

SUMMARY
FINDINGS



COMMUNE COUNCIL ELECTION 2012

គ្រឹះស្ថានប្រជាធិបតេយ្យ **COMFREL**

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Summary Findings On Commune Council Election, 2012

The Committee for Free and Fair Elections in Cambodia (COMFREL) is a Non-Governmental Organization (NGO) that has observed elections in Cambodia since 1998. COMFREL has observed the National Assembly election in 1998, 2003 and 2008 and has also observed the commune/sangkat council elections in 2002, 2007 and 2012 in the 3rd mandate. COMFREL has played a crucial role as an independent civil society organization that has strived to contribute to a higher standard of electoral process through advocacy and educational programmes.

After 2012 commune/sangkat council election, COMFREL compiled the following report of the electoral process:

1. Security issue

COMFREL had observed the processes of voter registration and the auditing of voter lists during the commune/sangkat council elections. Since the process of voter registration till now there have been three murder cases of political activists in three provinces. Among three those cases, one case is from the Norodom Ranariddh Party in Pursat province, one is from the Sam Rainsy Party in Siem Reap and another one is from the Human Right Party in Kampong Cham province. Although it could not be completely regarded that those murder cases were politically motivated, yet those cases happened to political activists during election period.

The death of environmental activist Mr. Chhut Wutty, the shooting of 14-year-old demonstrator, Heng Chantha, in Kratie province by armed security forces, the rushed detention of 15 Boeung Kok Community representatives in Phnom Penh and a case of gunfire directed at three garment workers in Svay Rieng province. COMFREL is of the opinion that these brutal acts negatively affected the electoral process and caused voters' to fear for their freedom of expression and freedom of assembly during the election campaign.

COMFREL is also concerned about threats to and the intimidation of political activists and politicians, such as the lifting of parliamentary immunity of Member of Parliament, Mr. Chan Cheng, of Sam Rainsy Party (SRP), death threats received by Mr. Meas Saphol of the Human Rights Party (HRP) and the arrest of Mr. Meas Peng of the Sam Rainsy Party (SRP); these activities negatively affected the free and fair election.

2. Neutrality and Transparency in the use of state resources

The misuse of state resources includes the misuse of state property and state personnel for the benefits of the Cambodian People's Party (CPP).

Throughout the observation period, from 16 January 2012 to 17 May 2012, though unrevealed, civil servants were noted as working for political party before the election campaign. About 300 cases of the misuse of state resource including state property and time of state personnel occurred. 29 cases of state officials campaigning for the Cambodian People's Party (CPP) was observed by COMFREL. There were 32 cases of civil servants, at all level (local authorities, military police, judges, royal armed forces, village chiefs, deputy village chiefs, assistants) involved campaigning for the ruling party in the provinces; Koh Kong, Preah Vihear, Pursat, Ratanakiri, and Prey Veng. Nine cases of state-owned vehicles, identified by state license plates, were used for the election campaigning in Ratanakiri, Kampong Chhnang and Kep provinces.

In two such examples, on 21 May 2012 General Meas Sophea and Mr. Oum Mara, the governors of Preah Vihear province were leading CPP members in a meeting. On 01 June 2012 the governor of Kep province, Mr. Has Saret, was observed participating in the election campaign for commune/sangkat council elections third mandate in Kep province.

Article 8.7 of the NEC's regulations and legal procedures allows civil servants to be involved in political activities outside of working hours. Civil servants, local authorities, royal armed forces, military police and judicial officers can be involved in the election campaign in support of any political party or candidate but they shall refrain from wearing uniform or carrying weapons. Civil servants acting contrary to article 8.7 shall be punished according to chapter 131 of the law on National Assembly Election.

However, this is contrary to the law on Political Party (1997), the law on Co-statutes of Civil Servants, and laws on Military Personnel and Royal Armed Forces, all which ban civil servants, military police and judicial officers from supporting or acting in favour of any political party. The NEC has interpreted the word "Neutrality" in two different standards in which the regulations and legal procedures of NEC allow civil servants and NGO officials to be involved in the electoral process and political activities. A notable exception is that NGOs' and civil society organizations; officials are not allowed to be involved in any political activities during either working or non-working hours.

3. Voter registration/Voter lists/Voter information cards/Special voter identification document

Voter registration in 2011 for the commune/sangkat council election in 2012 was organized by the Commune/Sangkat Election Committee members and clerks. The process of voter registration was completed and received 192% (915,178 registers) compared to the expected 476,037 registers leading to the deletion of 270, 605 names from the voter lists. In totally the number of voters on the voter lists in 2011 was 9,203,493, 4% more than the total number of eligible voters nationwide.

COMFREL conducted a statistical survey and found that 17%, accounting for 1.5 million eligible voters could not find their names or had had their names changed on the lists. This would surely lead to challenges on voting day. With the understanding that the number of names on voter lists in 2011 was more than the total number of eligible voters, COMFREL conducted a survey in order to audit the voter lists in Sangkat Beoung Tompon, Khan Mean Chey in Phnom Penh. According to the survey, among

4,178 voters, 127 people had double recorded names, accounting for 6% of the total informants interviewed. In Sangkat Beoung Tompon, there were 33,475 voters and 52 polling stations. The observation showed that the distribution of voter information cards was not conducted. Concerned stakeholders suspected that local authorities were discriminating in distributing and that the voter information cards were being used for political ends.

According to the preliminary result of voter information cards distribution by the NEC between 16 April and 15 May 2012, there were 7,887,329 voters, accounting for 85.7%, who had received voter information cards. The remaining 1,316,164 did not get their voter information cards. COMFREL is concerned that the voters who did not receive voter information cards would be confused believing that without voter information cards they could not vote. The highest number of voter information cards distributed was 94.91% in Svay Rieng and the least number of voter information cards distributed was 70.14% in Phnom Penh.

The new identification certificate for the elections (ICE) was used to replace the 1018 forms of the previous election. There were many irregularities when issuing the new forms regardless that the regulations and procedures of issuing are more strict and clear-cut. It was the same persons who were granted authority to issue the forms; the commune/sangkat chiefs have been mistrusted by political parties and civil society organizations. COMFREL found that the number of ICE issued nationwide was 50, 0000.

4. Political Party registration and its result

The process of political party registration was smooth though some political parties expressed concern at the complicated procedures in the list of political party candidates. Totally, there were 10 political parties contesting the election out of which the Cambodian People's Party (CPP) deployed candidates in all 1,633 communes/sangkats, the Sam Rainsy Party (SRP) deployed in 1,615 communes/sangkats, the Human Rights Party (HRP) deployed in 1,070 communes/sangkats, FUNCINPEC deployed in 1,413 communes/sangkats, the Norodom Ranariddh Party (NRP) deployed in 1,029 communes/sangkats, the Cambodian Nationality's Party (CNP) deployed in 225 communes/sangkats, the League for Democracy Party (LDP) deployed in 164 communes/sangkats, the Khmer Anti-Poverty Party deployed in 23 communes/sangkats, the Republic Democratic Party deployed in 9 communes/sangkats and the Democratic Movement Party deployed in 2 communes/sangkats.

The 10 political parties contesting in the election deployed 111,056 candidates (28, 481 female candidates) and all political parties, except the Cambodian People's Party (CPP) raised difficulties in finding political candidates in particular women to represent their political parties.

During the political parties' registration, the NEC deleted and rejected 148 registered candidates of some political parties as those candidates were below 25 years of age and deleted 38 names from the candidate lists of more than one political party.

5. Mass Media

The observation showed that mass media especially private televisions did not follow the regulations and legal procedures of the NEC. According to the regulations of the NEC, during the election campaign both private and state-run mass media shall schedule and disseminate the time for the activities of formal representatives of government and the campaign activities of political parties' representatives. Mass media shall be accurate, well-balanced and neutral.

However, the mass media have been strongly in favour of specific political parties, especially televisions were disseminating for the political benefits of the Cambodian People's Party (CPP) and heavily condemned rival political parties.

According to the media monitoring data from 16 January to 29 May 2012, the Cambodian People's Party (CPP) was granted the largest amount of broadcasting time, especially through television and other state-owned media, whereas non-ruling parties were granted large amount of time on independent radio. Three famous television stations, TVK, CTN and Bayon news, have been strongly in favour of the ruling party.

During the election campaign from 15 May to 01 June 2012, the observation of TVK, CTN and Bayon news indicated that The Cambodian People's Party (CPP) was granted 2 hours, 3 minutes and 28 seconds, out of which 1 minute and 10 seconds was positive tones; the Sam Rainsy Party (SRP) was granted 1 hour, 23 minutes and 24 seconds, out of which 4 minutes and 43 seconds was in negative tones (CNT and Bayon news); the Human Rights Party (HRP) was allocated 1 hour, 37 minutes and 12 seconds, out of which 14 minutes and 8 seconds was in negative tones (CTN and Bayon news); the Norodom Ranariddh Party (NRP) was granted 1 hour, 23 minutes and 24 seconds; FUNCINPEC was allocated 1 hour and 24 minutes and other political parties were allocated 1 hour and 3 minutes equally, except for the Republic Democratic Party which was granted only 39 minutes.

However, COMFREL was disillusioned with the decision that on polling day some media institutions including, Sarika FM 106.5 VOD program, Radio Free Asia (RFA) and Voice of America (VOA) were banned from disseminating voter information while state-run and private media were broadcasting in favour of The Cambodian People's Party (CPP).

6. Election Campaign and Campaign finance of political parties

During the election campaign, threats, irregularities, resistance and disturbance campaign activities were made against the political activists and citizens. On average, irregularities occurring per day decreased compared to the previous elections (20 cases in 2002, 8 cases in 2007 and 6 cases in 2006).

The election campaign activities of three political parties including, the Cambodian People's Party (CPP), the Sam Rainsy Party (SRP) and the Human Rights Party (HRP) conducted huge campaign activities like processions, meetings and distributing leaflets, posters and so on. Beside the recently-mentioned three political parties, other campaign activities of political parties were held on a smaller scale at the commune/sangkat level.

For the means of election campaign, political parties had new campaign strategies, using modern technology like entertainment programmes; CPP was celebrating musical performance and comedy programmes performed by celebrities and especially the very active election campaign conducted by youths. On the other hand, the Sam Rainsy Party (SRP) used new technology like playing CD, scanner, LCD and so on to disseminate the president's message and to advertise political platforms.

The signatures between the two royalist parties, FUNCINPEC and Norodom Ranariddh Party (NRP) were held at the Peace Palace on 24 May 2012. However, these two political parties have not had a specific or clear formula to merge yet. The signatories have not been really committed.

Prior to the launching of the election campaign, a group of civil society organizations were organizing workshops on the campaign finance of political parties. During the workshop the political parties signed to disclose information of incomes and financial outflows during the election campaign. The four signatories were the Sam Rainsy Party (SRP), The Human Rights Party (HRP), FUNCINPEC and The Democratic Movement Party (DMP).

During the election campaign, COMFREL deployed observers to collect information about the financial outflows of political parties. COMFREL estimated the expenses on average for each party, per commune/sangkat: the Cambodian People's Party (CPP) spent about 9,000 US dollars; The Sam Rainsy Party (SRP) spent 1,500 US dollars; The Human Rights Party (HRP) spent 300 US dollars; FUNCINPEC and Norodom Ranariddh Party (NRP) spent 200 US dollars and less than 200 US dollars respectively.

7. Polling and Counting Days

The commune/sangkat council election in the third mandate in 2012 was held smoothly regardless of lower voter turnout rates of compared to the previous election in 2007. COMFREL was frequently reporting a lack of understanding of electoral regulations and legal procedures by polling station officials and irregularities found during the polling and counting days. Additionally, COMFREL found that the indelible ink could be cleaned from the voters' forefinger.

There were some 3,127 cases of irregularities in 789 (13%) polling stations among the 5810 polling stations in all provinces and the capital where COMFREL deployed its observers. Irregularities mostly occurred in Phnom Penh 35,31%, Pursat 8,35%, Kandal 8,31%, Takeo 5,47%, Battambang 5,34%, Prey Veng 5,24%, Banteay Meanchey 4,54% and other provinces less than 4%.

The irregularities that observers found:

- Ignoring legal procedures by launching election campaign activities, especially on cooling day, with 23 (0,74%) cases occurring in Battambang, Kampong Chhnang, Kandal, Phnom Penh, Prey Veng and Sihanouk provinces.
- Insecure and fearful situations around the polling stations in villages; Nine (0.29%) cases reported.
- Sending electoral materials to polling station late and a lack of electoral materials which was resistant to the election process; three cases in Kratie and Prey Veng provinces.
- Political advertisement with gift offering, leaflets, posters of political parties to seek support

from voters on polling day; 21 (0,67%) cases in Kandal province, Phnom Penh, Kampong thom, Kampot, Prey veng and Kampong Speu.

- 12 (0,38%) cases of refusals to allow observers or political agents from entering polling states in Phnom Penh, Kandal, Battambang, Bantey Meanchey, Kampong Speu and Koh Kong province.
- Illegal presence of local authorities, especially village chiefs around the polling stations in order to observe the voters; there were 208 (6,65%) irregular cases in Phnom Penh, Kandal, Prey Veng, Takeo, Kep, Pailin, Oddor Meanchey, Sihanouk, Ratanakiri, Pursat, Koh Kong, Kampot, Battambang, Kampong Chhnang, Kampong Thom, Kampong Speu, Kampong Cham and Preah Vihear.
- 20 (0.64%) irregular cases of armed forces wearing uniform and carrying weapons using harsh words inside and outside of polling stations in Phnom Penh, Battambang, Kampot, Kandal, Prey veng, Takeo, Kep and Pailin.
- Legal procedure of the NEC was not complied with by polling station officials which led to 114 (3,45%) irregular cases occurring in almost all provinces and the capital.
- 1,298 (41,51%) irregular cases of refusals of eligible voters to vote (inside the polling centers) due to a lack of voter information cards, having names on the voter list but no special voter identification documents, having the wrong information and having already voted by other voters in all provinces/capital.
- 1,016 (32,49%) irregular cases of voters who could not vote when reaching polling centers (outside polling centers) as they could not find their names, polling stations, name on the voter lists, though they had voted in previous elections. Such cases happened nationwide.

Irregularities during the ballot counting

During ballot counting, COMFREL observed that many polling station officials did not understand the regulations and legal procedures for counting ballots; as a result, 90 irregular cases such as allowing unauthorized persons to enter polling stations, not twisting the cover to close up the holes where ballots were inserted, disturbances during the counting, not allowing political agents to observe the counting process and others were found.

8. Election Complaint

The election complaints process during the commune/sangkat council election takes into account the period from voter registration until polling and counting day. 68% of a total 61 complaints were refused during voter registration and were 27% of the total 29 complaints during the political party candidate registration period were denied referred to the NEC. Some 90 complaints were made against commune/sangkat election committees.

Among all the complaints, 27 complaints were elevated to the provincial election committee and two complaints were referred to the NEC. For the complaints during polling and counting days, there were

100 complaint cases, mostly against commune/sangkat election committees. However, some 80% of those complaints were rejected owing to a lack of documents, incomplete application forms and a lack of well-rounded investigation. NEC was not transparent enough in trying to solve the complaints and consequently the complaint-solving process was not reliable and trusted by some political parties.

The legal procedures of solving complaints has not been improved or revised. On the other hand, 80% of 100 cases were rejected with lack of documents, incomplete application forms and lack of well-rounded investigation given as reasons.

9. Verification of election result

The verification between COMFREL and NEC's election result revealed a minor difference. There was only a 0.5% difference in the voter turnout rate between COMFREL and the NEC; COMFREL found a turnout rate of 64.53% whereas the NEC found 65.03%.

For the election result of each political party, COMFREL found the largest difference to be 1.11% and the smallest 0.02%. Among all ten political parties contesting the commune/sangkat council election, The Cambodian People's Party (CPP) secured 61.77%; the Sam Rainsy Party (SRP) secured 20,81%; The Human Rights Party (HRP) secured 9.83%; FUNCINPEC secured 3.87%; The Norodom Ranariddh Party (NRP) secured 2.97% and results of other political parties combined were 0.75%.

However, for NEC's result, The Cambodian People's Party (CPP) secured 60.66%; The Sam Rainsy Party (SRP) secured 20.44%; The Human Rights Party (HRP) secured 9.68%; FUNCINPEC secured 3.72%; The Norodom Ranariddh Party (NRP) secured 2.86% and other political parties' results combined were 0.77%.

10. Citizens' participation

The number of voters is increasing year by year as the population grows. (According to NEC, 5,985,458 voters accounted of the total 9,203,493 registered voters went to cast their ballot on the polling day. This figure increased slightly compared to the 2007's voter turnout of 5,293,327).but voter turnout is decreasing from mandate to mandate. COMFREL observed that during the commune/sangkat council election of the first mandate in 2002, the turnout rate was 87%. This gradually decreased to 64% in the commune/sangkat council election in the second mandate in 2007. Finally in 2012 commune/sangkat council election, there was only a 64% turnout rate.

The poor participation of people in the electoral process is a serious concern as voters confront risks and challenges during polling day. The voters understood relatively well how to vote or tick the ballot paper, yet polling stations found at least 2% of ballot papers were invalid.

COMFREL found that 49% of eligible voters could not vote despite going to their polling stations (identified by indelible ink on the forefingers). These excluded voters could not find their names on the voter lists posted in polling stations, lacked voter information cards, found that there were discrepancies between their identification documents and the information recorded on the voter list

and were refused their right to vote. 36.6% of eligible voters wish to vote because they did not register their names on the voter lists, lived too far away from the polling stations, were busy working at home, had no information regarding elections, could not afford high transportation fees or were misinformed that without voter information cards they could not vote. 14% of eligible voters did not go to vote because they were “lazy”, busy with housework or they believed the election was insignificant.

10.1. Women

According to the NEC’s candidate lists of political parties, the number of women contesting as political candidates in the commune/sangkat council election increased 16% in 2002 (eight political parties contesting), 21,36% in 2007 (12 political parties contesting) and 25,645% in 2012 (10 political parties).

However, 25% female candidates cannot be elected as member of commune/sangkat council election as planned in the Cambodian Millennium Development Goals. With regard to the data of the NEC, the female candidates were elected to 2,038 seats, 17.78% of the total number of seats (11,459). While this does mark an improvement from the 2007 elections, where women won 14.64% of seats, the increase in representation is minor. Furthermore, the positions women were elected to were overwhelmingly Member seats with 1,590 (including CCP, 1443, SRP 138, FCP 2, NRP 1) of those elected, with only 164 (CPP 64, SRP 81, FCP 3, NRP 1, and HRP 5) of the women voted in being elected to Second Deputy; 189 (CPP 171, SRP 16, and NRP 1) to First Deputy; and a very minimal 95 (CPP 95, and SRP 2) to the most senior seat in the Councils, that of Commune Chief.

Although ten political parties ran candidates, with a small number of women candidate stood on the first of the list consisting only 28,481 (25.64%) of the total first candidates of the list, only seven won seats. Of the total number of seats won by the ruling Cambodian People’s Party (“CPP”), 21.48% went to women, the highest percentage of representation among all political parties. Women candidates of the main opposition party, the Sam Rainsy Party (“SRP”), won the second highest percentage of seats allocated to their party, 11.00%. Three additional parties included very minimal female representation: the Norodom Ranariddh Party (5.77%); FUNCINPEC (3.31%); and the Human Rights Party (1.50%). Lastly, two parties achieved no female representation whatsoever: the League for Democracy Party; and the Cambodian National Party. These results show that women’s underrepresentation within the Commune Council is particularly problematic within the smaller parties in which their women candidate were listed out of the top three of the parties’ candidate list.

Although there was no data available for female turnout rate, COMFREL surveyed voters who did not go to vote and studied the reasons why they did not go to vote. According to the survey, among all female eligible voters who could not vote, 51,2% of female voters went to polling stations but faced challenges the majority said they could not find their names or lacked identification documents. Among the women who did not go to vote, 37% said that they wished to vote but they did not register their names and 11,8% of women who did not go to vote said that they did not want to go to vote because they were busy with housework.

10.2. Youth

Youth is the most crucial actor in the electoral process and according to the NEC's data there were 54% of youths aged from 18-35. Stating that among the 11,459 newly elected commune councils for this 3rd term, 598 equal to 5% are youths. 281 or around 47% of them are women. After the commune/sangkat council election, COMFREL conducted a survey by interviewing 2,536 informants who did not have indelible ink on their forefingers in all provinces and the capital; COMFREL found that 46,21% of all the interviewees who did not go to vote were youths.

The result of the survey showed that among all youths who could not vote, 46,21% of them said that they went to vote but could not because they could not find their names on voter lists or had no identification documents.

Among all youths who could not vote, 41, 72% said that they wished to vote but they had not registered their names. 12, 06% of youths who could not vote said that they were "lazy "or busy with their daily work.

Note:

During the commune/sangkat council election in the third mandate in 2012, COMFREL deployed 250 long term observers (LTOs) and 5,602 short term observers (STOs) including staff and members of national and international NGOs including the Centre of Ethnic Minority Culture Association, A group of students from Royal University of Law and Economics, VBNK, Research and Promotion Khmer Law Association, The Youth Resource Development Program (YRDP), Gender and Development for Cambodia (GADC), Students from Royal University of Phnom Penh, Disable Kong Pisey Kampong Speu, The Khmer Institute of Democracy (KID), Khmer Youth and Social Development (KYSD), My Village Organization (MVI), Development and Partnership in Action (DPA), Norwegian People's Aid (NPA), Khmer Youth Association (KYA), People Centre for Development and Peace(PDP-centre), Forum Syd, Vigilance, Action for Environment and Community, KKKHRU, The Cambodian Human Rights and Development Association (ADHOC), Fisheries Action Coalition Team (FACT), English and Computer Centre, Chamreoun Satrey, Village Support Group, Cesvi International Organization, Community Legal Education Center (CLEC).

