voters at all; (2) the using of court lawsuit in a criminal offence against any persons whose activities have been found out not yet fulfilling all conditions set forth in the Election Procedure.

Recruitment of electoral officers: The Committee for Free and Fair Elections in Cambodia (COMFREL) has observed some issues relating to the recruitment of sub-national electoral officers as follows: (1) the recruitment of Commune/Sangkat Election Commission (CEC) and Ballot Counting Commission was smoothly conducted as planned; (2) the shortlisted candidates for a test and interview and afterward recruited as electoral officers on a contract basis mostly are teachers and have previous experience in working as electoral officers; (3) among the recruited officers, some are candidates from the ruling party activists who had applied for the post. Regarding the disclosure of recruitment-related information, COMFREL observed that the information had been posted at commune offices, commune halls, hospital fences, markets or downtown areas, and also markets or downtown areas, and disseminated via social media and various media outlets. Further, the Selection Commission was in charge of application distribution and acceptance, and interviews. Nevertheless, during the recruitment process, COMFREL also observed some irregularities related to newly selected

officers who have a close connection with each other, such as father-in-law and son-in-law, working in the same office. Furthermore, the candidates who had not been shortlisted for the test and interview expressed their dissatisfaction with the selection process, believing that the Selection Commission pre-arranged it. Meanwhile, most representatives of political party members indicated that they did not send any political party candidates to run for the said officer post.

Election Administration and Management

Voter registration and voter list preparation: COMFREL believes that the voter lists are still of acceptable quality despite the fact that the right to register and the right to vote remains an unresolved challenge. This requires more attention from the NEC and the government as well as the National Assembly, which shall pave the legal way for voter registration of Cambodian citizens living abroad. This is because, more than 1.2 million people did not register in 2021 (NEC's figure) to register in 2022 for the upcoming General Election 2023.

Indelible ink test: The NEC conducted an indelible ink test at its headquarters' conference hall. A total of 58 participants were representatives from the Constitutional Council, the Senate, the National Assembly, the Ministry of Interior, the Department General of Administration, the Department General of Identification, the General Commissariat of National Police, the Ministry of Information, the Ministry of National Defense, political parties, national and international NGOs, the Embassy of Japan in the Kingdom of Cambodia, the Embassy of India in the Kingdom of Cambodia, Japan International Cooperation Agency (JICA), national journalists and relevant NEC officials. Officials from the Secretariat General of the NEC conducted a quality test of the indelible ink and placed a purchase order of 52,000 bottles of indelible ink containing 20% silver nitrate (AgNO₃) solution. After conducting the indelible ink test by dipping a forefinger into the ink and cleaning it with a detergent substance, the NEC showed the result confirming that the ink was indeed indelible.

Registration of Political Party Candidates: In the political party registration process, the Candlelight Party registered its candidates standing for the Commune/Sangkat Councils Election in 1,649 communes, preceded by the Cambodian People's Party (CPP) registering its candidates for all 1,652 communes. In this candidate registration process, the Candlelight Party and the Party that was split from the former Cambodia National Rescue Party (CNRP) were all sued, and were, in some cases, requested to remove their respective candidates from the candidate lists given the reason that their candidates had not fully met the candidate criterion, including (1) illiteracy, (2) having no permanent residence and/or (3) failing to fill out the Candidate Application Form by themselves.

COMFREL also monitored the complaint process during the political party candidate registration phase, finding out that most complaints lodged are related to the following facts: withdrawal of candidates, candidates not knowing that their name registered for the election, illiterate candidates or/and some candidates having no permanent residence. These complaints aimed at removing candidacy from the registered candidate lists and at removing the political party candidate lists from the commune/Sangkat's. Meanwhile, some complaints were filed by competent authorities to the court over the allegation of document forgery. For instance, there was a case in Pursat province where the provincial court detained two activists of the Candlelight Party for a criminal charge of "falsification of public document," linking it to a case under the Criminal Code. COMFREL views that the charge mentioned above imposed by the court is a new practice. The court did not previously

implement during the election period under NEC's management and administration. Consequently, the official result of the political party candidate registration showed that the Candlelight Party had registered candidates competing only in 1,623 communes out of 1,649 communes for which the Party had registered.

Election campaign: A 14-day observation of the election campaign situation showed that the campaign was conducted calmly, with no violence nor confrontation between political party processions. The Preliminary Summary report on the Situation of the 5th mandate's Commune/Sangkat Councils Election Campaign has been publicly released. The report identified six irregularities. In addition to pointing out these irregularities, COMFREL also produced its recommendations and called on relevant electoral stakeholders to implement the six-point minimum conditions for the Civil Society Organizations proposed by the Commune/Sangkat Councils election. In addition, in connection with these conditions, it is requested to review and determine the procedure for civil servants, armed forces, and court officials, who should not be granted any leave to participate in the election campaign. Although the campaign was calm and had no violence or confrontation between political party processions, the irregularities continued to be observed, such as (1) neutrality or the involvement of civil servants and armed forces; (2) activities leading to conflict provocation, obstruction and disturbance; (3) neutrality of village and commune authorities; (4) inequality in the use of public space and security; (5) intimidation through threatening; and (6) the frightening of voters.

Campaign finance: In the election campaign, it was observed that the political Party that had used the most resources to conduct its election campaign activities was the CPP, whose expenditures included distribution to party members before the campaign, distribution after the party procession, installation of party logos/signs in public areas, publication of party leaflets, preparation of guideline documents to teach citizens how to tick its party logo, gatherings as well as the procession and concert arrangement, etc. The Election Law does not stipulate or mention any procedures on election campaign finance for political parties. In this case, COMFREL observed that the ruling party utilized budget, human resources, who are civil servants, and means of propaganda (media outlets such as TV, radio, and private media channels).

The election observation on the polling and counting day: COMFREL in collaboration with partner organizations (CSOs) deployed 1,858 (759 female) observers to take part in the general observation of the vote casting and counting process. This election observation is aimed at observing irregularities that voters were encountering, including the abuse of voters' rights, challenges facing voters, and other irregularities.

Irregularities observed on the polling day: Some irregularities found are the following: (1) the presence of the authorities, such as village members, village chiefs, commune chiefs, police officers, and competing candidates who were running for the Commune/Sangkat Councils election, inside and outside or near the polling station premises Those authorities were waiting to take note of the name of voters who had already cast their ballot at the polling stations or in villages within their commune/Sangkat; (2) people not being able to cast their vote due to the following reasons: being unable to find their name and their personal data mentioned in the Election Identification Document different from that in the voter list as well as having no the Election Identification Document. At the same time, their Khmer ID card was either expired or lost.

Irregularities observed during the ballot paper counting process: In the process of ballot paper counting, the election observers found some irregularities listed as follows: (1) election observers were not allowed to observe inside some polling stations during the ballot counting process; (2) some polling station electoral officers did not allow election observers to take photos of the ballot counting process; (3) some polling station electoral officers did not post the minute of ballot counting (Form 1102); (4) some polling stations did not fill out the information about the result of ballot count that each political party received, which was required to be posted in front of the polling station; and (5) the polling stations with no security issues were observed to be obscured and lack transparency due to the closure of doors or windows of those ballot counting stations.

Technical misuse of indelible ink: Some technical issues related to the misuse of indelible ink by some polling station officers, as the voters could remove the ink from their forefinger. This case happened at Polling Office No. 0377 located in Porveal Pagoda, Sangkat Rattanak, Battambang Municipality, Battambang Province. For this case, CEC officers decided to change the indelible ink after 210 voters had cast their ballots.

Notation of the releases of voter turnout by the NEC: The NEC released the figures for voter turnout three times. The first publication of voter turnout released on 5 June was 7,172,448 ballots/persons, equivalent to 77.91 percent. The second publication of voter turnout on 6 June, was 7,382,449 ballots, equivalent to 80.19 per cent of the voter lists. The third voter turnout figure released on 26 June was 7,394,427 ballots (ballots in the ballot boxes), equivalent to 80.32 percent.

Election Results on 5 June 2022: The results of the 5th Mandate's Commune/Sangkat Councils election published by the NEC showed that 9 out of 17 registered political parties running for this election received commune council seats. Of the nine political parties that won seats, the CPP won the most seats, followed by the Candlelight Party. The total of valid ballot papers collected nationwide is 7,206,218, and the total of commune council seats is 11,622. The CPP won 5,378,773, equal to 9,376 seats. The Candlelight Party received 1,610,556 votes, equivalent to 2,198 seats. FUNCINPEC obtained 91,798 votes, equivalent to 19 seats. The Khmer United National Party got 6,807 votes, equal to 13 seats.

Position of Commune/Sangkat chief received by political parties: The results of the Commune/Sangkat Councils election showed that out of 1,652 communes, the CPP won most seats of commune chief in 1,648 communes. The Candlelight Party obtained four commune chief seats, including one in Kampong Cham and three in Kampong Thom. The other seven political parties won some commune council seats but not a single seat of commune chief.

The number of communes with only one political party holding all commune council seats: In some communes, after the election competition, some political parties did not win any seats even though they had registered their candidates in those communes. The total number of communes with only one political party holding all commune council seats is 231 won by the CPP. Pursat province has the biggest number of up to 25 communes, followed by Ratanakkiri province with 21 communes and Kandal and Mondulkiri provinces with 16 communes each.

Verification and accuracy of ballot counting records (Form 1102): after making a comparison between the Forms 1102 provided by the election observers and those posted on the NEC website, COMFREL has found some irregularities relating to seven points as follows: (1) the issue of "ballot papers in the ballot box" for 90 cases; (2) the issue of "valid ballot papers" for 85 cases; (3) the issue of "invalid ballot paper" for 84 cases; (4) the issue

of "ballot papers received by political parties" for 30 cases; (5) the issue of "spoiled ballot papers" for 10 cases; (6) the issue of "unused ballot papers" for five cases; and (7) the issue of "actual ballots received" was 5 cases. In addition, the Forms that the election observers have received do not have complete information on each of the points above, whereas the Forms posted on the NEC website contain completed information correctly. Another case is the use of a correction pen to erase some information on Form 1102 posted on the NEC website. We do not know for sure which phase the deletion took place. Who was involved in and who witnessed it? The use of a correction pen might be a cause leading to suspicion of transparency in the implementation if there is no engagement from election observers or political party agents in charge of election observation.

The number of political parties standing for the election: In the Commune/Sangkat Councils election 2022, there were 17 political parties registering their candidates to run for the election. As of 2022, five Commune/Sangkat Councils elections (five mandates) have been held, of which the first (first mandate) Commune/Sangkat Councils election was held in 2002 with eight registered political parties. The second mandate in 2007 with 12 registered political parties, the third mandate in 2012 with 10 registered political parties, the fourth mandate in 2017 with 12 registered political parties and the fifth mandate in 2022 with 17 political parties.

Comparison of voter turnouts: In a comparison of the voter turnouts of the Commune/Sangkat Councils election from 1993 up to this year 2022, the voter turnout in the fourth mandate's election was the highest one, reaching up to (90.37% against the voter lists) and then declining to 80.19% in the fifth mandate's election 2022.

The result for the general election 2023: Based on the result of the Commune/ Sangkat Councils Election in this fifth mandate, COMFREL conducted a trial calculation of the votes obtained by political parties to determine the number of seats those parties would obtain in the General Election. Based on this trial calculation, the result shows that only two political parties will hold seats at the National Assembly, namely the CPP and the Candlelight Party, if their respective support from voters remains the same as that in the Commune/Sangkat Councils Election 2022. In this regard, the CPP will secure 104 seats while the Candlelight Party will obtain 21 seats.

Collaboration in the deployment of election observers: The number of election observers, as indicated above, is from the participation of nine partner organizations that collaborated in both financial and human resources, namely (1) Youth Resource Development Program; (2) People Center for Development and Peace; (3) Peace Bridge Organization; (4) Gender and Development for Cambodia; (5) Independent Democracy of Informal Economy Association; (6) Center for Alliance of Labor and Human Rights; (7) Cambodian Human Rights and Development Association; (8) Coalition of Cambodia Farmer Community Association; and (9) Coalition for Integrity and Social Accountability Organization. These nine CSOs joined collaboration by attending meetings and consultations to discuss their election participation and responsibilities based on their budget availability.

Challenges of election observer recruitment: Some election challenges observer recruitment are the following: (1) the short time for the recruitment process; (2) target areas for the recruitment have no COMFREL contact points or contact points of other institutions; (3) the office location is in a remote area that is difficult to communicate; (4) some selected observers have resigned, and some are of the view that the fee provided is too little.; (5) observer recruitment period is during the recruitment of Polling Station officers, and (6) provision of incomplete information while filling out the personal information in the name list, causing difficulty in preparing the name list.

Difficulty with the NEC in connection with the application submission process and request for the Election Observer card: To cooperate with the NEC in performing some work, we are of the view that some tasks need to be improved for better implementation because they might cause difficulty in the application submission process: (1) the list of election observers sent from the NEC needs to go through so many stages, delaying the receipt; (2) the secretary shall be responsible for filling out the card, but s/he has insufficient time to do it, which is his/her responsibility, consequently impacting other tasks; (3) Chairman of the Provincial/Capital Election Commission (PEC) does not authorize the next subordinate to sign on the Card on his/her behalf on the condition that the Chairman is on a mission. Such a case further prolongs the issuance of Election Observer cards, as reflected in the issues in Kampong Cham province and Phnom Penh; (4) all photos need to be printed out in the downtown areas, which is the responsibility of the COMFREL's provincial secretary (the secretary needs to pay for the photo printing); (5) all Election Observation cards shall be attached with a photo and then be sent back for the applicant to sign; after that, the cards shall be submitted to PEC for stamping and then be sent back to the observers again (the secretary is responsible for any expenses occurring during this process); and (6) the sending of the Election Observation cards to the observers encounters difficulty for those living in remote areas; it is one of the responsibilities that the secretary needs to spend both time and high budget on delivering those cards to them.

COMFREL's activities contributing to voter education: COMFREL has contributed to the education and dissemination of information about the Election Regulations and Procedures; rights and obligations of voters in the election engagement; the importance of the election; principles of free and fair elections, as well as other topics relevant to the electoral process. The activities contributing to the enhancement of knowledge and education are inviting speakers who are the experts/specialists from the NEC and Civil Society Organizations involved in the electoral process to the series of discussions on election-related issues since the start of the election campaign until the polling day. In total, there have been 22 topics being raised for discussion during the Voice of Civil Society radio program; other related topics were also raised and discussed at the national and provincial forums.