

Joint-Report on the Conduct of the 2013 Cambodian Elections

The Electoral Reform Alliance (ERA)

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I. Introduction

On July 28, 2013, Cambodia held its fifth National Assembly elections since the country's elections organized by the United Nations Transitional Authority for Cambodia (UNTAC) in 1993. Historically, Cambodia's polls, including the July elections, have fallen short of international election standards.¹ For over a decade international and local citizen observers have been critical of the electoral process, in particular election administration, voter registration, media coverage, and the use of state resources and the role of the security forces.

The 2013 elections served as a critical test of the country's ability to address historic shortcomings of its electoral process. A positive, if limited, step toward ensuring inclusiveness was King Norodom Sihamoni's royal pardon of opposition leader Sam Rainsy at the request of Prime Minister Hun Sen. While the pardon was issued less than a month before election day and did not allow the opposition leader to stand for office or vote, it permitted Rainsy to return to the country for the elections and to campaign. That had an effect, though immeasurable, on the political environment, and it likely spurred electoral competitiveness. A second improvement in 2013 was a marked decrease in electoral-related violence. In addition, the increased role of social media allowed for a more lively exchange of information and political views than transpired in previous elections.

Despite the pardoning of Rainsy and although there was not the degree of violence as in the past, the 2013 elections revealed significant challenges that undermined the credibility of the process. In particular, pre-election and election day observer reports from a wide array of civic groups documented notable shortcomings, including: the exclusion of eligible citizens from the voter registry; the inclusion of invalid or duplicate names on the voter registry; the wide distribution of alternative documents for voting – Statement of Identify for Electoral Purposes (ICEs); and the failure to update the number of seats per constituency according to the law.

As a result of these issues, on election day observers reported that some eligible citizens were not able to vote and other people without proper identification were permitted to cast ballots, all of which compromised the integrity of the process. Compounding these problems was the uneven size of the constituencies that undermined the principle of equality of the vote. The possible impact of all of these problems was amplified by the closeness of the elections (the vote share difference between parties was fewer than 300,000 votes out of 6.6 million cast).²

The election process is not over. Serious flaws have undermined the confidence of many Cambodians in the integrity of the elections and their results. In response, opposition leaders have refused to accept the results of the elections, and their supporters have taken to the streets. Urgent and extraordinary action must be taken to earn the public's confidence through comprehensive electoral reform. Reforms must focus first and foremost on establishing a truly independent, non-partisan, transparent, and accountable election management body. That body should be responsible for all aspects of the electoral process and have the confidence of voters,

¹ Please see reports listed in Appendix 1 (a compilation of international and domestic election monitoring recommendations).

² This is a significant change from the previous national election, when the vote difference between the two leading parties (Cambodian People's Party and the Sam Rainsy Party) was nearly 2.2 million.

political parties, and civic organizations. Further, the current voter registration process must be reformed, as any voter registry emerging from the existing mechanism cannot be viewed as credible. The media environment must be fundamentally reformed to allow for equal access to television and radio broadcasting, and licenses. The government's reaction to such calls for change has been both to agree vaguely to electoral reform and, at the same time, to threaten to take legal action against leaders of election monitoring organizations for pointing out flaws in the elections and calling for reform.

This report aims to provide a comprehensive view of the problems that have been described in several reports and research conducted on the recent elections. The purpose of this review is forward-looking: i.e., to create the groundwork for future reforms necessary to increase the public's confidence in the credibility of the electoral process. At the same time, many of the points noted in the report echo recommendations advanced in the past by the UN Special Rapporteur on Cambodia, the European Union, and other respected Cambodian and international sources.

II. Methodology

This report was compiled based on the research conducted by various independent organizations over the past year, including: the voter registry audits of the Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC), the National Democratic Institute (NDI) and the Centre for Advanced Studies (CAS), and of the Committee for Free and Fair Elections in Cambodia (COMFREL); duplicate and population data analysis by the Cambodian League for the Promotion and Defense of Human Rights (LICADHO); polling station and results analysis by NDI; the sample based observation (SBO) by Transparency International Cambodia (TIC); and election day observation and parallel vote tabulation (PVT), media monitoring, and state resources monitoring by COMFREL. While these studies provide a detailed view of the elections, the ability of these organizations to draw comprehensive conclusions about the impact on the electoral results has been limited as the relevant Cambodian government bodies have not provided full data on a number of issues—for example, no official data on ICE distribution figures has been released, nor have the number of invalid ballots at the polling station level been made public. Similarly, the government has not provided the full voter list database in an appropriate format for purposes of analysis and review.³

III. Background

Criticisms of the electoral process in Cambodia and calls for reform are far from new. For over a decade, independent domestic and international organizations have written numerous observation reports and research analyses on the electoral process calling for fundamental changes (for an overview of recommendations by election observers, please see Appendix 1). Despite the different mandates and compositions of these research and monitoring efforts, they all come to similar conclusions about the problems and what is needed for improvement. Further, these analyses and recommendations have persisted for over a decade. Certain highlighted issues – such as invalid

³ Voter lists were made available in PDF format only, and given complications with the Khmer font could not be easily converted into a useable format in time for audits conducted by independent groups. The list has now been successfully converted into an analyzable format, aiding the analysis in this report.

names on the voter list – appear to be worsening with time. Five key areas identified in previous reports, and which were again of concern during the 2013 elections, were: (1) election administration, (2) voter registration, (3) the media environment, (4) misuse of state resources, and (5) seat allocation.

A. Election Administration

Election administration plays a central role in building the integrity of an election process. Not only must elections be organized to reflect the genuine will of the people, but they must also be conducted in a way that inspires the confidence of political competitors and the public. International Institute for Democracy and Electoral Assistance (IDEA) has identified seven key principles for election management bodies that “are essential to ensure the actual and perceived integrity of the election process”: independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness.⁴ These principles are common measurements against which an election commission’s work can be assessed.

The National Election Committee (NEC) is responsible for managing the election of members of the National Assembly, Senate, and commune councils, as well as for the compilation and publishing of the voter list. However, for years, numerous domestic and international organizations and election experts have raised concerns over the NEC’s neutrality and competence.⁵ There is widespread agreement among these groups that there is a lack of confidence in the impartiality of the election administration, specifically with regard to the composition of the NEC, delegation of electoral tasks, and complaints resolution. The NEC is housed under the Ministry of Interior (MOI), and does not have an autonomous budget allocation or its own constitutional or other independent legal status, like some other countries in the region. The independence and political impartiality of administrators must be ensured, and the transparency of NEC decision-making, activities, and policies enhanced. There also is a need to adopt new procedures for data management, particularly relating to the voter list.

Composition

The selection process for NEC members is opaque. The Law on the Election of Members of the National Assembly (LEMNA) states the chairperson, vice-chairperson, and seven members of the NEC should be selected from dignitaries who are competent in politics and have the relevant work experience and reputation. In practice, the selection of these commissioners is conducted and approved by bodies controlled by the ruling Cambodian People’s Party (CPP), with no public oversight or consultation with other political parties and stakeholders. The NEC members are appointed by the MOI, approved by the Council of Ministers (headed by Prime Minister Hun Sen), and then authorized by the CPP-controlled National Assembly. No information is provided on, for example, the terms of reference for commissioners or the criteria for an eligible candidate, and there is no clear deliberation process between different government bodies to ensure a fair and competitive selection procedure. Without clear legislation that defines the qualifications for appointment and a transparent mechanism for the selection of officials, public confidence in an election management body will be limited.

⁴ International IDEA, *Electoral Management Design: An International IDEA Handbook* (2006).

⁵ See Appendix 1.

Members of the lower electoral bodies, such as the Provincial Election Committees (PEC), the Commune Election Committees (CEC), and the Polling Station Committees (PSC), should, by law, be appointed in an open process by the NEC from among the population, civil servants, and/or officials in the district and commune. However, in practice, the higher Committee bodies simply re-instate previous officials with no deliberation or competition for the posts. In fact, in 2013, the NEC re-appointed and started training the lower committees *prior* to the announcement of the official selection process.

Role

Several administrative functions are delegated to other bodies, rather than being carried out by the NEC. For instance, the elected commune councils are responsible for voter registration. Although the NEC is accountable for the final voter list, placing the voter registration process in the hands of the councils -- 97% of which are controlled by the CPP -- presents opportunities for abuse and bias in the compilation of the lists. Further, local officials responsible for carrying out electoral duties lack support -- training, budgets, and qualified staff -- often resulting in a poor understanding of rules and procedures.

Transparency

The NEC's operations lack transparency, with limited and untimely public access to important documents and meetings. While the NEC holds press conferences and maintains a website, the NEC does not release essential data, including the results of various polls, media monitoring efforts, and surveys. Even the voter list was removed from the web database of the NEC one day prior to the election, arguably the most popular time for people to check, while previous election results and some regulations were removed from the website a few months before the elections. Importantly, the NEC did not make its full voter list database publicly available for analysis by parties and monitoring organizations, as is done in developed democracies. In addition to reports, data, and documents being classified, the public has little access to meetings, deliberations, or discussions at the NEC.

Regulations

The NEC's Regulations and Procedures for the Election of the Members of the National Assembly (RPEMNA) are over 700 pages long, making them inaccessible to local electoral officials as well as the public. Observers have pointed out that there are new directives that still have not been incorporated into RPEMNA. Efforts to consolidate these regulations and fix inconsistencies, such as efforts made by European Union consultants, have been ignored by the NEC leadership.

Dispute resolution

Complaint resolution and adjudication, under the auspices of the NEC, are areas of concern and do not meet international standards. The legal provisions and regulations governing adjudication are

problematic.⁶ Articles contradict each other; the regulations include numerous loopholes; and oversight provisions are weak. Legal provisions governing penalties are so narrowly tailored that violations easily fall through the cracks and can thus be ignored. Local election officials charged with resolving electoral complaints have a limited understanding of legal matters and are ill-equipped to process disputes. The deadline for the settlement of challenges is still far too short to allow for complainants to realistically gather proper evidence to make their case.

The law lacks a clear statement giving the NEC jurisdiction over *any* election-related dispute, with powers to provide effective remedies and/or appropriate remedies for electoral violations. Numerous technical advisors have recommended that the regulations need to specify clear NEC oversight of officials carrying out electoral duties, including the responsibility of the NEC to be proactive in investigating irregularities. To improve the quality of the process, the legal framework needs to be amended to provide clearer mechanisms for dispute resolution.

Recommendations

Many elections organizations and experts have made consistent recommendations over the past decade regarding reform of the NEC (see, for example, the European Union’s 2008 election observation report and the 2012 report on electoral matters by the U.N. Special Rapporteur on the Human Rights Situation in Cambodia). These recommendations include:

- Special statutory legislation on the NEC or a constitutional status should be considered to replace the articles establishing the NEC in the 1997 election law, setting out specific provisions for independence of the NEC as a neutral, non-partisan body responsible for the management of national, commune, and other elections in Cambodia.
- Further reforms must be made to the structure, processes, and membership of the NEC including the establishment of an independent selection committee consisting of representatives from diverse sectors (academia, NGOs, legal organizations, etc.).
- The NEC should strictly enforce the principle of transparency and impartiality in the selection of election officials at national, provincial, and commune levels. The NEC should ensure that persons selected as election officials at the provincial, communal, and polling station levels are widely accepted as being politically neutral or that electoral bodies are balanced with people from different political backgrounds. The process of selection should be clear, competitive, and open to public scrutiny.
- The body must adhere to principles of transparency, disclosing publicly all decisions, rules, regulations, orders, and other documents that affect the integrity of the election process and electoral-related data that affects the process, such as that related to properly drawing election districts, voter registration, ballot qualification voting, and counting and results tabulation. Public access to key decision-making meetings is imperative.
- The NEC must be given greater statutory authority and responsibility to monitor, supervise, and penalize the activities of all electoral officials. All election officials should report directly

⁶ A commonly cited example is the NEC ruling on votebuying in the May 2009 elections, which claimed that votebuying could not occur without the actual exchange of money, and the NEC did not consider “intent.” One election committee official further explained that the only admissible evidence of votebuying would be a “signature letter with a stamp.” This ruling, election monitoring organizations claimed, was inconsistent with international standards and definitions of votebuying.

to the NEC and no other body (e.g. MOI, etc.) and the NEC should be empowered to impose disciplinary measures on all officials.

No action has been taken on these recommendations and the problems they are designed to address persist.

B. Voter Registration

Cambodia maintains a fixed annual voter registration and verification system; citizens have one and a half months each year to register to vote or to verify their registration status. The registration and review period is held in September and October, eight months before the election. This period falls in the middle of rainy season, possibly introducing transportation complications and creating potential obstacles for citizens to exercise their rights. Further, the process is managed by the commune councils, which are locally elected bodies that represent partisan political interests that may conflict with the political impartiality required to ensure that voter registries are properly developed.

Timing and location

The registration process places a significant burden on voters in a country with large mobility due to migrant and seasonal workers. Voter registration and verification must take place in the commune where a voter has residency, and no accommodations are made for migrant workers who often do not have the time or money to return to their home communes to register. Voters who fail to verify their names during the registration period risk finding themselves unable to exercise their franchise in elections. Moreover, during an election year, voters who do not permanently reside in their area of registration will need to return home to vote, as the Cambodian legal framework provides no opportunity for non-resident voting or new/transferred registration within eight months of the election.

Identification

Identification requirements for voter registration remain complicated for citizens who do not have an accurate national ID card. Despite years of planning, as well as foreign technical and financial assistance, the government has failed to provide national ID cards to all its citizens and create an accurate, complete civil registry. Citizens without ID cards thus need to understand the multiple combinations of other forms or documents for registration that satisfy four requirements (nationality, age, residency, and photo). Proof of residency is required, denying the right to vote to the homeless or evicted persons who have not been able to establish a new fixed residence. Further, weaknesses in the country's identity documentation have led to measures to relax the burdens of proving identity at the polling station, which may lead to confusion, allow for officials' subjectivity, and create opportunities for illegal voting on election day.

In 2011, NICFEC implemented a voter registration/list verification monitoring program for the 2011 registration period with technical assistance from NDI. Prior to registration, multistage random sampling was used to select 300 communes (out of a total of 1,621 in the country) for observation. NICFEC deployed 318 monitors to these communes, who found that 23.1% of

communes allowed applicants to register without any identification documents, while 18.4% of communes saw applicants rejected for using an expired ID card, although such cards were supposed to qualify persons for registration. In 62% of communes, applicants were rejected for insufficient documentation. These factors indicate that officials were either insufficiently trained or could have operated in a partisan manner to influence who was registered to vote, while voters seemed not to be sufficiently aware of requirements despite registration education efforts.⁷

Completeness

As will be discussed later in this report, a major concern during the 2013 elections was the number of eligible voters who believed themselves to be registered but who were unable to find their names on the registry. Previous voter registry audits revealed similar problems. In 2007, NICFEC, COMFREL, NDI, and CAS conducted an audit of the registry with a sample of 3,850 respondents, finding that 11.2% of eligible citizens were not on the registry. From a list-to-people test, that VRA also found that the 2006 registry was out-of-date, with only slightly more than three-quarters (77.3%) of the names on the list found valid. In 2008, an audit by the same organizations showed some improvement in the validity of the registry but a significant number of false deletions – citizens listed on the deletion list who were still eligible and had not permanently moved or died.

Data management

There are also complications with the NEC's compilation of voter registration data and data management. The NEC uses a unique font of the Khmer script in their database instead of the Unicode, which is commonly-used in Cambodia. Therefore, NEC data cannot be converted efficiently and often diverges from other government data, particularly in name spelling for the voter list. The NEC itself has stated that many mistakes occur due to the reliance on hand-written information and its poor IT systems. There are not clear procedures in place for transmitting data from lower committee levels to the center, and information is often mistakenly entered along the way. Commune councilors, for example, frequently complain that the voter list they send to the NEC comes back with many typos and other errors that may have taken place during the data entry process. The NEC's website is frequently contaminated with viruses and malware, shutting down access to important documents and information.

Recommendations

Overall, observers agree that significant changes to the voter registration and list compilation processes in Cambodia are needed to ensure the right to vote for all eligible citizens, to prevent invalid names on the registry, and to minimize the potential for manipulation and fraud.

Recommendations include:

- The Government of Cambodia and the NEC should consider the adoption of a more efficient voter registration system to better address the increasing rate of internal migration and to

⁷ COMFREL and the Democracy and Human Rights Organization in Action (DHRAC) also monitored the 2011 voter registration period and released similar findings.

enfranchise eligible citizens not on the registry who learn too late they are not on the list. This could include a change to continuous, or even automatic,⁸ registration that can allow for changes or corrections to registration closer to election day.

- An impartial, unelected professional local body should be assigned or created to register voters, removing this responsibility from the elected and partisan commune councils.
- To increase the accuracy of the list and ease the registration process and voting for citizens, the Ministry of Interior should complete the civil registry and expedite the distribution of national ID cards to all citizens.
- The NEC should take steps to improve its data management systems, including systematic use of Khmer spelling and fonts, current and synced IT systems, and more coordinated oversight of data collection and entry at all levels of election administration.
- The voter registry should be made available electronically in a machine readable format that allows easy downloading and analysis of data.

C. Media Environment

The broadcast media environment in Cambodia is tilted heavily in favor of the CPP. The country's nine television stations are aligned with or owned by the family or close affiliates of ruling party leaders. As a result, the election playing field is uneven and opposition voices have very limited space to showcase their platforms to voters. Cambodia has consistently scored poorly on measures of media freedom. Reporters Without Borders ranked Cambodia 143 out of 179 countries worldwide in its most recent report on press freedom,⁹ while Freedom House has labeled Cambodia's media "not free" as the country fails to meet criteria for "legal, political, or economic freedom of the press."¹⁰ Laws regulating the Cambodian media are the Press Law, the UNTAC Penal Code, and instruments in the Constitution. However, there is no law on broadcasting, and licenses are distributed by the Ministry of Information.

Coverage during campaigns

The broadcasting of most radio stations and all television stations does not comply with the code of conduct and guidelines of the NEC related to the balance of election news and the principles of accuracy, impartiality, and equitable broadcasting coverage of electoral contestants. According to the 2008 EU election observation report, 900 minutes of television coverage during the campaign season were allocated to the CPP, and only four minutes to the opposition. In 2013, not a single television station covered opposition leader Sam Rainsy's return to Cambodia, arguably one of the biggest news stories of the year.

For the 2013 national election campaign, COMFREL monitored the National Television of Kampuchea (TVK), Cambodian Television Network (CTN), and Bayon News TV.¹¹ The CPP

⁸ An automatic registration would require a complete civil registry. When citizens turn 18, their names would be automatically transferred to the voter registry.

⁹ Reporters Without Borders, Press Freedom Index, 2013.

¹⁰ Freedom House, Freedom of the Press, 2013.

¹¹ COMFREL's observation during the electoral campaign from 17:00pm to 23:00pm (except Sunday).

dominated 87.98% of the airtime of Bayon News channel, which is owned by Prime Minister Hun Sen’s daughter, and 75% of all political coverage on CTN.

Figure One: Media coverage during the campaign (COMFREL)

N	Political Party	TVK		CTN		Bayon News	
		Airtime	%	Airtime	%	Airtime	%
1	Cambodian National Party (CNP)	05h 55mn 02s	12.32	00h 00mn 07s	0.21	00h 00mn 00s	0
2	FUNCINPEC Party (FUN)	05h 54mn 25s	12.42	00h 02mn 51s	1.94	00h 02mn 16s	0.41
3	Republican Democracy Party (RDP)	04h 50mn 31s	10.23	00h 00mn 00s	0	00h 00mn 00s	0
4	Cambodian People Party (CPP)	09h 19mn 22s	19.51	06h 45mn 25s	75.60	16h 26mn 30s	87.98
5	Khmer Economic Development Party (KEDP)	02h 47mn 51s	6.08	00h 00mn 00s	0	00h 00mn 00s	0
6	Khmer Anti-Poverty Party (KAP)	05h 48mn 16s	12.16	00h 00mn 05s	0.15	00h 00mn 00s	0
7	Cambodian National Rescue Party (CNRP)	07h 15mn 41s	15.32	01h 42mn 28s	19.71	02h 00mn 56s	11.48

The trend is evident outside of the campaign season as well. In 2013, COMFREL monitored the Cambodian Television Network (CTN), National Television of Kampuchea (TVK), and Bayon News TV between January and July 2013, finding that their programming was strongly biased toward the ruling party and critical of opposition party leaders. About 10,000 speeches by, or references to, Prime Minister Hun Sen were recorded, in contrast to fewer than 4,000 references to the two opposition leaders, Sam Rainsy and Kem Sokha (all of which were on Radio FM105).

Radio is more balanced, with a few independent stations providing objective reporting. However, these stations are under threat. In 2012, the government shut down independent broadcasting by stations Voice of America (VOA) and Radio Free Asia (RFA) during the campaign. In 2013, the Ministry of Information issued a ban on local radio stations from rebroadcasting Khmer-language radio programs from foreign broadcasters such as Radio Free Asia, Voice of America, Radio France International, and ABC Radio Australia. However, this was later withdrawn when the ban sparked heavy criticism from foreign and local rights groups and the broadcasters themselves.

Social media

According to COMREL’s final 2013 national elections assessment, this year’s elections marked the first time social media and other Internet services (for example, YouTube) played an important role in Cambodia’s electoral process. It is estimated that currently about one million Cambodians, mostly between the ages of 18 and 30, use Facebook for information exchange, including discussions about politics and elections. This has shifted the election campaign strategies of the main contesting political parties, which now increasingly use the Internet to

reach supporters and share information through web pages, videos, online interviews, and Twitter.

Social media and other internet services are particularly important for opposition political parties, given their limited access to television and radio, to share their political platform and solicit support. The CPP also made use of social media in advance of the elections. Profiles called Samdech Hun Sen and Cambodian Prime Minister were set up on Facebook by activists supportive of the CPP and used to deliver political messages to the public. In addition to showcasing the achievements of the CPP, the sites were also used to disseminate negative images of the opposition and describe the problematic consequences should the country change leadership.¹²

In addition to political parties, numerous non-governmental organizations, including election observers and human rights organizations, have increased their online presence and used social media to disseminate information. The government's 'Quick Press Reaction Unit' of the Council of Ministers and the state news agency AKP (Agency Khmer Press) were also active in the 2013 elections. Individual bloggers have sprouted, including numerous political comedic sites. These developments have led to a more open and pluralistic discourse on the elections in 2013.

The number of internet users is expected to increase further in the coming years, particularly with the growing use of smartphones. However, there are signs that the Cambodian government seeks to limit the space for political discourse online. In 2013, the government announced a draft cybercrime law and sent senior public officials to China to explore the success of the "Great Firewall." The government has maintained that it needs a cybercrime law to crack down on criminal internet activities in Cambodia.

Recommendations

For years, organizations have been advocating fundamental reforms to ensure a more professional, balanced, and pluralistic media environment:

- The government should consider an independent, politically impartial broadcasting regulatory authority, responsible for the distribution of licenses and frequencies to the broadcast media on an open and transparent basis. Membership should include professional journalists and other qualified professionals.
- The NEC must ensure that state-run television and radio provide equitable access to political parties in order to address the electorate, and that private broadcast media do not breach the election regulations, which should require accurate, balanced, and impartial coverage of electoral competitors.
- The NEC should end all practices that censor the content of political messages submitted by candidates or parties.
- The Government of Cambodia, the NEC, and the political parties should allow and encourage the fullest expression of opinion through all media and not threaten, induce, or otherwise attempt to control or censor the operation of journalists, media

¹² See <http://www.facebook.com/photo.php?v=525215527526949&set=vb.111975152184324&type=2&theater> for one of the messages used during the campaign.

outlets, or users of social media, subject only to those necessary limitations recognized in international standards concerning freedom of expression.

D. Misuse of State Resources

According to the Law on Political Parties (1997) and the Law on the Co-Statute of Civil Servants (1994), civil servants are prohibited from engaging in partisan activities while acting in an official capacity. For example, Article 37 of the Law on Co-Statute of Civil Servants stipulates that:

“Any civil servant shall be neutral when exercising his/her functions and shall forbid himself/herself to use his/her position and the State facilities to undertake the following political activities: to work for or against a political party and to work for or against a political candidate. Any behavior contrary to this Article shall constitute a transgression or a professional breach.”

Similarly, restrictions on participation in political activities by military personnel are codified in the NEC Code of Conduct for the Royal Cambodian Armed Forces Military Personnel (2008) and the Law on General Statutes for the Military Personnel of the Royal Cambodian Armed Forces (1997). Article 9 of the Law on General Statutes for the Military Personnel of the Royal Cambodian Armed Forces states: “Military personnel shall be neutral in their functions and work activities, and the use of functions/titles and State’s materials for serving any political activities shall be prohibited.” The Code of Conduct for the Royal Cambodian Armed Forces Military Personnel further requires that “military forces shall be at all times neutral and impartial in implementing the duties and all tasks and that military personnel of the Royal Cambodian Armed Forces shall not use their position or state resources to serve political party activities.”

The CPP has wide organizational party structures within the state administration and the police and military forces, counter to the law. COMFREL found that most governors of provinces and districts, chiefs of Royal Cambodian Armed Forces departments, and police chiefs and commanding officers concurrently hold official positions within the CPP. They were assigned functions as civil servants and therefore were prohibited from taking part in any political party activity, but they were serving as heads of CPP committees and CPP committee members in a number of provinces and districts. COMFREL found also numerous instances where civil servants with the ranks of chief/deputy general of department, secretary-general, and general director were named as ‘president’ and ‘vice-president’ of the CPP in their respective areas of responsibility as civil servants.

Use of state resources by the ruling party has been a common feature in Cambodian elections since 1993. Monitors of the 2003 elections reported the involvement of military, police, and state actors not only in campaigning but in electoral violence. The United Nations Office of the High Commissioner for Human Rights (UNOHCHR) monitors reported extensively on how local officials and law enforcement authorities were responsible for intimidation and coercion.¹³ The

¹³ United Nations Cambodia Office of the High Commissioner for Human Rights, The 2003 National Assembly Elections.

2003 Asian Network for Free Elections (ANFREL) monitoring report also provided numerous incidents of state officials, notably provincial governors and village chiefs, working directly as party agents.¹⁴ As reported extensively in 2008, including in the EU Mission report, the CPP consistently used government property, vehicles, and employees in campaigns. CPP offices and state offices are often in the same building or compound with staff moving between the two, making, as the EU report states, “it difficult to distinguish the political party from state institutions.” The EU report also noted that the common practice of senior military staff chairing CPP events was illegal under the Cambodian legal framework.¹⁵

Ahead of this year’s elections, the CPP in many places actively supported and encouraged civil servants to participate in pro-CPP activities during the pre-election period in order to sustain and strengthen its political support within the state administration. From September 1, 2012 to June 2013, COMFREL observed 343 cases of systematic violations of provisions regulating the use of state resources, including the employment of civil servants, military police, and judges for campaigns and the misuse of public buildings and premises for pre-election campaigns of the CPP. Most cases concerned the involvement of civil servants, military police, and judges in political party activities in favor of the ruling CPP, including attending CPP party meetings and party gift-giving ceremonies and giving public pledges of loyalty to the CPP. Importantly, 126 of these party activities involving civil servants took place during working hours.

According to a Human Rights Watch report in 2013, the army, police, and gendarmerie were involved in partisan activities, including giving campaign speeches, and “created an intimidating atmosphere for voters in many parts of the country” ahead of the elections. Human Rights Watch cites numerous cases of high-level military figures, including military supreme commander Pol Saroeun, military joint general staff chairman Khun Kim, joint general staff vice-chairman Hun Manet, and military deputy supreme commander Hing Bunhieng speaking at CPP meetings urging voters to support CPP.

Recommendations

Independent observers have made the following recommendations to prevent the use of state resources for partisan purposes:

- State institutions, including incumbent governments, must make better efforts to sanction utilization of state resources for campaign purposes.
- The enforcement of laws guaranteeing the neutrality of judges, village chiefs, authorities, and armed forces personnel (including police) should be strengthened in order to prevent them from participating actively in any political party activities and electoral campaigns, either during or after working hours.
- The legal provisions and election regulations governing behavior of military and state officials must be made consistent.
- Information concerning the number of investigations, disciplinary, or other enforcement actions should be compiled by all relevant authorities and made publicly available in an

¹⁴ Asian Network for Free Elections, Cambodia General Election 2003: Report of International Observation Missions 15 May – 31 July, 2003.

¹⁵ European Union Election Observation Mission, Cambodia 2008.

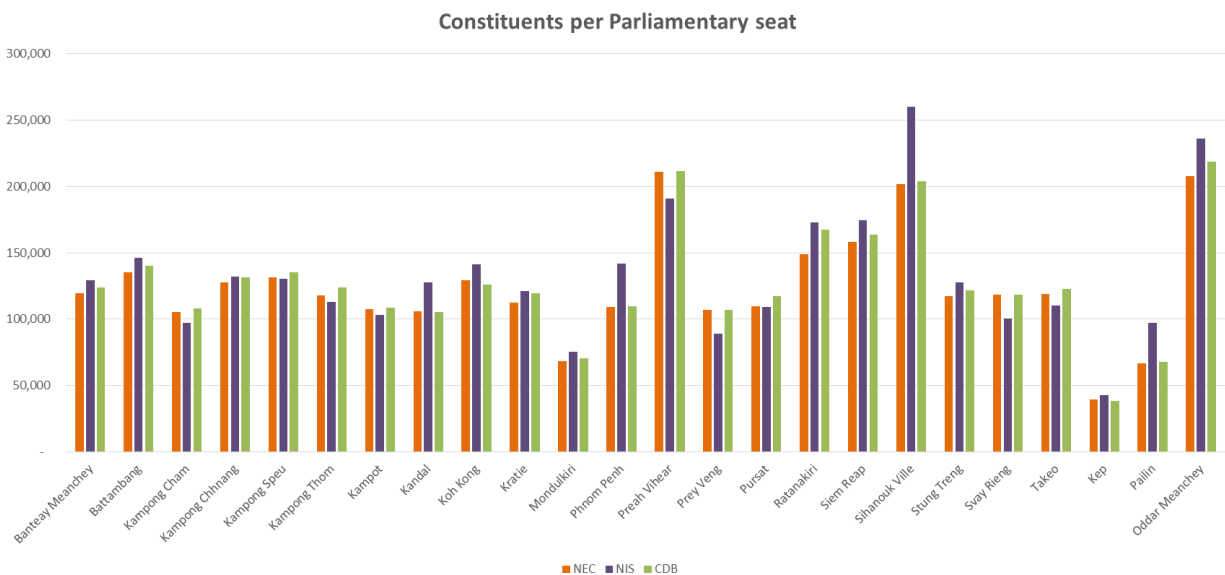
easily-accessible format (including on machine readable websites that allow easy downloading and analysis of information).

E. Seat Allocation

To elect 123 members of the National Assembly, Cambodia uses 24 provinces as their electoral districts. Nine provinces are single-member constituencies (Koh Kong, Mondulkiri, Preah Vihear, Ratanakiri, Sihanoukville, Stung Treng, Kep, Pailin, and Oddar Meanchey), while the other 15 provinces are multi-member districts, ranging from three members (Kratie) up to 18 members (Kampong Cham).

However, these districts are far from equal in population. Using the National Institute of Statistics (NIS) population figures, as recommended in LEMNA, one member of the National Assembly (MNA) in Preah Vihear represents 260,034 constituents, while in Kep, one representative represents 42,838 constituents. In Oddar Meanchey, an MNA represents 235,897 constituents compared with Kratie, with 121,294.

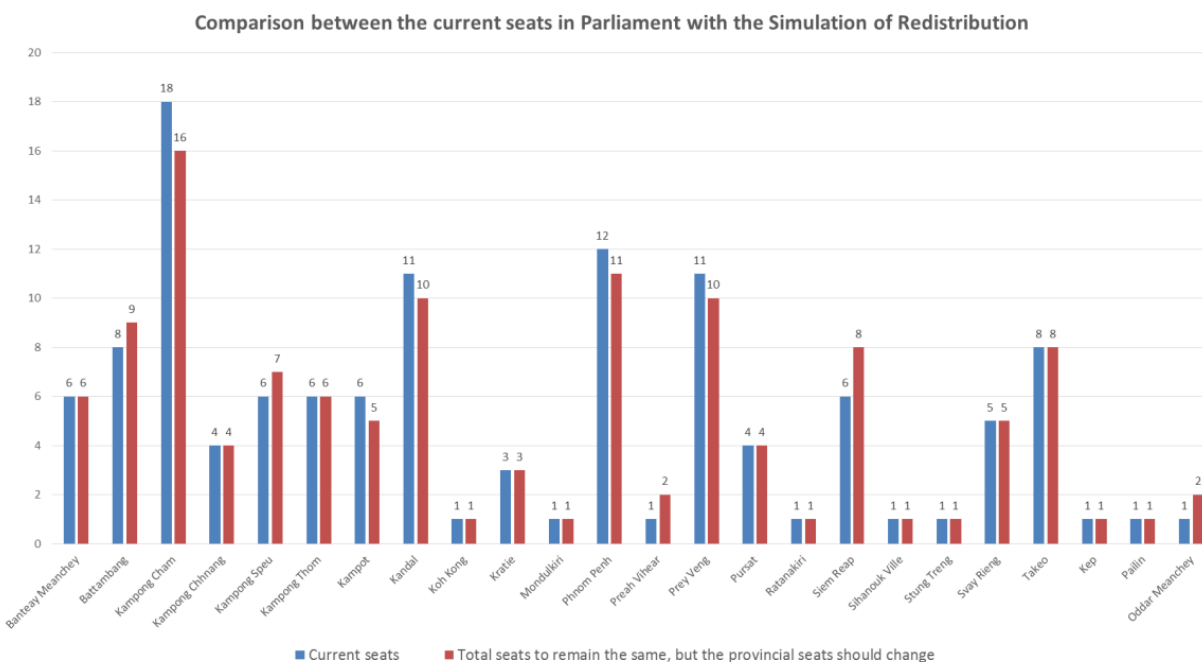
Figure Two: Number of constituents per parliamentary seat by province (NDI)



According to LEMNA, Article Seven, on the third year of every legislative term, the Council of Ministers must form a Committee for the Determination of the National Assembly Seats to modify the number of seats and allocate seats to each province/municipality. Taking account of demographic, geographic, social, and economic factors, the Committee reports and recommends to the Royal Government whether to increase the number of seats or keep the same number of seats. Article Nine provides the basis for calculating the new number of seats and formula to calculate the distribution.

Despite obvious population growth and shifts, seats have not been changed in a decade. The Royal Kram number NS/RKM/0112/003, dated January 14, 2012, set the number of seats in the National Assembly for the fifth legislative term at 123. However, LEMNA implies that there is still the requirement that seats *within* the provinces be changed to account for significant population shifts, and this could still be accomplished while keeping the overall total number of seats the same. The following chart shows a simulation of redistribution:

Figure Three: Simulation of redistribution of seats according to legal procedures (NDI)

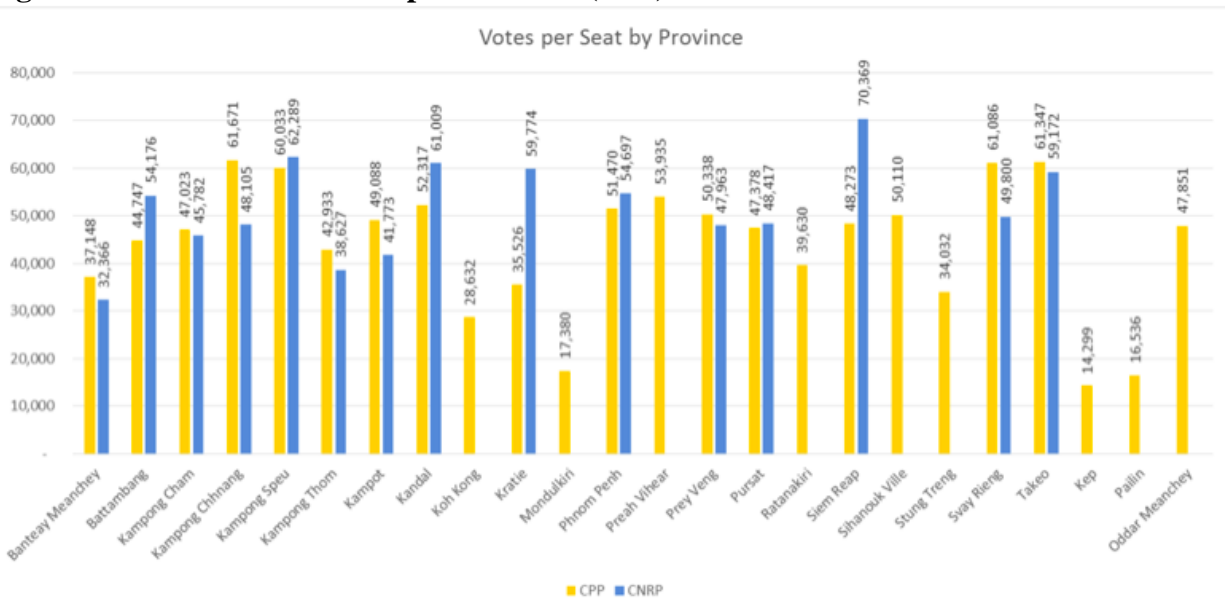


The size and distribution of electoral districts had an important impact on election day. Proportional representation implies that the number of seats allocated to a party should be proportional to the number of votes that party has received. Yet the share of seats for the CPP following the 2013 elections is higher than the party’s share of the popular vote, mostly due to the single-member constituencies in nine provinces (all of which the CPP won). Some non-single member constituencies saw unequal results. In Siem Reap, for example, the CPP won 49.9% of the votes but received 67% of the seats. In 11 provinces, CNRP’s share of seats was much lower than their share of the popular vote.¹⁶

An easy way to demonstrate uneven results for the parties in elections is to divide each party’s total vote by the number of seats it obtained.

¹⁶ The method of seat allocation to political parties in proportional representation systems is arguably one of the most important issues in electoral design and one that involves much controversy and debate. Studies based on simulation models have shown that the division allocation rule with “rounding down” used in Cambodia (referred to as the D’Hondt or Jefferson method) strongly favors large parties over smaller ones. Other common seat allocation rules, such as Hamilton’s or Hare/Niemayer’s, largest remainder method, or the Sainte-Laguë/Webster divisor method, uses standard rounding are unbiased with regard to party size.

Figure Four: Number of votes per seat won (NDI)



Recommendations

- Reallocate seats as required by Cambodian law. Based on the formula in LEMNA, there should be 138 seats in parliament (if NIS figures are used) or 137 seats (if Commune/Sangkat Database [CDB] population figures are used).

IV. 2013 Elections: Key Findings

Observers documenting the preparations for Cambodia’s 2013 elections were most concerned about two distinct but complementary problems. On the one hand, there was a significant number of excluded citizens, eligible citizens who should have been able to vote but could not. On the other, there was a large number of names on the list that were invalid, unknown, or duplicate, presenting the possibility of voting by those who should not be allowed to vote. Further evidence was revealed by over-registration rates throughout the country, as the voter registry frequently included more than 100% of eligible citizens. The existence of invalid or excess names was even more troubling given the use of ICEs, temporary identification documents issued by commune councils. Concern was raised over the process used to issue ICEs, which presented the opportunity for abuse, and the large number of ICEs issued (no official number was ever released by the NEC).

Although these concerns were presented by different independent organizations in time for the NEC and relevant government bodies to address them before July 28, no discernible response was noted. Moreover, on election day, eligible citizens with valid identification were turned away from the polls, while at the same time voters reported seeing people unknown in their

communities voting by using ICEs. These were of particular concern given the closeness of the vote share.

A. Exclusion of Eligible Citizens from Voter Lists

NICFEC-NDI and COMFREL conducted audits of the voter registry ahead of the elections. In NICFEC-NDI's voter registry audit (VRA), a people-to-list exercise tested the proportion of eligible citizens on the voter registry. People-to-list respondents (eligible citizens) were asked if, to the best of their knowledge, they were registered voters. Of those respondents who said they were registered, 89.2% were found on the list; correspondingly, 10.8% of those people were not found on the list in the original audit. In an additional search by NDI -- see text box on page 23 -- of the full voter list database after the election, an additional 2% were found, bringing the number of unfound citizens to 8.8%. While it is possible that some of the respondents provided inaccurate information, deliberately or my mistake, 8.8% is a significant number.

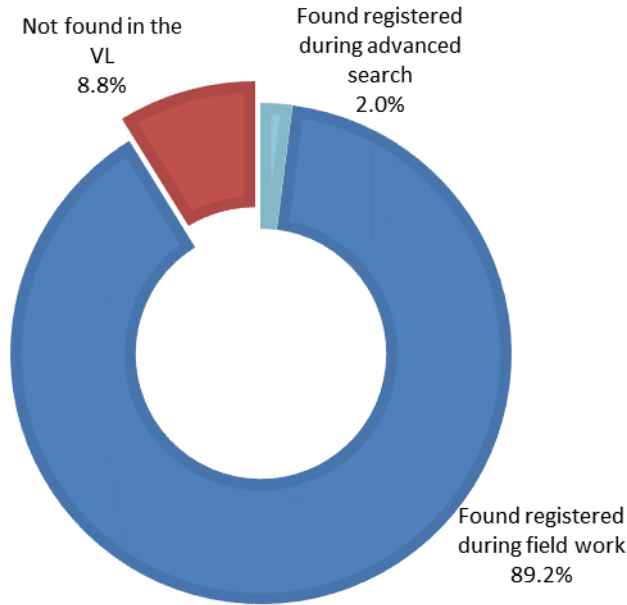
In addition, NICFEC-NDI's original audit result is statistically similar, given the study's margin of error, to COMFREL's finding in its 2013 Survey-VRA-Plus that 13.5% of voters had no data recorded on the voter list for the 2013 national election.¹⁷ COMFREL reported that there were 1.25 million citizens who could not be located on the voter list. Further, COMFREL found that 2.88% of those citizens were found on deletion forms 1016¹⁸ and 1017.¹⁹ The deletion of these names was unusual, as most of those citizens had not moved and lived in the same commune/sangkat where they registered their names. While those persons could have been deleted from the forms by mistake, the number merits investigation to determine whether there were instances where officials deliberately excluded eligible voters to gain political advantage for the official's own political party. It also would be important to determine whether any such exclusions were concentrated in election districts where the outcome could have been affected by such actions.

¹⁷ The NICFEC-NDI VRA and COMFREL SVRA asked the question differently in their questionnaires, which may elicit different responses and findings. The VRA asked, "To the best of your knowledge, are you a registered voter?" While SVRA asked, "Have you ever been registered to vote?"

¹⁸ Form 1016 is the form of deleted voters from the voter list within a commune/sangkat (e.g. dead, no right to vote, or moved the residence).

¹⁹ Form 1017 is the form of deleted voters from the voter list due to change in the polling station in the same commune/sangkat or duplicate name.

Figure Five: Percentage of VRA respondents who believe themselves to be registered, but are not on the voter registry (NICFEC-NDI)



N = 2,078 respondents People-to-List who believe that they are registered

Figure Six: COMFREL verification of citizen ID document in 2012 official voter list

Data on voter list	2012 voter list		
	Accuracy	Inaccuracy	No data in the voter list
Name	83.4%	3.1%	13.5%
Date	75.1%	14%	
Gender	86.2%	0.3%	
Address	77%	9.5%	
% of respondents	63.6%	22.9%	
% of respondents (Except Address)	71.2%	15.3%	

Source: COMFREL SVRA

Voter Registry Audit

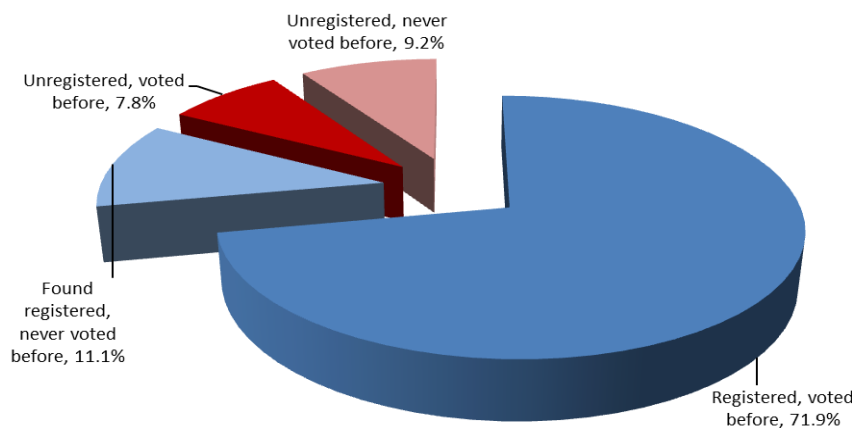
A voter registry audit (VRA) is a systematic, scientific, and independent assessment of the quality of the voter registry. It does not focus on voter registration as a process or every single voter in Cambodia, but rather uses statistical methodology to produce a contextual report on the overall quality of the voter registry.

In 2013, NICFEC and NDI conducted a VRA that included two types of field tests: a list-to-people test and a people-to-list test. The list-to-people exercise seeks to ensure that every name on the voter registry is that of an actual person who is eligible to vote. This is done by attempting to identify and then locate a representative sample of people whose names are randomly selected from the voter registry. The VRA also verified a sample of persons recently deleted from the list to assess whether the deletion records were valid. In a people-to-list test, the objective is to determine what proportion of eligible people are on the voter registry. From the list-to-people and people-to-list tests, the accuracy of the voters' personal data, such as name, date of birth, and address, is also analyzed.

NICFEC volunteers deployed to 414 communes across Cambodia in February 2013 to interview 4,893 respondents. All communes, polling stations and respondents were selected using statistically representative random sampling. The VRA employed rigorous data quality control mechanisms involving NDI and CAS internal auditors, as well as targeted redeployment of interviewers and re-checking by NICFEC operators to verify data. The VRA assumes a margin of error of $\pm 2.5\%$ and the level of confidence was 95%.

In the NICFEC-NDI VRA, respondents were also asked if they voted in either the 2008 or 2012 election. Of the respondents, 7.8% who were not found on the list (unregistered) reported that they had voted in one or both of the last two elections. The VRA could not determine why those citizens were able to vote in previous elections but could not be found on the current list. It is possible that some of them provided inaccurate information. However, if they had voted previously, as they reported, they should have been on the list, and the issue merits investigation.

Figure Seven: People-to-list respondents who reported having voted in either or both the 2008 or 2012 elections (NICFEC-NDI)²⁰



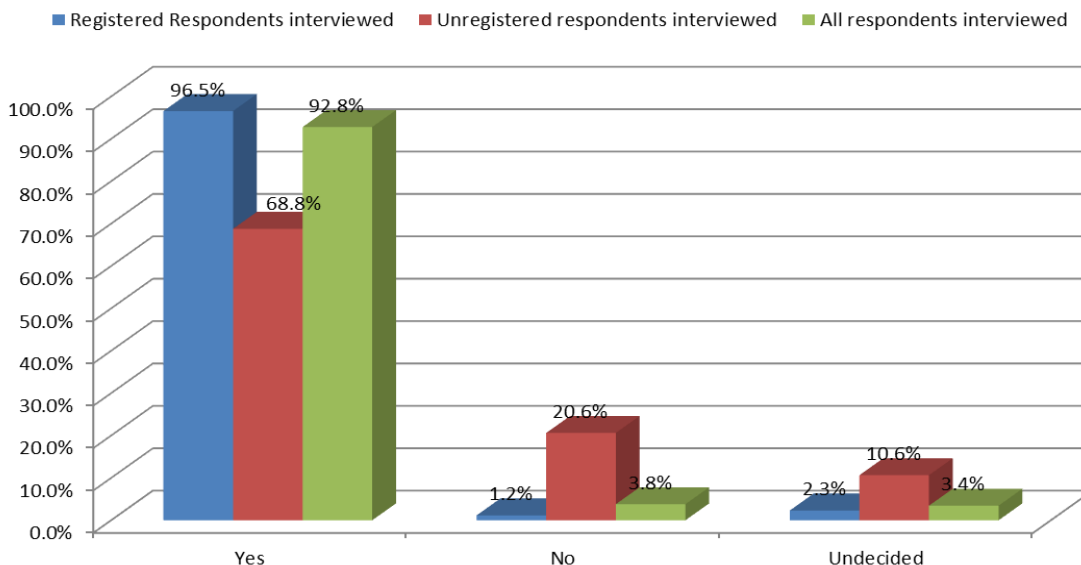
N = 2,278; People-to-list Test

The VRA also showed that many eligible citizens whose names were not on the registry intended to vote in the 2013 elections. In total, 68.8% of eligible citizens who were not found on the voter registry reported that they had planned to vote, an act that would not be possible because they were not included on the voter list. While some of these citizens may have misunderstood that

²⁰ NDI has not yet recalculated these figures based on additional search of full database.

the legal framework precluded them from voting, the size of the percentage suggests that many may in fact have been eligible and should have been on the voter registry. This finding foreshadowed problems observed by LICADHO, TIC, and COMFREL on election day, as eligible citizens were turned away from polling stations.

Figure Eight: Intention to vote in the 2013 National Assembly elections (NICFEC-NDI)²¹



NEC Response

After a public relations campaign conducted by the NEC that challenged the audits conducted by COMFREL and NICFEC-NDI, the NEC conducted its own voter registry audit. Both NDI and COMFREL had recommended that the NEC conduct such an audit and commended that action. Unfortunately, the NEC’s audit was conducted only weeks before the election, leaving no time for any corrections. The NEC stated that the audit’s purpose was to “demonstrate the quality of the 2012 list,”²² which seemed more focused on rebutting the independent audits, rather than identifying whether and how to fix the problems with the voter registry.

According to the NEC’s preliminary report, the field audit conducted by an external auditing firm found 9% of the names of eligible citizens who believed themselves to be registered to be missing from the registry, a statistically similar result to the NICFEC-NDI and COMFREL studies. When the NEC took those names and looked in their internal database, that figure dropped to 3%. Little is known about the nature of this search, and no independent NGOs were allowed to witness it. The NEC refused to give NGOs access to this internal database, despite repeated requests. Therefore, it is not possible to independently verify the 3% figure.²³ Despite

²¹ NDI has not yet recalculated these figures based on additional search of full database.

²² National Election Committee, Preliminary report on the audit of the voter list, July 2013.

²³ This number is greater than the difference between the CPP and CNRP vote share. However, it is not possible to know whether or how these people may have voted or whether that would have affected the outcome of any particular parliamentary seat. Nonetheless, even this reduced number indicates that further investigation of voter registry problems is needed to better understand what is needed to avoid significant problems in the future.

repeated requests, the NEC has also yet to make public the final report on this audit, explaining its methodology (such as questionnaire and search methods used), sample, and comprehensive findings.

The NEC claims that its 9% field test result was because the names “were incorrect” on this list. If a name is incorrect, it is unclear how the NEC could identify the “correct” one on the list. As stated in the NEC preliminary report, “A further 13% of voters were ‘found’ on the register but their name was incorrect and did not match their identification documents.” If that is the case, it is unknown how the NEC could verify the correct name or how that person would be able to vote on election day if her data did not match the list. Further, even if the NEC found those people on the list, it is unclear *where* they were found, which is critical. For, example, if someone in Kampong Cham thinks she is voting in Kampong Cham, it does no good to her if her name appears on the voter list somewhere in Prey Veng.

NGO recommendations to make extra efforts to inform citizens of their voter registration status before election day were not heeded by the NEC or other government bodies.²⁴ Immediately prior to election day, the NEC shut down the online version of the voter list and declared it illegal for political parties or civil society organizations to carry a copy of the voter list to assist voters unable to find their polling station on election day.²⁵ The NEC also failed to implement recommendations to post the voter list at the village level ahead of the election. Such restrictions limited voters’ abilities to confirm beforehand whether or not they were registered to vote and to find their correct polling station on election day.

Additional Search of Excluded Citizens from VRA

In late July, LICADHO was able to convert the NEC voter list database into a searchable and analyzable format. Using the full, searchable national voter database, NDI conducted a second, advanced search of VRA respondents not previously found on the registry during the original audit in March. Without access to the searchable, national voter registry database, the original process for searching for VRA respondents on the registry was limited to looking at the voter list in the location where the citizen told interviewers where he or she was registered and where he or she lived or previously lived. The Institute anticipated that the percentage of excluded voters would be significantly reduced as the names would be found in another part of the country, as in the NEC audit, where the original finding of 9% was reduced to 3% after an advanced search. However, doing a full search of the excluded citizens only reduced the VRA finding from 10.8% to 8.8% (a reduction of 2%). This does not match the 3% finding of the NEC. The Institute allowed for misspellings, incorrect data (date of birth), and/or incorrect gender, according to the NEC’s polling station guidelines for identification. It is still unclear whether this 2% of citizens found through the search would have been able to vote anyway, given the discretion required by polling station officials. Therefore, the conclusion of the original audits remain valid: a significant number of eligible citizens who believed themselves registered were not on the voter registry, anywhere in the country or under any misspelled name.

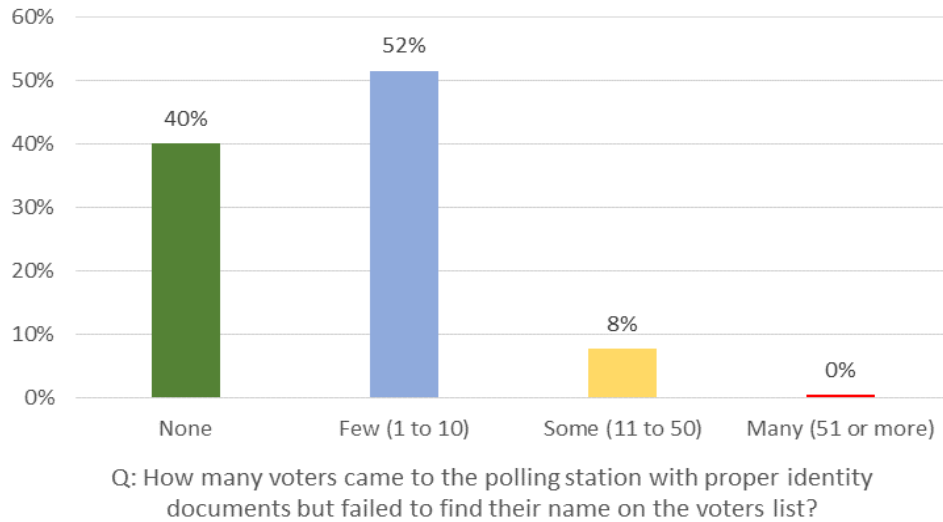
Election Day

²⁴ Voter lists were ultimately posted at the commune level but not at the village level.

²⁵ The NEC made this announcement at their Press Conference on the ‘Overall Environment of the Election Campaign’ on 26 July 2013.

Within hours after the opening of the polls on election day, observers reported that there were significant numbers of frustrated voters who were unable to find their names on the voter list.²⁶ As noted in COMFREL’s preliminary report, COMFREL election day monitors observed at least 9,052 cases of citizens unable to vote because they could not find their names on the voter list. TIC’s sample-based observation (see below) showed that at 60% of the polling stations, some voters with proper identification documents were unable to find their names on the voter list and could not vote in that location.

Figure Nine: Voters with identification whose names were not on the voter list (TIC)



Sample-Based Observation

TIC deployed 906 nonpartisan election observers to a representative random sample of 409 polling stations across 24 provinces and municipalities in Cambodia to conduct a sample-based observation (SBO) of the national election. SBO is an election monitoring methodology that involves the observation of a representative sample of polling stations and provides statistically meaningful information on the conduct of voting and counting. SBO data is gathered by trained local observers through direct observation of the entire voting and counting processes in their assigned polling station, and enables the election day process to be described with a high degree of accuracy. While TIC’s findings are nationally based and do not indicate the specific incidence of this problem in any particular election district, they indicate that this problem could have an important effect in very close elections for particular seats, which reinforces the importance of improving the voter registration process.

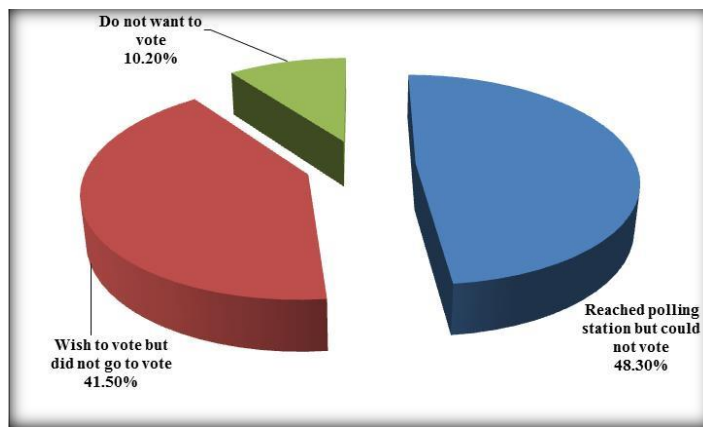
As part of its election monitoring, COMFREL conducted a rapid survey immediately after the election in order to understand the reason why some eligible citizens did not vote. A total of 4,103 eligible citizens who did not vote (identified as eligible citizens without indelible ink on their forefingers immediately after voting day) were interviewed.²⁷ A total of 48.30% of those

²⁶ See also, LICADHO, “Briefing Paper: Turned Away: Fraud, Irregularities, and Intimidation during the 2013 National Assembly Elections,” 2013.

²⁷ Comfrel used random sampling of polling stations across nation. Margin of error is 2.62%.

eligible citizens reported that they went to the polling station but did not vote because they had no identification documents, could not find their names on the voter list, or found discrepancies between their identification documents and the information recorded on the voter list. Another 41.50% wanted to vote but had not registered, lived too far away from the polling station, were busy working at home, had no information regarding elections, could not afford transportation, or thought they could not vote without a voter information notice. The remaining 10.20% of eligible citizens did not want to vote.

Figure Ten: Eligible citizens unable to vote/did not vote on election day (COMFREL)



The NGO Committee on the Convention on the Elimination of All Forms of Discrimination against Women (NGO-CEDAW) deployed 730 election observers to 656 polling stations across the country, who recorded similar findings. A total of 1,772 instances were reported of eligible citizens unable to find their names on the voter registry. In one polling station in Phnom Penh (Wat Sumson Kosal school), over 50% of citizens showing up to vote found their names were either not on the list or someone had already voted for them.²⁸

Conclusion

It is unclear exactly how many eligible citizens were excluded from participating in this election. COMFREL estimated that 1.25 million citizens were left off the registry. After a second additional search, NICFEC-NDI found 8.8% of eligible people who believed themselves to be registered were excluded. Even if using the NEC's 3% figure, the number of excluded citizens is still greater than the difference in the final vote share between the CPP and the CNRP, though it is not known how many of them would have voted or for whom they would have voted. Nonetheless, the significance of this problem underscores the urgency of addressing the need to reform the voter registration process.

The absence of adequate responses to the problem is troubling as well. The NEC denied multiple requests to release the full voter list database or final report of their internal audit. There was not an investigation into the work of the commune councils or comparison of their preliminary lists to the final lists. The NEC has also not made available the lists used in the polling stations on

²⁸ Preliminary Report of NGO-CEDAW election observation, 2013.

election day for comparison to the published list. The NEC prevented citizens from getting information about their voter status by prohibiting parties from carrying copies of the list, closing the online database to the public early, and refusing to post the list at the village level ahead of the elections. These factors illustrate consequences of the NEC's lack of transparency, which reinforces the importance of recommendations for reforming its approach in order to build public trust in Cambodia's election administration.

B. Invalid Names and Illegal Voting

Impartial observer reports identified several important factors that made voting possible by ineligible people on election day. These factors included: invalid and duplicate names on the voter registry; over-registration of voters; the use of ICEs; and excess ballots.

Invalid names

The NICFEC-NDI VRA revealed a significant number of invalid names on the registry. During the list-to-people test, the VRA interviewers attempted to locate and verify names from the voter registry.²⁹ The VRA showed that 80.7% of names on the voter registry could be verified as valid, with 63.6% of people living in the place in which they were registered and another 17.1% living temporarily in another location.³⁰ Importantly, this group of temporarily relocated voters – a significant percentage of the overall voter registry – while valid, would need to travel to cast their vote on election day. This is a difficult and expensive process for many Cambodian migrant workers, as companies often do not grant paid leave and transportation costs can be prohibitively high.

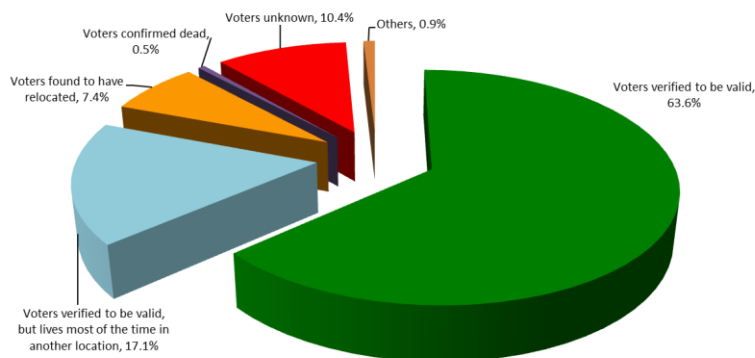
The rest of the names on the list (19.3%) were not valid – meaning they were the names of people who have permanently relocated (and therefore should not be on the list in that polling station), people who died, or unknown people. Of the invalid names, 7.4% are of people who have moved permanently to another location, while 0.5% are of people confirmed as deceased. An additional 10.4% of names on the voter registry were unknown to members of the community, including village chiefs, pagoda leaders, police and neighbors.³¹ To ensure the accuracy of this finding, the VRA partners re-confirmed with village chiefs all the names that were unknown in their community, although village chiefs were not the only source of this information.

²⁹ This verification involved looking for individuals living in that particular village. Interviewers would visit addresses listed on the registry, talk to village chiefs as well as other members of the community, pagoda leaders, police, neighbors and family in an attempt to locate and contact individuals. For names that could not be identified in the village, NICFEC data checkers re-confirmed with every village chief that that no one by that name lived in the village.

³⁰ NICFEC confirmed this information with the respondents directly or by confirming with multiple resources like pagoda head, neighbors, and/or village chief.

³¹ The remaining voters were classified as “other” as they did not fall into one of the previously-mentioned categories.

Figure Eleven: Can all people on the voter registry be verified and do they currently live in that location? (NICFEC-NDI)



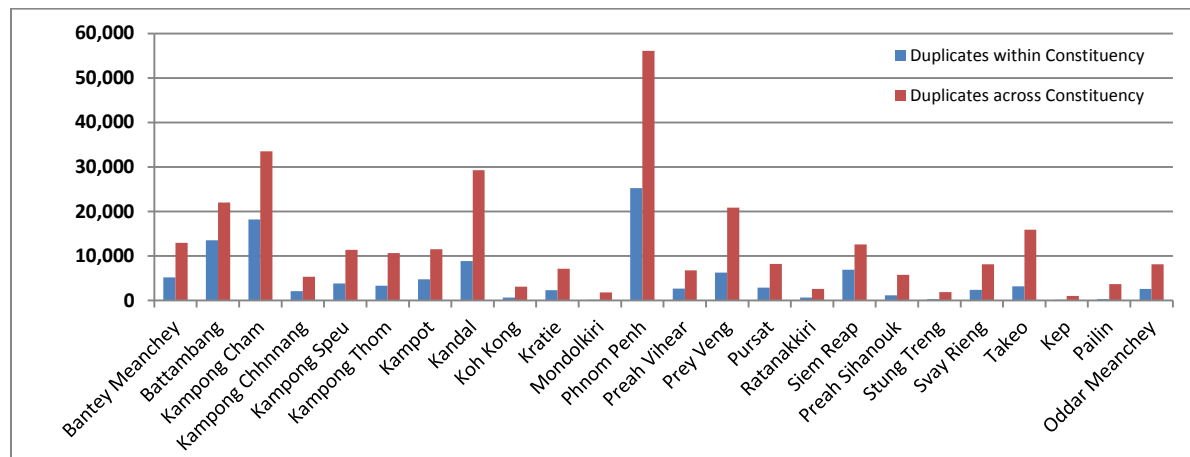
N = 1,656 from list-to-people

Duplicate names

In addition to the invalid names, LICADHO analysis of the NEC’s voter list database prior to the election revealed 268,218 exact duplicate pairs (exact same name spelling, date of birth, and gender). Further, half the time (117,969 pairs), the duplicates were found within the same province, and close to 20% (22,294 pairs) in the same commune. Duplicates frequently appeared in highly-contested areas like Phnom Penh. Election monitoring groups urged the NEC to take immediate action. The NEC maintained that there were no duplicates, that it had cleaned the list of all duplicates during the two month revision period in November and December 2012. It remains unclear how the Committee failed to find exact duplicates, which were easily identified by LICADHO through a simple search of the database. It is more troubling that after the election the NEC contradicted its earlier claim denying the existence of duplicates and reported finding 270,000 exact duplicates.³² That number is larger than the difference in vote share between the CPP and CNRP, which indicates that this problem also must be addressed effectively in electoral reform.

³² See Kush Naren, “NEC Admits 270,000 Names Were Duplicated on Voter List,” *The Cambodia Daily*, October 2, 2013, and David Boyle, “Giving More than 100%,” *The Phnom Penh Post*, July 24, 2013. This number of duplicates exceeds the difference in vote share between the CPP and CNRP.

Figure Twelve: Distribution of duplicate names (LICADHO)



The NEC has argued that duplicates are caused by citizens failing to inform officials when they move their residence. LICADHO, however, found that many of the duplicates were in the same constituency, challenging this argument. Furthermore, a substantial amount of duplicates in Phnom Penh were names of citizens who had been forcefully evicted in recent years, some going back to 2009. It is difficult to understand how public officials would be unaware that the state had removed the registered voters’ residence, and with it the right to vote in that communal residence. Communes in central Phnom Penh with the highest number of evictions were found to have noticeably high over-registration rates, likely due in part to these duplicates.

Duplicates, like invalid names, present the possibility for fraudulent voting. Duplicate names can be used by other, non-eligible people, allow a person to vote more than once, or be used as a cover for ballot box stuffing. The possibility of double voting became a real one when it was demonstrated ahead of the election that the ink used to protect against this was easily removed.³³ It would be possible to examine the voter lists used on election day to identify duplicate entries and determine whether each entry indicated that a person voted, though it would not be possible to determine for whom the persons voted. That could show the magnitude of this type of illegal voting, which should in any event be addressed in electoral reform.

Over-registration

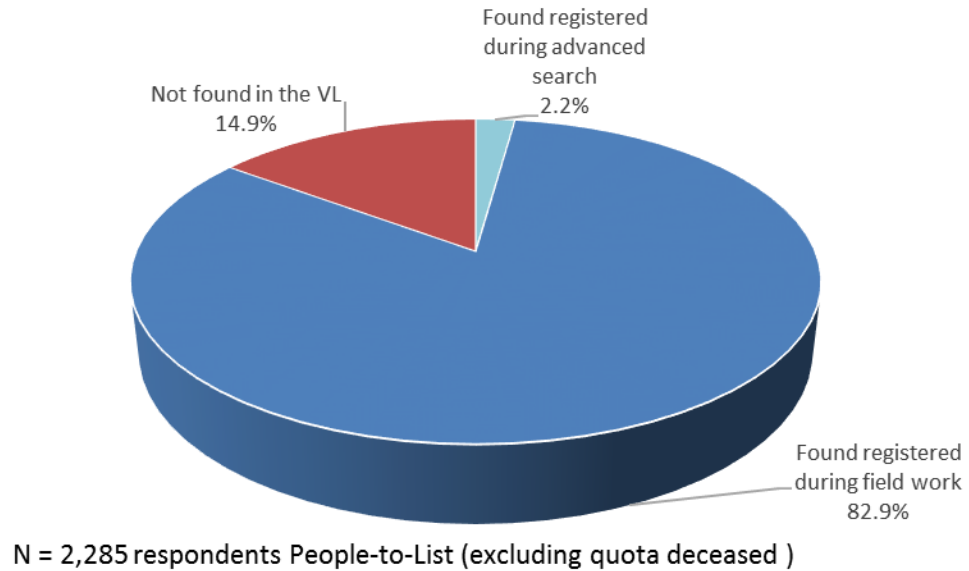
These invalid names and duplicates have led to an inflated voter registry, a fact acknowledged by the NEC. The actual registration rate—the percentage of eligible citizens from the Cambodian population who currently appear on the voter registry—is 85.1%³⁴, according to the advanced checked NICFEC-NDI audit. Similarly, using COMFREL’s figures, one finds a registration rate

³³ For a demonstration, see COMFREL’s video: <http://www.youtube.com/watch?v=hJL7gmsrAjs> Testing by independent, impartial observers of a substantial representative sample of ink, if conducted under the auspices of the NEC, has not been released.

³⁴ The initial VRA results, conducted without a searchable voter registry database showed a registration rate of 82.9%.

of 84%.³⁵ Using the same measurement, the NEC’s field audit data showed a registration rate of 82.4% (of the 2,472 eligible citizens interviews, 2,038 were found on the voter list). This rate increased to 87.7% (2,169 of 2,472 eligible citizens found) after the NEC conducted its advanced search of the full voter list database.³⁶

Figure Thirteen: VRA voter registration rate (NICFEC-NDI)



However, when looking at the NEC’s raw figures—dividing the number of names on the voter registry, 9,675,453, by the estimated eligible voting population provided by the NEC—the number of names represents an impossible 101.7%. In certain provinces, this figure is as high as 109%. It is important to note that these figures are determined by directly comparing the number of names on the voter registry to the estimated population figures. This is a different approach to calculating the registration rate than that used in the NICFEC-NDI VRA, which assessed the proportion of eligible citizens found to be included in the voter registry through a people-to-list test.

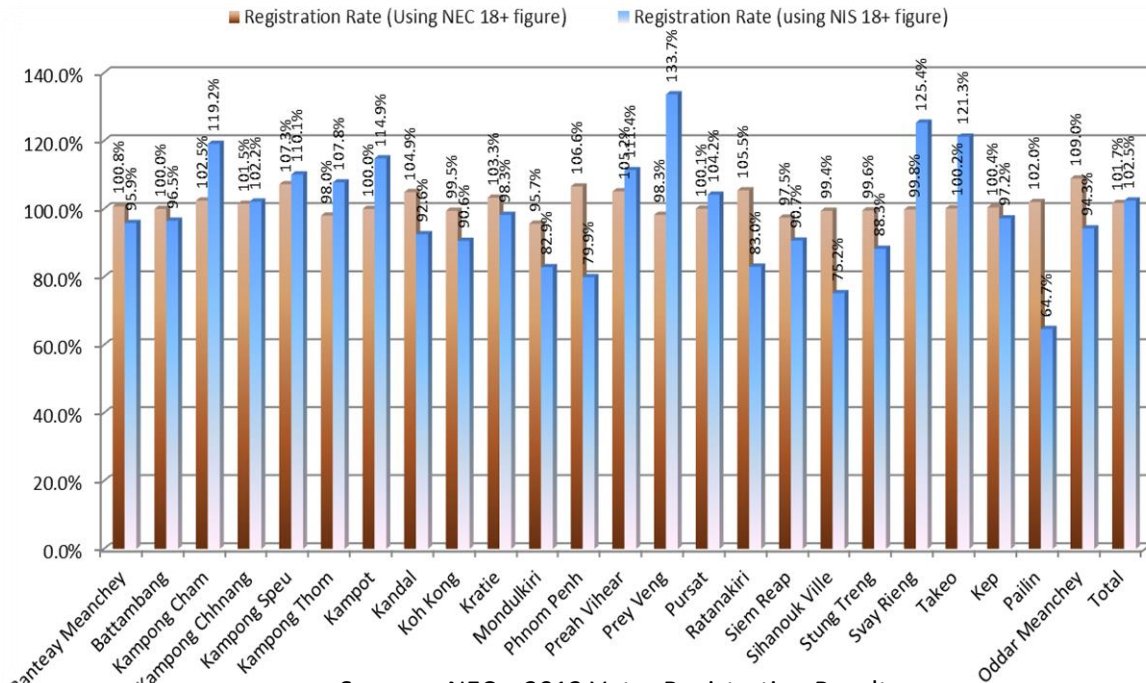
Unfortunately, there are no current and accurate population figures for Cambodia, and different government bodies reference different figures. The NIS and the NEC rely on different estimates of national and provincial population data using different sources and methodology. The NIS, for example, puts the eligible voting population at 9,442,802, more than 200,000 people lower than the NEC’s population estimate. It is impossible to determine which figures are more accurate. Regardless, the comparison between the number of names on the voter registry to the voting age

³⁵ Comfrel found that 97.7% of eligible citizens *said* they are registered to vote (went through the process of registration at the commune councils or were previously registered). This is not the same as a “registration rate” – a measurement of the number of eligible citizens with data actually on the voter registry as determined by a people-to-list test. Calculation of Comfrel’s SVRA-Plus people-to-list test data show a registration rate was 84%, again, statistically the same as NDI’s registration rate of 85.1%.

³⁶ NEC, Summary Report: Internal Audit of the 2012 Voters’ Lists, 2013.

population broken down by province, shows that using either NEC or NIS population estimates, the registration-to-population rate is over 100% in most provinces.

Figure Fourteen: Registration rate by province, NEC and NIS comparison (NDI)



Sources: NEC – 2012 Voter Registration Results
NIS – 2013 Demographic Projection

LICADHO secured the most recent population figures by commune from the CDB, another source of population estimates considered highly accurate,³⁷ and demonstrated registration rates by commune of more than 200% in certain high-stakes areas—“provinces that are worth the highest number of seats at the election and the provinces in which the opposition are considered to have the greatest chance of making inroads,” according to the *Phnom Penh Post*.³⁸ The chart shows the difference between registered voters and estimated population of communes in Phnom Penh, where all but two had registration rates of at least 100%.

Figure Fifteen: Phnom Penh over-registration (LICADHO)

Province	District	Commune	Adult (CDB2012)	Voters (NEC)	Registration Rate
Phnom Penh	Chamkar Mon	Tonle Basak	13,513	22,710	168.06 %
Phnom Penh	Chamkar Mon	Boeng Keng Kang			
Phnom Penh	Chamkar Mon	Muoy	6,408	6,502	101.47 %
Phnom Penh	Chamkar Mon	Boeng Keng Kang Pir	6,502	8,379	128.87 %

³⁷ CDB reports the overall population is 14,804,204 and voting age population is 9,031,833. The CDB is developed by the National Committee for Sub-National Democratic Development with support from UNDP.

³⁸ David Boyle, “Giving More than 100%,” *The Phnom Penh Post*, July 24, 2013.

Phnom Penh	Chamkar Mon	Boeng Keng Kang Bei	12,437	15,706	126.28 %
Phnom Penh	Chamkar Mon	Oulampik	4,387	7,021	160.04 %
Phnom Penh	Chamkar Mon	Tuol Svay Prey Muoy	9,390	9,528	101.47 %
Phnom Penh	Chamkar Mon	Tuol Svay Prey Pir	7,070	7,290	103.11 %
Phnom Penh	Chamkar Mon	Tumnob Tuek	7,877	11,969	151.95 %
Phnom Penh	Chamkar Mon	Tuol Tumpung Pir	6,416	6,527	101.73 %
Phnom Penh	Chamkar Mon	Tuol Tumpung Muoy	7,082	9,051	127.80 %
Phnom Penh	Chamkar Mon	Boeng Trabaek	6,424	6,161	95.91 %
Phnom Penh	Chamkar Mon	Phsar Daeum Thkov	10,667	13,621	127.69 %
Phnom Penh	Doun Penh	Phsar Thmei Muoy	3,574	4,661	130.41 %
Phnom Penh	Doun Penh	Phsar Thmei Pir	4,836	5,105	105.56 %
Phnom Penh	Doun Penh	Phsar Thmei Bei	5,743	7,307	127.23 %
Phnom Penh	Doun Penh	Boeng Reang	3,758	4,736	126.02 %
Phnom Penh	Doun Penh	Phsar Kandal Muoy	5,288	7,129	134.81 %
Phnom Penh	Doun Penh	Phsar Kandal Pir	4,693	5,335	113.68 %
Phnom Penh	Doun Penh	Chakto Mukh	4,463	9,029	202.31 %
Phnom Penh	Doun Penh	Chey Chumneah	6,671	8,300	124.42 %
Phnom Penh	Doun Penh	Phsar Chas	4,064	4,976	122.44 %
Phnom Penh	Doun Penh	Srah Chak	14,891	20,638	138.59 %
Phnom Penh	Doun Penh	Voat Phnum	4,436	4,793	108.05 %
Phnom Penh	Prampir Meakkakra	Ou Ruessei Muoy	6,251	5,832	93.30 %
Phnom Penh	Prampir Meakkakra	Ou Ruessei Pir	6,221	6,273	100.84 %
Phnom Penh	Prampir Meakkakra	Ou Ruessei Bei	4,689	6,348	135.38 %
Phnom Penh	Prampir	Ou Ruessei Buon	4,863	5,462	112.32 %

Penh	Meakkakra				
Phnom	Prampir				
Penh	Meakkakra	Monourom	8,045	9,170	113.98 %
Phnom	Prampir				
Penh	Meakkakra	Mittakpheap	6,046	6,953	115.00 %
Phnom	Prampir				
Penh	Meakkakra	Veal Vong	15,069	19,271	127.89 %
Phnom	Prampir				
Penh	Meakkakra	Boeng Prolit	7,451	7,986	107.18 %
Phnom					
Penh	Tuol Kouk	Phsar Depou Muoy	6,294	7,447	118.32 %
Phnom					
Penh	Tuol Kouk	Phsar Depou Pir	6,704	8,706	129.86 %
Phnom					
Penh	Tuol Kouk	Phsar Depou Bei	5,053	7,021	138.95 %
Phnom					
Penh	Tuol Kouk	Tuek L'ak Muoy	7,898	11,796	149.35 %
Phnom					
Penh	Tuol Kouk	Tuek L'ak Pir	6,968	9,688	139.04 %
Phnom					
Penh	Tuol Kouk	Tuek L'ak Bei	17,496	19,439	111.11 %
Phnom					
Penh	Tuol Kouk	Boeng Kak Muoy	9,041	13,231	146.34 %
Phnom					
Penh	Tuol Kouk	Boeng Kak Pir	15,470	18,720	121.01 %
Phnom					
Penh	Tuol Kouk	Phsar Daeum Kor	8,333	11,730	140.77 %
Phnom					
Penh	Tuol Kouk	Boeng Salang	16,232	24,139	148.71 %

The NEC's people-to-list audit found a different registration rate (87%) than their own data reveals when dividing the number of names on the list by the NEC population figures (101.7%). Despite this evidence of over-registration, the NEC did not investigate or otherwise try to resolve the problem. The NEC audit in Koh Kong, for example, showed that 65% of eligible citizens said they had registered, yet their data shows that the voter list in Koh Kong represents 99.5% of the population. The NEC did not explain this discrepancy or attempt to fix the problem of obvious excess names on the voter registry. In fact, the NEC's post-election White Paper³⁹ claims that over-registration is the result of "the strenuous efforts by the NEC" to register voters.

Identity Certificates for Elections

Identity Certificates for Elections (ICEs) emerged as another major area of concern for impartial observers of Cambodia's elections. ICEs are temporary identification documents that can be given to citizens who do not have another form of identification. These are distributed by the

³⁹ NEC, Summary Report: Internal Audit of the 2012 Voters' Lists," 2013.

elected (i.e. partisan) commune councils; one NEC official estimated that approximately three quarters of a million such documents were issued in the months ahead of the election.⁴⁰ The NEC has not released a definitive number of ICEs distributed for this election despite repeated requests, neither in the aggregate or, more importantly, by electoral district. This lack of transparency is deeply troubling, given the closeness of the results for certain seats. This problem, therefore, must be addressed effectively as part of electoral reform.

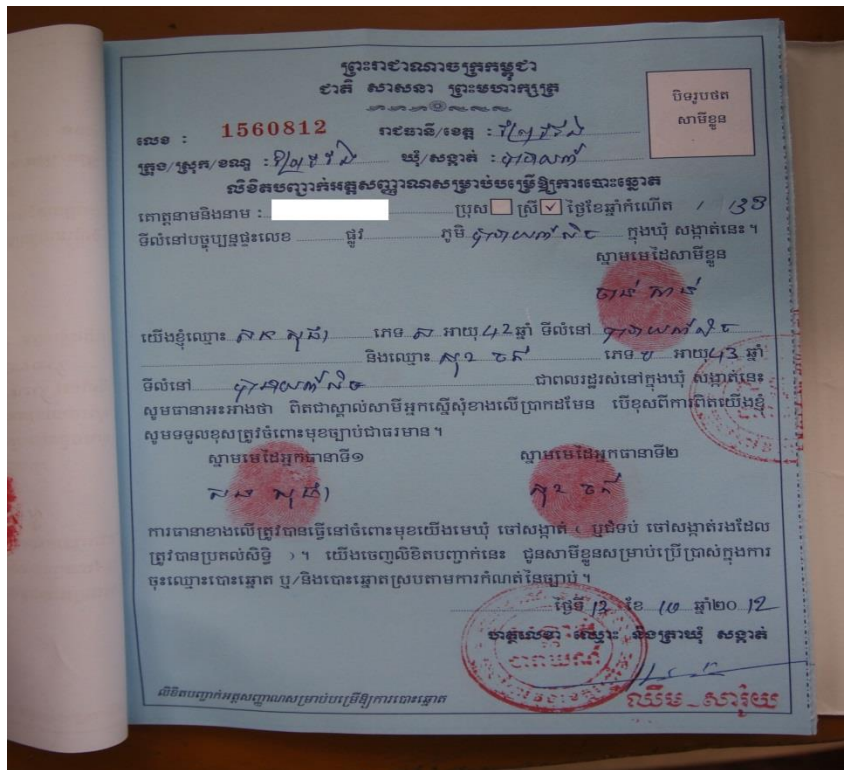
When citizens have lost their original identification documents, ICEs can be issued by commune councils to allow them to register and to vote. This process is relatively easy: for example, a person shows up to the commune council, claims to have lost her or his voter ID, and produces witnesses and photos to verify her or his identity. The councils have the full discretion to determine the validity of the request, and therefore it is important to note that the commune councils are elected, political bodies, 97% of which are led by the CPP. As with voter registration, because the commune councils are comprised of elected political officials, who have a vested interest in seeing their party succeed in elections, they may be tempted to use their power to issue ICEs for political advantage despite their obligation to act impartially upon such requests.

ICEs were previously known as 1018 forms and serve the same purpose. In 2008, there were numerous complaints about the misuse of 1018s by non-citizens and underage people. Thus, the 1018 was altered to add safeguards to ensure there was documentation of the issuance of these forms (via copies) to allow independent review and to be able to give precise distribution figures. This reform was praised by election observers. The spirit of these reforms, however, has been ignored in 2013 as the NEC and councils have not allowed independent organizations, despite repeated requests, to monitor ICE distribution process or view the ICE documentation at the councils, and have refused to disclose the number of ICEs distributed by commune. This undermines accountability and public confidence in elections.

Other reported irregularities involving ICEs included: issuing ICEs to citizens whose names were not on the voter list, ICEs issued without a commune stamp or valid photo, or incorrectly filled-out forms. For example, COMFREL observers found in Pailin, a commune clerk simply issued ICEs to people, and the ICEs were signed by the commune chiefs in advance. This happened in other provinces as well. Figure Sixteen below shows a completed ICE without legally-required photo.

⁴⁰ None of these numbers were reported as final and the NEC has failed to disclose the final numbers overall or by location. The estimate of 750,000 ICEs was offered at a press conference in August 2013; see Lauren Crothers, "Questions Raised over Forms Used for Voters with No ID," *Cambodia Daily*, <http://www.cambodiadaily.com/elections/questions-raised-over-forms-used-for-voters-with-no-id-41437/>

Figure Sixteen: Completed ICE from Prey Veng



The best available estimate for the number of ICEs issued from 2011 to 2013 is approximately 1.8 million: 1,098,893 ICEs issued for the 2012 elections, and approximately 750,000 ICE forms ahead of the 2013 elections.⁴¹ The NEC at one point stated that 270,000 of the 2013 ICEs were issued between the end of the voter registration period and the election. This is an unusually high figure given the voter registration period closed in late 2012, and ICEs should only be issued to people who lost their identification since registering to vote. Where independent monitors were able to obtain ICE numbers from PECs, they reported that large numbers of ICEs were distributed in high-stakes areas, such as the 150,000 ICEs issued in Prey Veng alone. One would expect an even distribution of ICE figures across the country, as there is no cause for one province to have experienced higher level losses of ID’s. The national number of ICEs issued is almost the same as the vote difference between CPP and CNRP.

Figure Seventeen: ICE information from select provinces (LICADHO)

	Registered Voters	ICEs issued	Percentage of Voters
Prey Veng	809,020	150,983	18.66%
Svay Rieng	398,807	61,320	15.38%

⁴¹ None of these numbers were reported as final and the NEC has failed to disclose the final numbers overall or by location. The estimate of 750,000 ICEs was offered at a press conference in August 2013; see Lauren Crothers, “Questions Raised over Forms Used for Voters with No ID,” *Cambodia Daily*, <http://www.cambodiadaily.com/elections/questions-raised-over-forms-used-for-voters-with-no-id-41437/>

Battambang	706,874	99,733	14.11%
Banteay Meanchey	471,820	9,288	1.97%
Koh Kong	78,387	1,001	1.28%
Kampong Thom	437,404	64,164	14.67%
Pursat	278,044	56,228	20.22%

Given the excess names on the voter registry, including unaccounted for names, duplicates, over-registration rates in high-stakes areas, high number of ICEs and lack of transparency in the ICE distribution process, there should have been an investigation into this problem, including the full disclosure of all ICE information.

Excess Ballot Papers

Another concern was the excessively high number of excess ballots printed. The NEC had 12,307,150 ballots printed, over 2.6 million more ballots than there were names on the voter list (21% more than the universe of the voter list, which itself is greater than the number of eligible citizens). The NEC has refused to disclose the number of invalid ballots at the polling station level, making it difficult to determine how the ballot numbers were reconciled. That failure to comport with standard internationally-accepted practice, combined with the excessive number of ballots, raises a question about the effectiveness of electoral safeguards and points to a critical element needed in electoral reform.

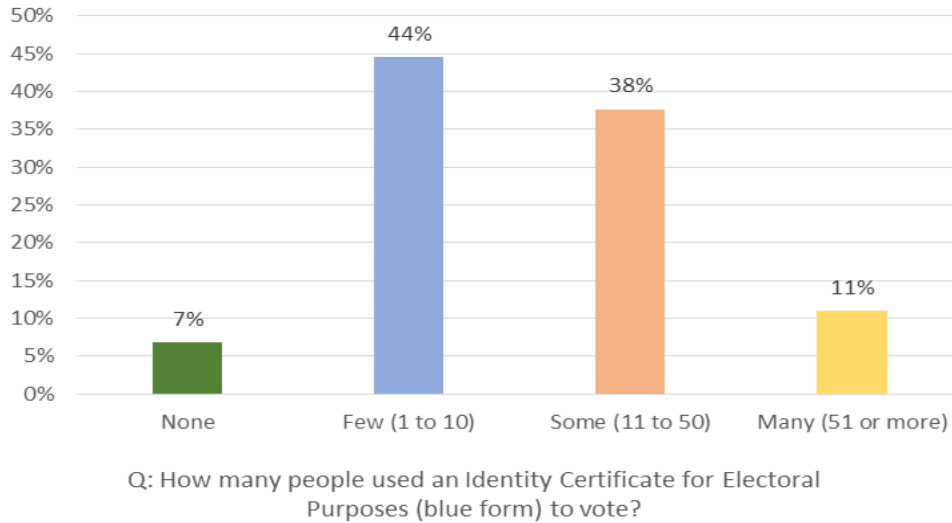
Election Day

In a quarter of polling stations observed by TIC monitors, some people without valid identification were allowed to vote. Not only does this violate the election law, but it can also present opportunities for fraud, including voter impersonation. TIC observers reported five incidents in Phnom Penh (Polling Stations 112, 296 and 987), Prey Veng (PS 683), and Battambang (PS 320), where voters arrived with valid identification only to find that someone else had voted in their place. Additionally, a TIC observer in Kampong Cham (PS 2283) reported that a voter's name was listed twice in a polling station and another person was allowed to vote using that extra name, while in Pursat (PS 683) a person was allowed to vote under a name that was not his.⁴² While these reports identified a limited number of such violations, and do not measure the magnitude of the problems, they indicate problems that must be addressed in electoral reform.

In almost every polling station—93%—ICEs were used to vote. In 11% of polling stations, 51 or more people used ICEs to vote. Given the excess names on the voter list and the unusually large number of extra ballots, these reports indicate that the role of ICEs in this election is problematic and needs to be addressed as part of any electoral reform.

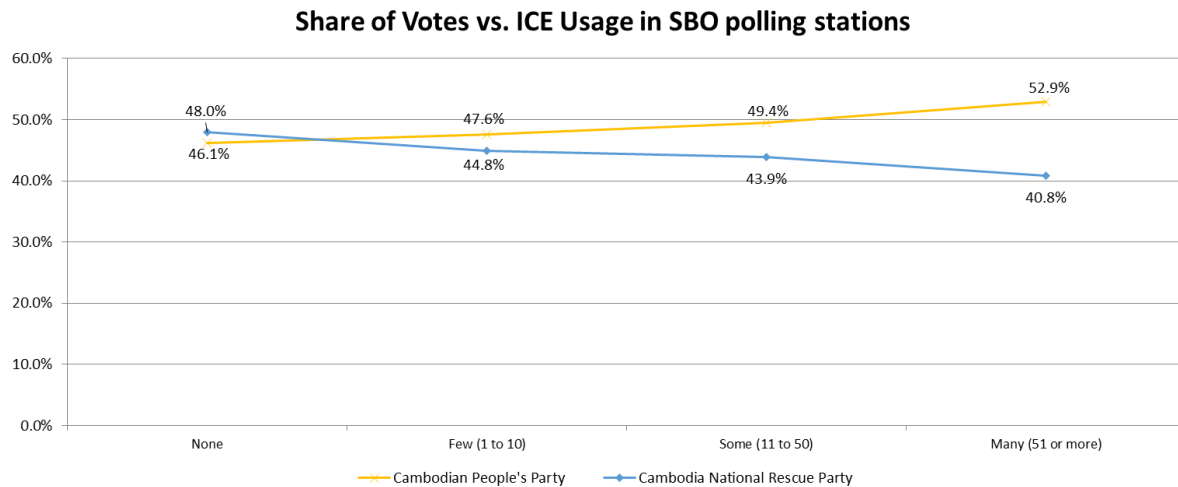
⁴² See TIC's "Final Election Observation Report on Cambodia's 2013 National Elections" in Appendix 1.

Figure Eighteen: ICEs used to vote (TIC)



Among polling stations observed by TIC, the vote share for the ruling party increased as more ICEs were used in a polling station. However, it cannot be determined whether this trend holds true nationally without data on ICE distribution rates by commune.

Figure Nineteen: Vote share by ICE usage (TIC-NDI)



TIC observers reported that at 4% of the polling stations, polling station officials failed to mark the names of some voters on the list when they came to vote. Such an oversight can allow for duplicate voting to occur.

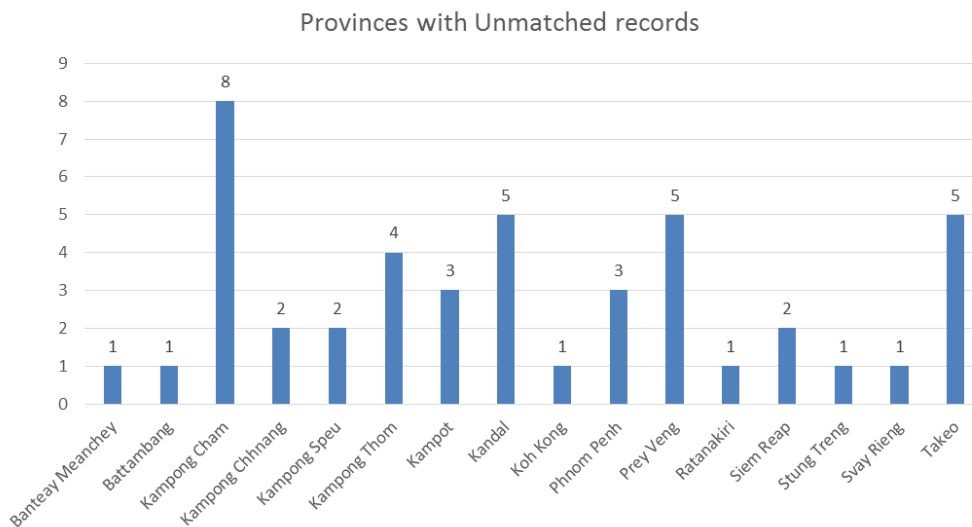
Invalid Ballots

According to legal procedure, before the vote count, polling station officials must first determine which ballots are valid and which are invalid. Although most TIC observers agreed that polling station officials made reasonable decisions in determining if ballots were valid or not, in 5% of

polling stations, observers said decisions were not reasonable interpretations of the law. Either polling station officials did not follow the official procedures or they were too strict in interpreting voter intent. For example, at a polling station in Kampong Speu, TIC observers reported that the polling station officials informed the political party agents and observers of the number of valid or invalid ballots rather than showing the ballots for those present to view, as required by law. COMFREL checked the invalid ballot paper numbers recorded in the form 1109 and found that among 15,075 polling stations there were 77 polling stations that recorded between 100 and 500 invalid ballots.

According to the TIC SBO, in 11% of the polling stations there were discrepancies between total valid votes recorded by observers and the official results. Discrepancies could result from completing forms incorrectly (by either PS officials or observers) or by intentional altering of vote records. The table below shows the number of incidents in each province where unmatched records were found, though it was not possible to quantify the magnitude of the discrepancies.

Figure Twenty: Discrepancies in polling station vote records (TIC-NDI)



Conclusion

Through the audits and other studies described in this report, it was estimated that: 19.3% of the names on the voter registry were invalid; there were almost 300,000 exact duplicates; and there was widespread over-registration. It is not known how many ineligible people were able to vote on election day or what impact this may have had on the election outcomes. The SBO conducted by TIC showed that in a quarter of polling stations some people voted without any valid identification. Further, in 93% of polling stations ICEs were used. The use of ICEs to vote does not necessarily represent a problem or indication of fraud. However, the high number of ICEs, apparent large numbers of ICEs distributed in particular provinces without causes such as a natural disaster or other extraordinary event, and high use of ICEs in certain polling stations suggests a problem. Moreover, understanding that commune councils, which are partisan, elected

bodies, are responsible for the distribution of ICEs, without any independent oversight or transparency, does not build public confidence in their fair distribution and usage.

The problems of invalid and duplicate names and questions about ICEs emerged well ahead of the July elections and were met with indifference or denial from the NEC. The NEC did not include a list-to-people test in their audit, and consequently it did not produce evidence that either confirmed or denied the existence of invalid names on the registry. In the month ahead of the election, the NEC denied the existence of duplicate names; then it acknowledged duplicates after the election. As troubling as the high ICE distribution rates was the refusal of the NEC to provide information about their distribution or allow independent verification of the documentation in the commune councils. This lack of transparency contradicts the spirit of the reforms that took place following the 2008 elections, the aim of which was to publicly disclose information about the number and distribution of temporary identification cards. Observers also requested access to the voter lists used in the polling stations on election day and counting notices (form 1102), requests also denied by the NEC. The handling of the irregularities is as much an indication of problems as the documentation of the irregularities themselves. Both undermine confidence in the administration of the elections.

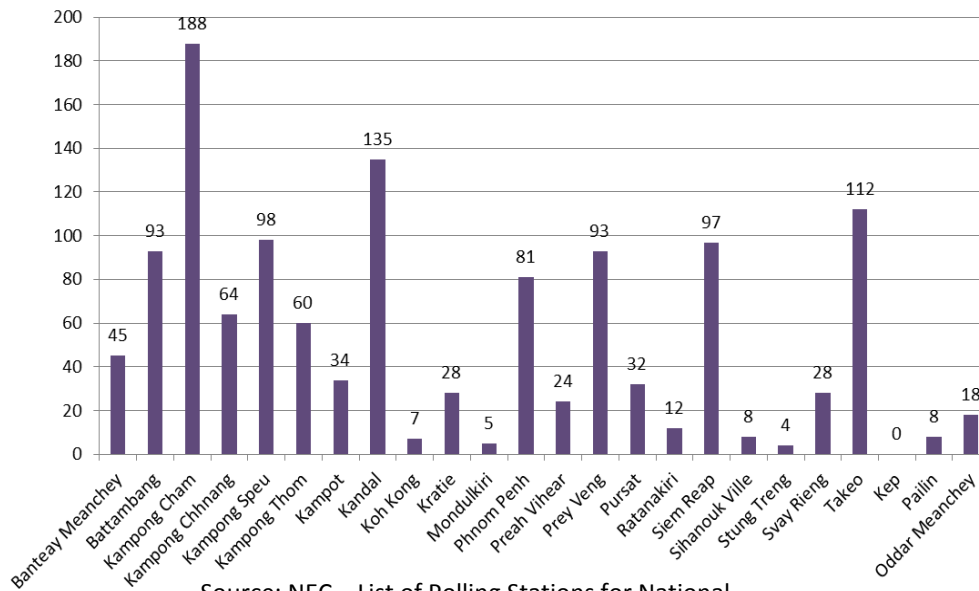
C. Polling Station and Results Analysis

In advance of the July elections, monitors also raised concerns about irregularities in the administration and organization of polling stations.

Deletions and Additions

As with each voter registration exercise, voters were added and deleted from polling station voter lists in the 2012 voter registry update. However, unusual patterns emerged in the adjustments made to the polling stations in certain areas. The chart below shows the number of polling stations in each province that increased in size by at least 50%. In other words, more than half of the voter list was added to those polling stations in the 2012 registration exercise alone, implying either half the population in the community turned 18 recently or there was large migration to these areas. This number excludes all newly-created polling stations, in which all voters would be newly added. Kampong Cham, Kandal, and Takeo each had more than 100 polling stations with dramatic increases in the 2012 voter registration exercise.

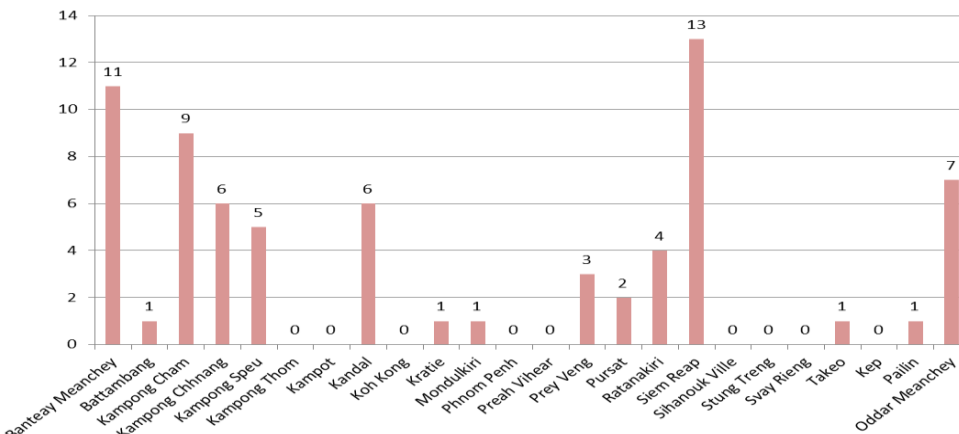
Figure Twenty-one: Total number of polling stations in each province with more than 50% newly registered voters (NDI)



Source: NEC – List of Polling Stations for National Elections 2013

Similarly, a large percentage of voters were removed from some polling stations during the 2012 registration period. The chart below shows the number of polling stations in each province in which more than 50% of voters in the station were deleted from the voter list in 2012. Siem Reap (13) and Banteay Meanchey (11) had the highest number of such polling stations. This would indicate that more than half of the people in that polling station either died or moved in one year alone; assumptions not backed up by demographic trends.

Figure Twenty-two: Number of polling stations with more than 50% of names deleted in 2012 (NDI)

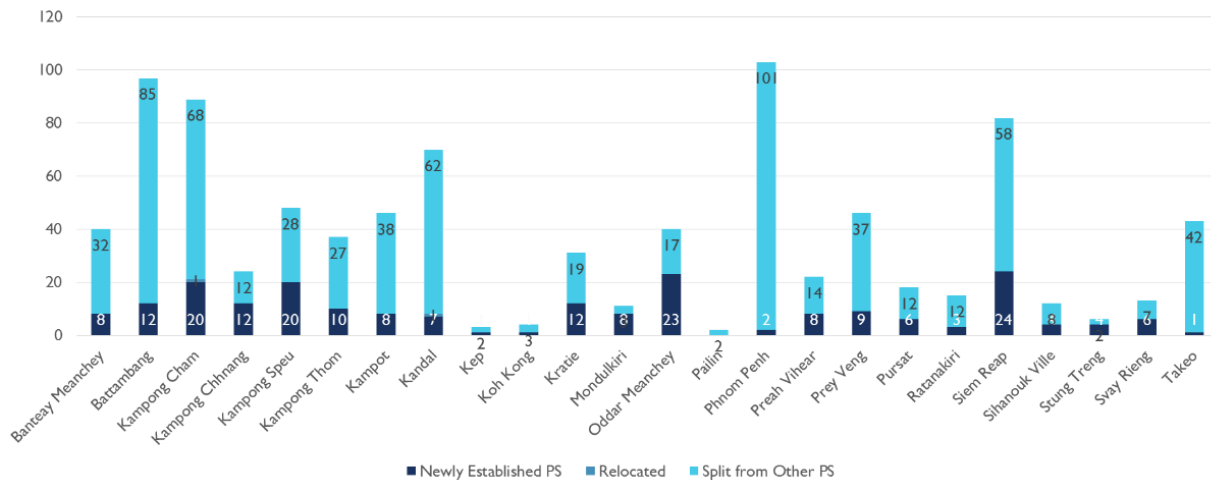


Source: NEC – List of Polling Stations for National Elections 2013

New Polling Stations

According to the relevant law, a polling station cannot be assigned more than 700 people, so the NEC creates new polling stations to accommodate increased numbers of voters. The NEC reports the number of newly-created polling stations to the public; however, there was some confusion regarding the number of new stations created before this election. According to new polling station codes, there were only 144 newly created polling stations, while another NEC document placed the number at 981. After manually comparing the 2012 and 2013 polling station lists, NDI found a total of 902 new polling stations (5% of the total 19,009 polling stations) that did not exist in the 2012 elections. These 902 polling stations include polling stations created when an existing polling station “split” (691), relocated stations (2), and newly-established stations (209). The chart below shows new polling stations established by province and by category:

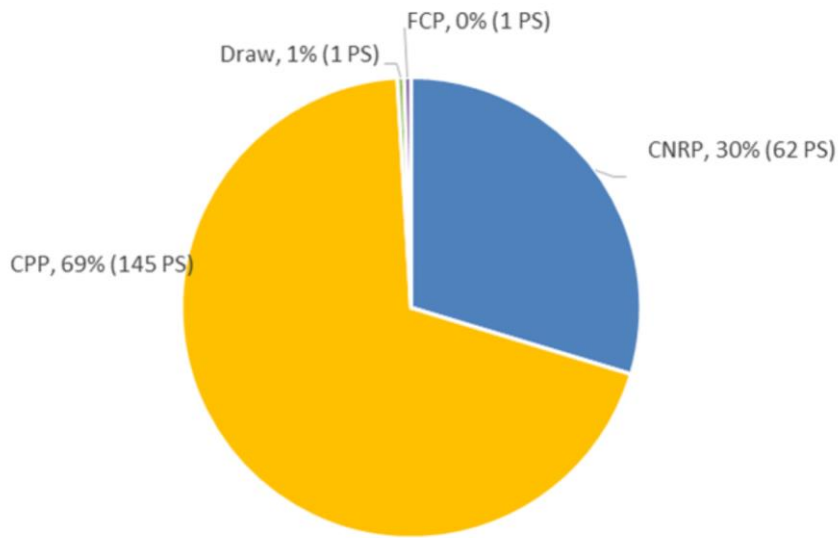
Figure Twenty-three: New polling stations established in each province, by category



Further analysis of the 209 newly-established stations reveals some unusual findings.

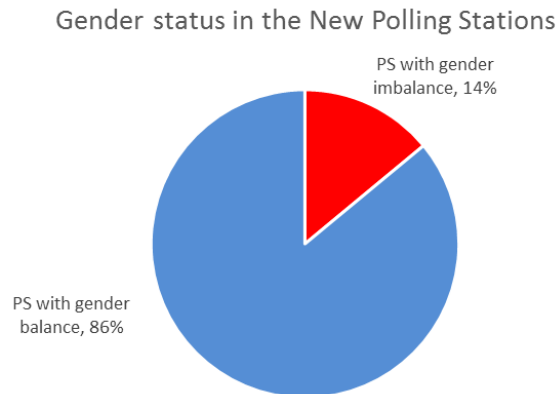
First, the results are heavily skewed towards the CPP in the newly-established polling stations (as opposed to the split or relocated polling stations). Newly-established polling stations went to the ruling party nearly 70% of the time, well above the nationwide average where the ruling party won 53% of the time.

Figure Twenty-four: Results of the 209 newly-established polling stations (NDI)



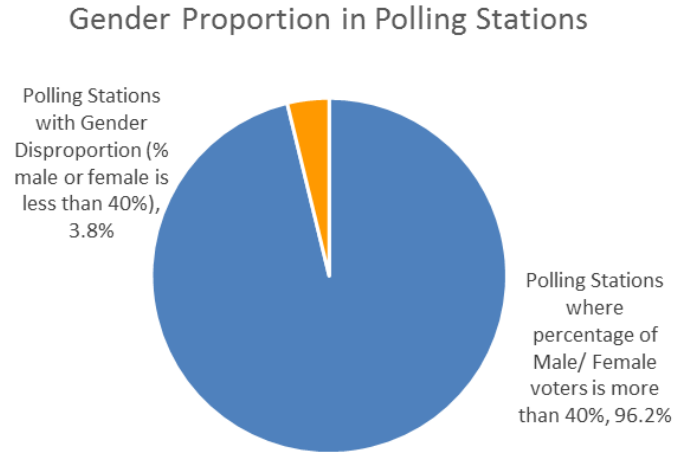
Second, new polling stations were found to be more likely to have a gender imbalance, defined as stations in which either men or women make up less than 40% of the registered voters.⁴³ The majority of polling stations where men or women make up less than 10% of registered voters are newly-established.

Figure Twenty-five: Gender imbalance in new polling stations (NDI)



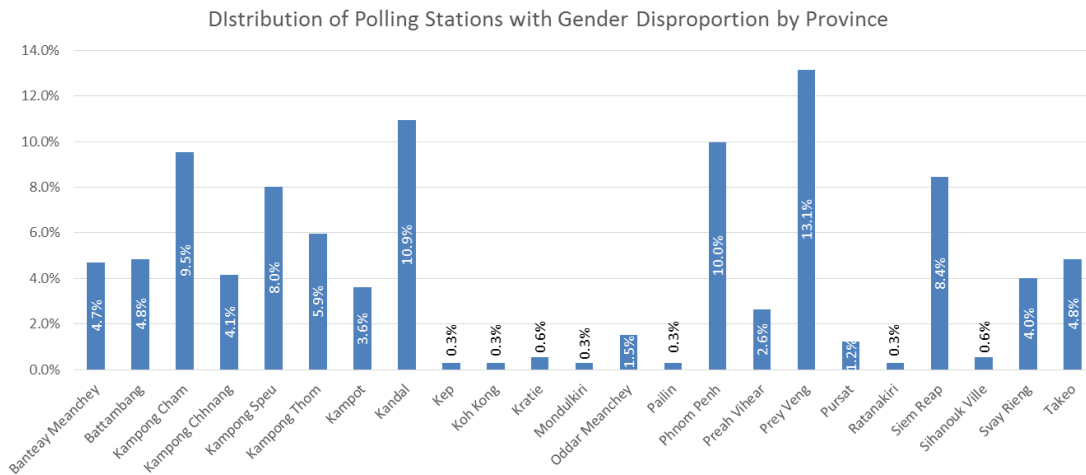
⁴³ There are 723 polling stations (4% of the national total) that fall into this category.

Figure Twenty-six: Gender imbalance in all polling stations (NDI)



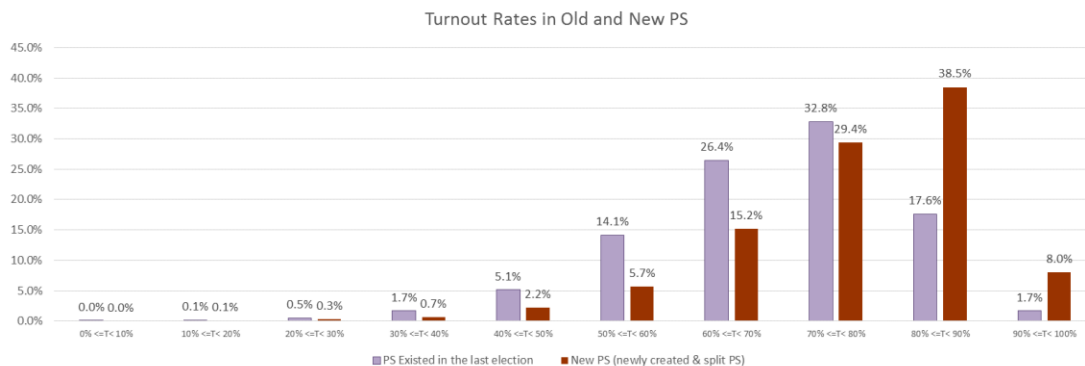
Prey Veng and Kandal provinces had the highest rates of gender imbalances by polling station.

Figure Twenty-seven: Provincial distribution of gender disproportion (NDI)



Finally, new polling stations had unusually high turnout rates, as demonstrated in the chart below.

Figure Twenty-eight: Turnout rates by polling station, newly established vs. established (NDI)



The NEC should explain the unusual consequences that resulted from creating new polling stations and from adding and deleting people from polling stations. Should the explanations not adequately address the consequences, the issues should be taken up in electoral reform.

D. Turnout

National turnout in the 2013 parliamentary election was 69.61% of registered voters, according to the NEC. This was a modest decrease from 75% in 2008. In the 2013 polling station results, the NEC did not include the number of invalid votes.⁴⁴ Consequently, in this report turnout is defined as share of votes (total valid votes) compared to the number of registered voters in the same polling station. It is important to note that these turnout rates are based on the percentage of the voter list that voted, and, as demonstrated previously, the voter lists were shown to be inaccurate, with significant over-registration.⁴⁵ There are polling stations in which the total number of votes exceeds the adult population based on CDB population estimates. Some excesses amount to 120% of eligible citizens voting.

Figure Twenty-nine: Turnout rates of over 100% of eligible population (LICADHO)

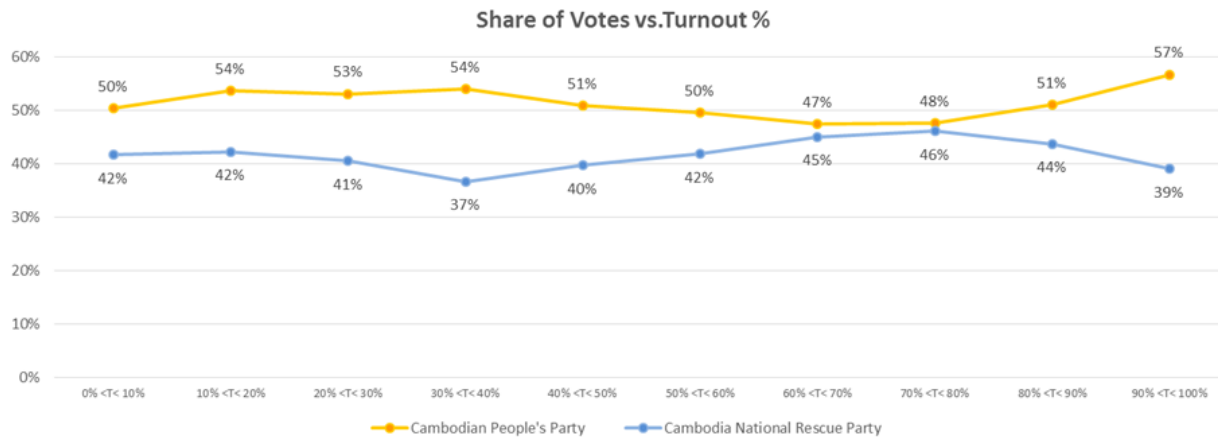
Province	District	Commune	Total Votes	Voting age Population (2012 CDB)	Percent of Voting age Population
Kampong Cham	Dambae	Dambae	4482	4052	110.6%
Kampong Cham	Prey Chhor	Prey Chhor	1632	1625	100.4%
Kampong Cham	Srei Santhor	Chi Bal Trapeang	2184	2113	103.4%
Kampot	Chum Kiri	Reang	3506	3379	103.8%
Kandal	Angk Snuol	Damnak	3601	3318	108.6%

⁴⁴ Invalid ballot figures were provided by province, but not polling station.

⁴⁵ NDI therefore examined the turnout rates by province and took the percentage of the smallest possible participation.

		Ampil			
Kandal	Angk Snuol	Prey Puok	5038	5034	100.1%
Kandal	Kandal	Anlong			
Kandal	Stueng	Romiet	2621	2369	110.6%
Kandal	Kandal	Preaek			
Kandal	Stueng	Slaeng	2920	2720	107.4%
Kandal	Kandal	Preah			
Kandal	Stueng	Putth	1675	1611	104%
Kandal	Krong Ta	Preaek			
Kandal	Khmau	Hour	5258	5222	100.7%
Kandal	Krong Ta	Ta Kdol	3700	3642	101.6%
Kandal	Khmau	Ta Khmau	15477	15122	102.3%
Kandal	Leuk Daek	Peam			
Kandal	Lvea Aem	Reang	4173	3924	106.3%
Kandal	Lvea Aem	Barong	2045	1938	105.5%
Kandal	Lvea Aem	Preaek Rey	2425	2319	104.6%
Kandal	Popnhea	Vihear			
Kandal	Lueu	Luong	4810	4726	101.8%
Kratie	Chitr Borie	Changkrang	1677	1407	119.2%
Pailin	Sala Krau	Stueng			
Pailin	Chamkar	Trang	5860	5345	109.6%
Phnom Penh	Mon	Oulampik	4657	4387	106.2%
Phnom Penh	Dangkao	Roluos	1810	1778	101.8%
Phnom Penh	Dangkao	Spean			
Phnom Penh	Dangkao	Thma	1925	1892	101.7%
Phnom Penh	Doun Penh	Chakto			
Phnom Penh	Kampong	Mukh	5275	4463	118.2%
Prey Veng	Leav	Pou Rieng	3595	3397	105.8%
Pursat	Veal Veang	Ou Saom	581	553	105.1%
Pursat	Veal Veang	Pramaoy	3061	2787	109.8%
Pursat	Veal Veang	Thma Da	995	953	104.4%
Siem Reap	Svay Leu	Boeng			
Siem Reap	Svay Leu	Mealea	2846	2392	119%
Siem Reap	Varin	Ta Siem	3254	2866	113.5%
Siem Reap	Varin	Lvea Krang	2129	1770	120.3%
Takeo	Bati	Tang			
Takeo	Bati	Doung	3125	3115	100.3%
Takeo	Prey Kabbas	Kampong			
Takeo	Prey Kabbas	Reab	4195	4001	104.8%
Takeo	Prey Kabbas	Kdanh	4053	3952	102.6%

Figure Thirty: Results by turnout percentage (NDI)

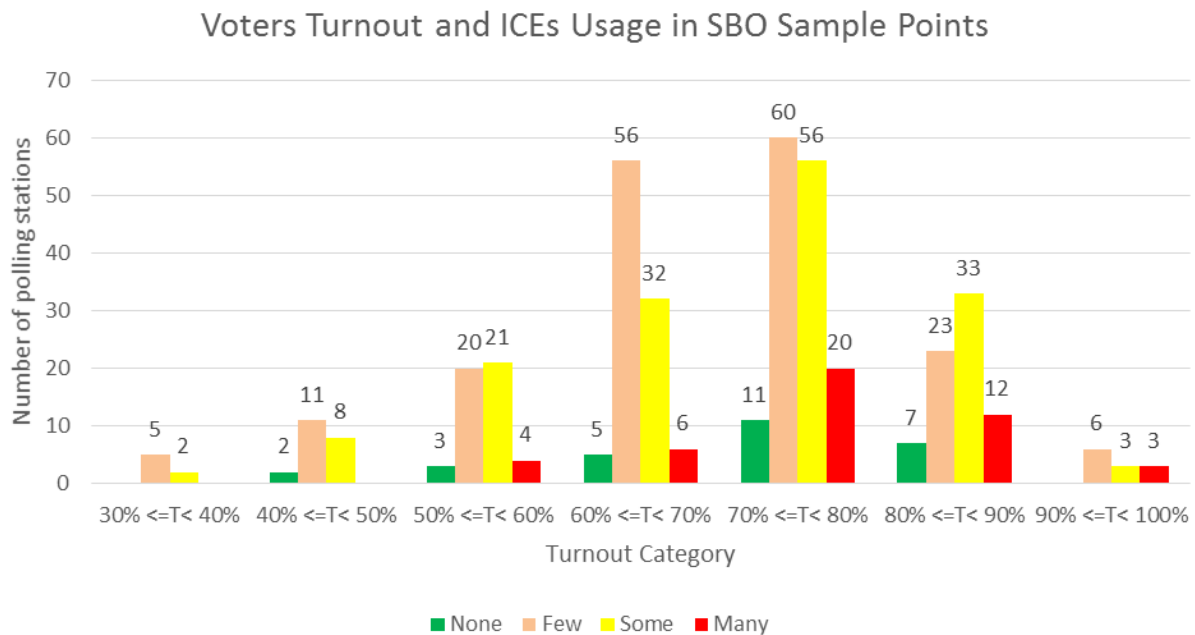


In polling stations with turnout well higher than the country’s median, CPP performed above its national average.

This was most frequently seen in competitive provinces. Interestingly, in several high-stakes provinces, when voter turnout was consistent with the national average in a polling station, CNRP won, but in polling stations with extraordinarily large turnout, CPP won. This could be the consequence of extra CPP get out the vote efforts, though it could indicate the circumstances in those polling stations merit review for lessons to be applied to electoral reform.

High turnout may also correlate with high ICE usage. The chart below shows the level (none, few, some, or many) of ICEs used at SBO polling stations compared to turnout. Without complete ICE data, however, this trend cannot be verified nationally.

Figure Thirty-one: Turnout compared with ICE usage in SBO Polling Stations (TIC/NDI)



E. Post-Election Investigation

Since the close of the polls in July 28, 2013, there have been calls from many quarters for a full investigation into the elections and their irregularities. Independent monitors and some embassies, as well as opposition leaders, are advocating for an independent and external commission to conduct an investigation, similar to the Kriegler Commission for Kenya’s troubled elections in 2007. This suggestion was rejected by the Cambodian government as “illegal” because there is no specific provision in Cambodian law to accommodate such a process. Advocates argued that, while there were not specific legal provisions for such extraordinary measures, an ad hoc approach is not the equivalent of illegal. The government refused, maintaining that the NEC was the responsible legal body to resolve complaints, even though many complaints were related to the NEC’s administration of the polls.

The opposition CNRP filed numerous complaints through the NEC complaints mechanism, requesting the Committee to reopen the polling station results (safety package “A”) for verification. Upon receiving the official complaints, by law, the NEC is required to hold a public hearing with the attendance of all relevant participants or representatives and witnesses. The NEC, however, did not hold public hearings and made their rulings in internal closed meetings, then informed the plaintiff of the rejection without explanation or producing any investigation results. In the end, all complaints were rejected without detailed explanation.

The CNRP appealed to the Constitutional Council (CC), the country’s highest court for election conflict. Although there is an existing law on the organization and function of the CC, there are no clear procedures in place to handle election complaints. Further, most council members, including the president of the CC responsible for handling the complaints, are concurrently

permanent members of the CPP's steering committee. This is counter to Article Four of the CC's internal regulations, which state that "members of the Constitutional Council are not to be a part of a political party."

The CC agreed to examine only a select number of polling stations in Battambang, Kandal, Kratie, and Siem Reap. In Battambang province, CNRP requested to verify 233 polling stations, but the CC ordered the NEC to verify only eight polling stations,⁴⁶ while in Siem Reap, CNRP requested to examine 200 polling stations, but the CC accepted only 12 polling stations.⁴⁷ However, even in these limited investigations, problems and fraud were revealed. Some of the safety packages "A" had been tampered with or inadequately secured. For example, eight out of the 13 safety packages opened in Kratie were unsealed, and seven out of 12 in Siem Reap were either torn or unsealed. There were also inconsistencies in several polling stations in recording the vote count between forms 1102, the official count record, and 1104, a copy of official results provided for parties, which should show the same polling station results figures. For example, in Battambang, polling station 0216, a political party's vote count was not recorded on form 1102, but there was a figure written on form 1104. However, the CC determined only that the NEC reprimand officials in those polling stations.⁴⁸

In ruling only for limited punishment of individual polling station officials, the CC neglected to consider the impact of the irregularities on the election results or organize select re-elections. In Siem Reap, for example, CNRP only needed 4,000 more votes to gain an additional seat. In Kandal, where polling station 1204 was closed early due to violence, CNRP only needed 166 votes to gain an additional seat and 200 people registered on the voter list in station 1204 were unable to vote. According to LEMNA Article 111, if there are serious irregularities that could have affected the election result, re-election should be completed within eight days.

Other than this limited investigation of selected polling station results, there has been no effort to address or acknowledge the more significant irregularities outlined in this report – the exclusion of registered voters and illegal voting.

Reviewing information from the NEC's publicly-announced figures alone raises issues that undermine the confidence of many Cambodians in the credibility of the election process.

- NEC's audit following "advanced capacity" search of its database reveals a 3% exclusion rate of eligible citizens.
- The NEC acknowledges the existence of 270,000 exact duplicates on the voter list.
- The NEC reported that at least 270,000 ICEs were issued since the end of the voter registration period in the fall of 2012.

These numbers combined are greater than the difference in vote share for the two parties. Though the numbers are not disaggregated by election district, and therefore the impact on any particular parliamentary seat cannot be determined, they indicate problems that merit a full, transparent, and independent investigation as well as a meaningful and vigorous commitment to

⁴⁶ Public hearing at the NEC on 28 August 2013

⁴⁷ Public hearing at the NEC on 30 August 2013

⁴⁸ CC's decision of 5 September 2013, case #240/044/2013 dated 19 August 2013

electoral reform.

V. Conclusion

Ultimately, the 2013 Cambodian election shared much in common with previous years. Problems of election administration, voter registration, media coverage, the use of state resources, and seat allocation based on equal representation of citizens identified well in advance of July 28 were not adequately addressed, just as similar problems have not been addressed despite years of studies and recommendations by domestic and international experts. Reports from election day documented eligible citizens turned away from polling stations, the widespread use of ICEs distributed by partisan local officials, turnout significantly higher than reported population figures in many areas (made possible by duplicate and invalid names on the voter list), and unusual results from recently-opened polling stations with skewed demographic profiles.

While each of these problems is troubling on its own, taken together these irregularities represent cause for significant concern, not minor technical shortcomings. In the context of 2013, and particularly given the closeness of the election, these problems are enough to undermine confidence in the electoral process and its outcome, the extent to which the Electoral Reform Alliance (ERA) cannot determine particularly without the disclosure of relevant data by government bodies. This crisis of confidence, manifested by frustration at the polls, the opposition's ongoing boycott of the National Assembly, and repeated public protests, requires a response from all key stakeholders: the government, civil society, and the international community, as well as the political parties.

The Cambodian Government

That senior government leaders have responded to public pressure following the election by mentioning the need for electoral reform is a welcome development. However, the value of this exercise will be determined largely by how it is conducted, and the government must make ongoing consultations with civil society organizations, election monitors, and political parties a key part of any reform efforts. Further, there must be clear understanding of the term "electoral reform," and that it must include the broad and significant changes and principles outlined in this conclusion. Anything less will not qualify as reform. The tensions of the post-election season have left the country sharply divided. An inclusive, transparent, and comprehensive electoral reform program offers one promising way to promote a more positive and stable future for Cambodia, a goal shared by all stakeholders.

The National Election Committee

To advance and inform electoral reform efforts, there needs first to be a full review of all election information, requiring the cooperation and participation of the NEC. The NEC should make relevant data and documents publicly available. ERA members have requested on multiple occasions an analyzable copy of the voter list, ICE distribution figures by commune and access to ICE documentation at the commune councils, and access to voter lists and other forms used in polling stations. Meeting these requests is essential to promote meaningful reform.

Political Parties

Political parties organize themselves to gain and mobilize support to win office and govern according to their respective agendas. Their authority to govern derives from the will of the people freely expressed in genuine election processes that generate public confidence in the honesty and accuracy of the elections. The corresponding public trust and confidence in the government that results from the elections is a direct result of how citizens judge the credibility of the election process. It is therefore in every political party's vital interest to take steps to ensure electoral integrity on behalf of the public so that the parties themselves can use elections to resolve peacefully their competition for governmental power. No party wants a hollow victory, and all parties must work together despite their differences to craft a credible democratic election process. Effective electoral reform therefore should be a top priority for Cambodian political parties. If the present political crisis is resolved, there will be two major political parties in parliament, and they will have to work together to achieve electoral reform. Otherwise, neither will be assured that the country will progress toward economic and social progress.

Civil Society

Given the government's rejection of the formation of an independent, external commission to investigate election irregularities, civil society will need to play a lead role in advancing electoral reform. This will require not only a continued dedication to formulating and advocating specific reform proposals, but also a concerted push to grow and organize the chorus of voices calling for reform. The challenge facing Cambodian civil society organizations at present is to channel the widespread public dissatisfaction following the elections into positive energy focused on concrete changes to the electoral system. Innovative and imaginative forms of outreach and advocacy are needed to reach new audiences. Careful organization is required to build and sustain momentum. Given the entrenched interests of many actors in sustaining the current system, considerable pressure will need to be brought to bear in order to realize real, lasting reform.

The International Community

If the goal of electoral reform is to be achieved, it will be because of the efforts of Cambodian citizens and a sea change in the Cambodian government's attitude towards elections. Yet members of the international community are uniquely positioned to exert a positive influence on the government and the political parties. The international community therefore must resolve to make the most of this opportunity. Rather than allowing the moment to pass, only to be confronted with similar problems (or worse) ahead of the next election in Cambodia, the international community must continue to make the case for reform, at every available opportunity, with their Cambodian counterparts. While the temptation to move on and resume business as usual may be strong, foreign diplomats should continue their principled position that the election process is not over and remains unresolved. International donors too are encouraged to consider electoral reform as a prerequisite for future funding initiatives, recognizing that the inconclusiveness of the July vote will compromise cooperation with the currently formed government.

At the same time, the international community must continue to support civil society—materially and technically—as they work for reform. Any international support to or engagement with government bodies on electoral reform must first insist upon the fundamental changes required and should involve coordination with civil society and independent election organizations, building upon and learning from the existing efforts and work that has been conducted to date, avoiding the duplication of failed programs and assistance.

Electoral Reform

Given the problems and irregularities documented in this report, and the recommendations of previous studies, the ERA believes that meaningful electoral reform must include the following five areas:

1. The composition, mandate, and jurisdiction of the country's election management body, currently the NEC:

The National Election Committee should be dismantled and a new, independent, and constitutionally-mandated election commission should be created with the authority, comprehensive jurisdiction, and budget to operate effectively. Commissioners of this new body must be selected in a transparent manner with the involvement of all stakeholders. Local electoral officials must also be recruited publicly by a selection committee composed of NEC and political party representatives. Mechanisms to resolve election conflicts and complaints must be reformed, including the creation of a separate body, such as a special electoral prosecutor, special electoral court, inspector general or ombudsman, to investigate irregularities.

2. Voter registration, the process of registering, the documentation needed, and the distribution and correction of the voter list:

- The current voter registration process must be replaced, either with automatic registration through a valid civil registry or, at a minimum, the removal of responsibility from the political and partisan commune councils to a permanent, independent, impartial, and professional election bureaucracy.
- The government of Cambodia must commit to a plan and timeline by which to complete the civil registry and distribute national identification cards to all citizens. A comprehensive civil database must be open for public review and audit.

3. Use, distribution, and monitoring of ICEs:

- ICEs must be eliminated. The Ministry of Interior should create a mechanism with appropriate safeguards for electoral integrity to replace stolen or lost national IDs.

4. Media principles of equity, balance, and free access:

- An independent oversight board should be created that during the election campaign, election day, and immediate post election period has the power to regulate state owned or

controlled media and provide oversight of private television and radio broadcasting as they relate to electoral candidates and political parties. The board should have one member from the Association of Journalists, representatives from political parties with seats in the National Assembly, the NEC, and those organizations accredited to observe the elections. The board should promulgate election coverage regulations for state owned and controlled and promulgate rules for private media that comport with international principles for balanced, accurate, and equitable coverage of electoral contestants, requirements for corrections and rights of reply, and a rapid response mechanism for addressing complaints of media violations of the oversight rules.

- A new broadcasting authority must be established to distribute licenses to media outlets year-round. A new broadcasting law must be drafted and the authority must include representatives from the ruling and opposition parties.

5. Neutrality of Royal Cambodian Armed Forces officials, police, prosecutors and court officials:

- A special policy or a sub-decree should be promulgated to strengthen the neutrality of the Royal Cambodian Armed Forces, court officials, prosecutors and national police forces in compliance with Article 15 of the law on political parties. Members of these groups should be allowed to participate as members of political parties, but not as political party officials.

6. Political finance reform:

- The new election management body should audit and make public political parties' bank accounts, including expenses, funding amounts, and sources of income in election and non-election years.
- During the campaign, parties and candidates should file interim reports on their contributions and expenditures prior to election day.
- The election management body should review all reports and actively investigate their accuracy and have the power to enforce sanctions for violations.

These recommendations are not new. They are described in the background section above and can be seen in elections reports produced by local and international independent organizations and monitoring missions for the past decade as well as reports of the U.N. Special Rapporteur on the situation of Human Rights in Cambodia. Nor are they comprehensive; much more work is needed to translate these principles into specific laws or regulations. Yet any reforms that do not address these concerns, but rather include only cosmetic or peripheral changes, such as changing dates or timeline extensions, will not be sufficient to respond to the issues raised in this report.

While election day may have passed, the election process is not complete. The exclusion of eligible citizens and the inclusion of ineligible votes documented in this report must be addressed so these problems do not occur in future elections. Reforms must be made to ensure all eligible Cambodians are able to exercise their right to vote and that their will is reflected in election results. This is crucial for democratic political development, national and economic stability, and the promotion and exercise of fundamental human rights.