



# Democracy, Elections and Reform in Cambodia



**2014**  
**Annual Report**

Published on March 2015

**Democracy, Elections and Reform**  
*Annual Report COMFREL 2014*

*March 2015*

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## Acronyms

ACU	Anti-Corruption Unit
ADB	Asian Development Bank
ADHOC	Cambodian Human Rights and Development Organization
APSARA	Authority for Protection and Management of Angkor and the Region of Siem Reap
CCC	Constitutional Council of Cambodia
CCHR	Cambodian Center for Human Rights
CCIM	Cambodian Center for Independent Media
CCJ	Cambodian Club of Journalists
CDRI	Cambodian Development Research Institute
CISA	Coalition for Integrity and Accountability
CNRP	Cambodia National Rescue Party
CPP	Cambodia People's Party
CPWP	Committee to Promote Women in Politics
CSO	Civil Society Organization
ERA	Electoral Reform Alliance
FUNCINPEC	National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia
HRC	Human Rights Council
HRP	Human Rights Party
ICCPR	International Covenant on Civil and Political Rights
KAPP	Khmer Anti-Poverty Party
KFK	Khmer For Khmer
LDP	League of Democracy Party
LEMNA	Law on Elections of Members of the National Assembly
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
MoJ	Ministry of Justice
NA	National Assembly
NAA	National Audit Authority
NCAC	National Council Against Corruption
NDI	National Democratic Institute
NEC	National Election Committee
NICFEC	Neutral and Impartial Committee for Free and Fair Elections
NRP	Norodom Ranariddh Party
OECD	Organization for Economic Cooperation and Development
PDP	People Center for Development and Peace
RCAF	Royal Cambodian Armed Forces
RGC	Royal Government of Cambodia
RSF	Reporters Sans Frontiers
SCM	Supreme Council of Magistracy
SRP	Sam Rainsy Party
TIC	Transparency International Cambodia
UNDP	United Nations Development Program
UNESCO	United Nations Organization for Education, Science and Culture
UNHCHR	United Nations High Commissioner for Human Rights
UNICEF	United Nations Children's Fund
UNTAC	United Nations Transitional Authority in Cambodia
YCC	Youth Council of Cambodia

# 1. Introduction

The Committee for Free and Fair Elections (COMFREL) in Cambodia has since 2009 extended its observations and analysis of the electoral process to include the overall process of democratization process. The analytical reports on the state of democracy titled ‘Democracy, Election and Reform’ are published annually and disseminated to all interested national and international stakeholders. COMFREL supports the Royal Government of Cambodia (RGC) in its aim to consolidate a liberal multiparty democracy as stipulated in the preamble and Article 1 of the 1993 Cambodian Constitution, and the International Covenant on Civil and Political Rights (ICCPR), ratified by the Supreme National Council in 1992, and incorporated into the constitution, Article 31 which states that: ‘The Kingdom of Cambodia recognizes and respects human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, and the covenants and conventions related to human rights, women’s rights and children’s rights’. The purpose of the annual report is to generate empirical data and provide comprehensive analysis to assist international and national advocacy efforts of stakeholders dedicated to Cambodia’s democratization process. The report poses the following central question: *Is Cambodia’s democratization process advancing towards an established democracy?*

COMFREL developed a qualitative roster of democracy indicators to answer this question in 2014. They relate to earlier annual reports allowing for comparisons with past political developments. The democracy indicators include ‘Democratic Governance’, ‘Democratic Elections’ and ‘Freedoms and Democratic Space’. The report analyses the powers, performances and reforms of the legislative, judiciary and executive. Particular attention is given to the political process that brought about the end of the post-election political crisis, and to corruption and misuse of state resources. This is followed by an examination of the electoral reform process, especially the reform of the National Election Committee (NEC), and analysis of the sub-national council elections in May 2014. The report then examines the democracy indicator ‘Freedoms and Democratic Space’ to evaluate the extent and quality of political participation based on liberal democratic principles of freedom of expression and information, freedom of association and freedom of peaceful assembly. It also analyses political discourse, women and youth participation and development of the political party landscape. The report closes with recommendations for all actors committed to Cambodia’s democratization process.

Empirical data generated for this report on Cambodia’s state of democracy in 2014 are based on findings from COMFREL’s Advocacy and Monitoring Units ‘Government Watch’, ‘Parliamentary Watch’, ‘Media Watch’, ‘Election Watch’, ‘Gender Watch’, the ‘Access to Information NGO Working Group’, and the Election Reform Alliance (ERA). COMFREL adopts a mix of qualitative and quantitative research methods. This includes sample surveys, focus group discussions and statistical analysis of voter and media monitoring data, as well as qualitative interviews, field observations and literature reviews. The latter includes research results, studies and reports of diverse national and international stakeholders including reports from reputed national and international media. All primary and secondary data used in this report are cited in footnotes and the reference list.

## 2. Executive Summary: Progress of Democracy, Gradual and Uncertain

- Democratization in 2014 continued to be undermined by serious shortcomings preventing

Cambodia from moving forward towards an established democracy. Any positive political developments were gradual and highly uncertain. It remains to be seen if these developments can put the democratization process back on the right track.

➤ The dispute over the 2013 national election results and the following political crisis once again paralyzed the democratization process in 2014. The freedom of peaceful assembly was put on hold. Only on 22<sup>nd</sup> July 2014, one year after the 2013 national election was an agreement reached between opposition and government to end the political crisis. This paved the way for a reform process allowing cautious optimism for gradual democratic progress. However, the negotiation process between opposition and government often stalled on details, particularly electoral reform. By the end of 2014 it was uncertain just how far reaching election reform would be. Negotiations over electoral reforms continued into 2015. Legislative reforms have moved forward in 2015.

➤ Democratic governance appeared to improve after the July agreement. Legislative reforms strengthened the principle of separation of powers. The legislature gained in power and improved its performance. That said, in the first half of 2014 the opposition, represented by the Cambodia National Rescue Party (CNRP), was not involved in the process thus limiting the performance of the legislative and executive, and calling into question the legitimacy of the law-making process and the newly formed CPP led Royal Government of Cambodia (RGC). There was a continued lack of transparency and accountability within the executive. In particular, no genuine judicial reforms have been undertaken to safeguard its independence. The judiciary remains the weak link in the governance system. Corruption and the misuse of state resources are a permanent feature of Cambodia's political-economic system. Nonetheless, some improvements in the RGC anti-corruption policy could be observed in 2014.

➤ The creation of the CPP-CNRP Joint Commission for Electoral Reform in 2014 seemed to be a bipartisan step toward electoral reform but the process was not transparent and inclusive. Reform of the composition of the National Election Committee (NEC) was approved by CNRP and CPP lawmakers, including constitutional amendments. Major reform proposals negotiated in 2014 included a draft 'Law on the Organization and Functioning of the NEC', revisions of the current 'Law on the elections of members of the National Assembly' (LEMNA), including reform of the voter registration. Notwithstanding these promising reform attempts, negotiations fraught and it was highly uncertain if the envisaged election reforms would improve the election process. A draft law on the new NEC has been finalised. Negotiations for revisions of the LEMNA in 2015 can be compromised if the ruling party continues to propose negative provisions related to the election campaign .

➤ The establishment of a New National Election Committee will be decided by a bi-partisan National Assembly which will adopt significant changes to 24 provisions of the draft law on the NEC. Fifteen provisions are positive or better than existing provisions whereas nine of the provisions are either negative or uncertain or worse than the existing provisions.

➤ The sub-national indirect elections for district, provincial and municipal councils in May 2014 were peaceful. However, the election campaign was constrained because of an RGC ban on campaigning in the first week of the official two-week campaign period, and was only lifted after the CNRP defied the ban. The elections were also accompanied by allegations of vote-buying and pressure on the commune councillors to take oath for voting its own party. The results confirmed the dominance of the CPP at the local level, mainly because the elections are indirect involving only the votes of commune councillors. COMFREL considers the sub-national election as ineffective in the

overall process of democratization and appeals for reform of direct elections.

➤ Continued human rights violations, in particular political and civil rights violations by the RGC were a serious cause of concern. Democratic space and freedoms did not improve in 2014. The RGC security apparatus continued to use excessive force against protesters during demonstrations. Numerous attacks, harassment and intimidation directed against trade unionists, journalists and civil and political rights activists, including CNRP lawmakers and party members were reported. Matters came to a head with the killing by security forces of four labour protesters in January. Two journalists were also killed in 2014. The repression created an atmosphere of intimidation and fear especially among citizens connected with or supporters of CNRP, and critics of the CPP led government. No measures were taken by the government to constrain security forces from using excessive force against protesters. What was more disturbing was that no investigation or legal action was undertaken against those responsible for killing and injuring protesters.

➤ Furthermore, no efforts were made by the RGC to promote freedoms of assembly, expression and information after the CPP-CNRP-July agreement. One notable exception was the granting of TV and radio licenses to CNRP affiliated stations in November. This was seen as a positive step in counterbalancing CPP dominance of Cambodia's media landscape. The new analog television and radio stations will be run by a CNRP affiliated private company, named 'Cambodia Independent Media Co., Ltd'. The TV and radio station will be allowed to operate in Phnom Penh and can establish relay-broadcasters in the provinces.

➤ Political dialogue between party leaders in 2014 showed signs of improvement when compared with the previous year. The CNRP and CPP committed to refrain from destructive verbal attacks against each other. Prime Minister Hun Sen and opposition leader Sam Rainsy agreed on a 'culture of dialogue'. Yet, the discourse remained ambiguous, shifting back and forth between a 'culture of dialogue' to a 'war of words'.

➤ A further weakness of Cambodia's governance system remains the continuing practice of misuse of state resources for political party purposes and partisan engagement of court officials and members of the armed forces that often carry out duties during ruling party CPP events.

➤ Representation of women and youth in politics in elected government positions continued to show no major improvement in 2014. There have been short-falls in RGC millennium goals efforts to reach 25% female representation on commune/district level, and 30% at the national level by 2015. Likewise, representation of youth in politics remained weak. The major political parties began to adapt their political programs towards youth voters and continued to strengthen youth party networks. Although, few youth candidates were nominated for elections. Similar to women candidates, most youth candidates were nominated by minor political parties.

➤ Cambodia's political party landscape has undergone notable changes since the post National Assembly election in 2013. For the first time the CPP had lost 22 parliamentary seats to the opposition and only two political parties, the CPP and CNRP are represented in parliament. There are around five political parties including the royalist party (ies), FUNCINPEC, and the League for Democratic Party (LDP). The LDP are still active in the political arena. These changes suggest that the CNRP will be the only party to realistically challenge the CPP majority in 2018.

➤ A major concern with the bi-partisan electoral reform process is how the CPP and CNRP will respond to electoral results requiring a change in government or continued CPP dominance. So far, both CPP and CNRP seem convinced of the strength of their voter support in preparation

for 2017 and 2018, but have not fully considered how to respond to electoral defeat. Whereas electoral reforms and culture of dialogue might lead a political party to accept an electoral defeat in the next elections, the current reform process is uncertain and leaves the question of acceptance of the results open. Looking back at past responses to electoral results it is unlikely that the main two political parties will accept an electoral defeat. Currently, there is no publicly available information regarding any possible government plans for a peaceful transition of power in the event of a CPP electoral defeat in 2018.

### **3. Ending the Post-Election Political Crisis in 2014**

Dispute over the election results in July 2013 and the ensuing political crisis over the formation of the new National Assembly and government in the fifth legislature paralyzed democratic processes. The political crisis reached a peak in January when a garment worker strike escalated into violence, leaving at least four protesters dead, shot by RGC security forces. The related disappearance of a 16-year old young boy could bring the death toll to five. The deaths followed numerous incidents of repression orchestrated by the RGC security apparatus of protests and demonstrations organised by labor unions and civic and political activists. Freedom of peaceful assembly was thus severely curtailed. The CNRP doggedly stuck to its position that the election was fraudulent. In an effort to bring pressure to bear on the CPP, the CNRP boycotted the formation of the new parliament and organised street demonstrations, rallies and marches calling for an independent investigation into election irregularities and the holding of fresh elections. The CPP responded with further repression of CNRP demonstrations, arbitrary arrests and court proceedings against CNRP members and lawmakers and civil and political activists. Ignoring the boycott the CPP held parliamentary sessions without CNRP lawmakers approving several laws in the first half of 2014.<sup>1</sup> At the same time, the CNRP was accused by government of having incited violence during labour strikes and other demonstrations. For the CNRP and some civil society organizations, government repression was proof positive the RGC security apparatus and the judiciary are biased in favor of the CPP, and were used as tools to pressure the CNRP into a negotiated settlement.<sup>2</sup> Finally, after much political wrangling, on 22<sup>nd</sup> July 2014, one year after the 2013 election, a political agreement was signed by the CNRP and CPP bringing the crisis to an end. The agreement paved the way for a reform process which on the surface appeared to put the democratic process back on track in the second half of the year.

Negotiations between the CPP and CNRP originally began on September 14<sup>th</sup> 2013, after King Norodom Sihamoni called for a meeting between Prime Minister Hun Sen and opposition leader Sam Rainsy to discuss CNRP lawmakers taking up their seats in the NA. After the meeting, it was announced that Sam Rainsy and Hun Sen had reached a ‘mutual understanding, but some differences had not yet been resolved’<sup>3</sup>. CNRP resumed demonstrations in Phnom Penh and announced its intention not to take part in the inaugural ceremony of the NA presided over by King Norodom Sihamoni. On 16<sup>th</sup> September 2013, Hun Sen and Sam Rainsy agreed to create a mechanism for both parties to discuss electoral reforms. However, the CPP continued to refuse further investigations into election irregularities previously demanded by the CNRP.<sup>4</sup> The CNRP

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<sup>1</sup> LICADHO: Freedom Park Violence, CNRP Arrests, Political Deal : Timeline of Events July 14 – November 28, 2014, [www.licadho.org](http://www.licadho.org)

<sup>2</sup> Ibid.

<sup>3</sup> Radio Free Asia (RFA): Hun Sen, Sam Rainsy Make No Breakthrough in Talks to End Poll Dispute, 14.09.2013

<sup>4</sup> Radio Free Asia (RFA): Cambodia’s Ruling and Opposition Parties Agree to Pursue Electoral Reforms, 16.09.2013



boycotted the inauguration of the new NA and launched new demonstrations in Phnom Penh in November 2013.<sup>5</sup> Up until July 2014 only the CPP was represented in the NA raising serious doubts about the legitimacy of the newly formed NA and government for the fifth legislature. Negotiations remained deadlocked until December.<sup>6</sup> On 28<sup>th</sup> December 2013, the CNRP announced its decision to resume negotiations with the CPP for three days introducing new issues for debate, including minimum wages for garment workers. The CPP agreed to resume negotiations.<sup>7</sup> However, at the same time, labour strikes intensified and turned violent on 3<sup>rd</sup> January 2014. At least four people were killed by RGC security forces prompting the CNRP to withdraw from the renewed negotiations. Negotiations resumed again on February 18<sup>th</sup> resulting in the establishment of a Joint CPP-CNRP Committee for Electoral Reform.<sup>8</sup> In March, a fourteen item agenda on electoral reform was agreed upon. The proposed agenda included, among other items, reform of the NEC, reform of the voter registration system, and reform of the LEMNA. Demands for investigation into election irregularities and possible fresh elections were put on hold by the CNRP after negotiations resumed.<sup>9</sup> It would be another four months before the final July agreement was reached.

The final ‘Agreement on Political Resolution between the Cambodian People’s Party and the Cambodia National Rescue Party’<sup>10</sup> includes a preamble and seven principles. The preamble states *‘that an end to the political crisis can only be achieved through peaceful means by negotiations’*. Principle 1 states that, *‘both parties agree on a political resolution, working together within the assembly to solve all national problems in accordance with democratic principles and the rule of law’*. Principle 2 states that both parties agreed to electoral reforms, including the creation of a ‘full independent’ constitutional election institution, which will be elected by the National Assembly (NA). The NEC will in future be made up of nine members through a bi-partisan decision of the national assembly, four of whom will be elected by the governing party, four by political parties with seats in the NA, and one member selected by agreement between the political parties represented in the NA. The principle also states that the new NEC will have its own budget, and that reform should also include the voter registration process. Principle 3 states that *‘both parties agree to reschedule the election date for the future election’*. Further, the principle states that *‘both parties agree to allow the existing joint committee to continue to discuss on the agenda of election reform in the future in accordance to the joint statement of the task force committee of the Cambodia People’s Party and the task force committee of the Cambodia National Rescue Party on February 18<sup>th</sup>, 2014 in which it also includes the new voter registration procedure’*. Principle 4 states *‘that both parties agreed to separate the power between the executive and legislative branch (...), to study aiming to amend internal regulations of the assembly’* and change the composition of the NA with the formula ‘7 with 6’. This means the CNRP will receive the first NA vice-presidency and the chairs of five NA commissions (6). The CPP receives the NA presidency and second NA vice-presidency and five NA commissions (7). Principle 5 states that *‘both parties agree to re-arrange the chairmanship of the Senate’*. Principle 6 states that *‘both parties agree to conduct reform and strengthen all national institutions, especially all independent institutions, enabling them to serve the nation and citizens in accordance to a liberal democracy and pluralism and the rule of law’*, and Principle 7 states that *‘both parties agree to study aiming to amend the ancillary regulations guaranteeing the implementation of the*

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<sup>5</sup> Cambodia Daily: CNRP Says No Further Negotiations Without Investigation, 20.11.2013

<sup>6</sup> Phnom Penh Post: Opposition Tells CPP: Agree, or Talks Off, 06.11.2013

<sup>7</sup> Radio The Voice of Vietnam: Cambodia: CNRP Wants To Resume Negotiations, 28.12.2013

<sup>8</sup> Asia Foundation (Meisburger, Tim - Regional Director for Elections and Political Processes): Electoral Reform and The Consolidation of Democracy in Cambodia, Phnom Penh, February 2014, p. 1

<sup>9</sup> Radio Free Asia: Cambodian Parties Agree on 14 Point Agenda for Electoral Reform Talks, 18.03.2014

<sup>10</sup> Keen Languages Interpreter: Translation of ‘Agreement on Political Resolution between Cambodian People’s Party and Cambodia National Rescue Party’ 22<sup>nd</sup> July 2014, www.phallika.info

*agreement*<sup>11</sup>. The agreement was signed by Prime Minister Hun Sen, CNRP president Sam Rainsy and two members from each party, including Sar Kheng, Minister of Interior, Say Chhum, Chairman of the Permanent Committee of the CPP Central Committee, from CPP and Kem Sokha, First NA Vice President and CNRP Vice-President and Pol Ham, Head of the CNRP Steering Committee.

## 4. Democratic Governance

Democratic governance appeared to improve after the July agreement. Before the agreement the legislative and executive were under sole control of the CPP raising doubts over the legitimacy of the newly formed NA and RGC in the first half of 2014. Legislative reforms indicated that Cambodia's political process took a step forward towards the principle of separation of powers. The legislative gained in power and improved its performance in the second half of 2014. However, the executive continued to lack transparency and accountability. Key policy areas were not considered. For example, no improvements were observed in the judiciary, despite the fact that the NA before the July agreement had adopted a new judicial framework. But the framework fails to incorporate provisions safeguarding the independence of the judiciary. The judiciary thus remained the weakest link in Cambodia's governance system. Moreover, the perennial problem of corruption and the misuse of state resources for political purposes persisted; despite the fact anti-corruption policies had been enacted.

### 4.1 Legislative Power, Performance and Reforms

After the NA elections in 2013 the political party composition of Cambodia's parliament had changed. In the previous legislature (2008-2013), the governing CPP had gained a qualitative majority of 90 of the total 123 parliamentary seats in the NA, leaving the opposition parties, the Sam Rainsy Party (SRP) with 26 and the Human Rights Party (HRP) with three seats. The 'National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia' (FUNCINPEC) and the Norodom Ranariddh Party (NRP) had two seats each. After the merger of HRP and SRP to form the CNRP, the opposition won a total of 55 NA seats in 2013. For the first time since 1993 the CPP lost 22 seats to the opposition. And yet the CPP still holds an absolute majority in the NA with 68 seats in the fifth legislature (2013-2018). The 2013 elections also indicated that Cambodia's multi-party system may be transformed into a two-party system. Today, only the CNRP and CPP are represented in the NA and Senate. FUNCINPEC and NRP lost in the 2013 election and also in the senate election in 2012. Both are no longer represented in Cambodia's parliament. In the Senate, the CPP holds a majority with 46 seats. The SRP, on behalf of the CNRP holds 11 seats.<sup>12</sup>

After pressure from the CNRP, who had boycotted the NA for almost one year, the CPP seemed willing to engage in a legislative reform process. Reforms of NA internal rules and procedures strengthened to some extent the CNRP position. There were grounds for optimism that effective legislative oversight of the executive, and a more transparent, accountable and representative law- and policy-making process in the fifth legislature could be possible.<sup>13</sup> The National Assembly amended article 06 (new) and 48 (new II) of internal regulation.

According to the new NA amendments, political parties, who have 25% of the NA seats, can select a

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<sup>11</sup> Ibid.

<sup>12</sup> COMFREL: Democracy, Election and Reform, Annual Report 2014, p. 5, 16-18

<sup>13</sup> Cambodia Daily: Hun Sen, Rainsy Settle Differences in Reform Deal, 29.11.2014

minority leader which has ‘equal status to the prime minister’<sup>14</sup>. This means the minority leader, has equal say within the NA, and the majority party is obliged to engage in dialogue with the minority leader on issues of national concern. The minority leader is considered, in the words of Prime Minister Hun Sen, ‘the dialogue partner for state leaders on national problems’<sup>15</sup>. Proposals by the CNRP to create rules allowing the formation of a ‘Shadow Cabinet’ were rejected by the CPP.<sup>16</sup> A ‘Shadow Cabinet’ with a ‘Majesty’s Loyal Opposition’ as practiced in the United Kingdom, would mean that the opposition forms a caucus mirroring the cabinet with ‘shadow ministers’ proposing alternative government policies.<sup>17</sup>

Respective amendments to the internal regulations of the legislative were unanimously adopted by 102 NA lawmakers on 19<sup>th</sup> December. CNRP opposition leader Sam Rainsy has been recognized as minority leader in the fifth legislature and retained a NA seat.<sup>18</sup> This was followed by the appointment of a ‘leadership’ by the CPP in January 2015. The current Minister of Interior and Deputy Prime Minister Sar Kheng along with deputies, Keat Chhon and Men Sam An (both Deputy prime ministers), are the principle interlocuters with the CNRP leadership, Sam Rainsy with deputy Kem Sokha and Yim Sovann on internal matters of the National Assembly and legislative issues. The leadership team will have their own offices and two to four additional secretaries in the NA.<sup>19</sup>

Following the July agreement the permanent committee and commissions of the National Assembly were also changed. For the first time since 2008 the opposition is now equally represented in the NA commissions. The CNRP chairs five of ten NA commissions, these includes the human rights commission, the woman affairs, education, the agriculture commission and the newly added anti-corruption commission. The CPP chairs the other five commissions including the powerful finance, defense and internal security, justice, industry and foreign affairs commissions.<sup>20</sup> The CNRP now holds, in the shape of its vice-president Kem Sokha, the first NA vice-presidency, although the party has not achieved equal representation in the thirteen member NA permanent committee composed of the ten chairs of NA commissions, the president, and two vice-presidents. The CPP holds the presidency and second vice-presidency. This provides the CPP more procedural influence in the NA, in particular agenda-setting of plenary sessions, over public and third party access to plenary sessions and NA working groups. With 55 NA seats, the CNRP is nonetheless able to initiate ‘no-confidence’ motions against ministers and the Prime Minister.<sup>21</sup>

The rule issued by the president of the NA remained controversial. The CNRP sought to include greater civil society, private citizen, expert and media input in the work of the NA commissions, in an effort to increase responsiveness, transparency and accountability of the legislative. But the CNRP has been constrained in this reform attempt by the President of the NA, Heng Samrin, who issued his own circular prohibiting civil society members, private citizens and the media from attending NA commission meetings. The circular stated that, ‘The commissions can ask the public or civil society for their opinions from a distance, but they are not authorized to attend the

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<sup>14</sup> Cambodia Daily: Parties Begin Drafting Minority Leader Rules, 03.12.2014

<sup>15</sup> Hun Sen cited in Cambodia Daily: Hun Sen Says Minority Leader Cannot Give Orders to Military, 05.12.2014

<sup>16</sup> Cambodia Daily: Hun Sen, Rainsy Settle Differences in Reform Deal, 29.11.2014

<sup>17</sup> Cambodia Daily: Opposition to Form ‘Shadow Cabinet’ in Parliament, 25.07.2014

<sup>18</sup> Cambodia Herald: Parliament Adopts Rules to Recognize Sam Rainsy as Minority Leader, 19.12.2014

<sup>19</sup> Phnom Penh Post: Sar Kheng to be National Assembly Majority Leader, 22.01.2015

<sup>20</sup> COMFREL Parliamentary Watch 2014

<sup>21</sup> Only need 30 seats of the national assembly as set out in the Cambodian constitution

commissions' meetings'<sup>22</sup>. The circular was criticized by civil society organizations. On 8<sup>th</sup> September, civil society organizations and international organizations, who were invited by the CNRP led NA commission on education, including the Cambodian Independent Teachers Association, Transparency International Cambodia, the Youth Council of Cambodia, UNESCO, UNICEF, and others, were barred from attending a hearing on the state of the education sector.<sup>23</sup> Beside civil society organizations, minor political parties not represented in the NA were not included in the ongoing reform process. An internal NA rule which prohibits political parties with less than ten NA seats from giving speeches in plenary sessions has not been abolished. In the recent past, minor parties like FUNCINPEC, NRP and HRP who had not obtained ten seats could not hold plenary speeches, effectively limiting their right of freedom of expression. COMFREL had previously demanded, without success, changes to this provision. A new internal regulation adopted in 2014 by CNRP and CPP allows elected political parties with at least 5% of National Assembly seats only to appoint a party leadership, who on behalf of the party can communicate with the majority and minority leader of the strongest parties in the NA. Currently no other political parties are represented in the NA.<sup>24</sup>

Current NA regulations and procedures remain weak. There is a lack of transparency and communication between the permanent committee and political parties over the law-making process. In practice, lawmakers often have little time to absorb the content of new bills prior to approval. Communication and information dissemination by the NA Secretariat-General has in past legislatures been consistently perceived as poor by some lawmakers. CPP lawmakers were seen to gain easier access to information than opposition parties. This was also the case in 2014 for the approval of the all important 2015 state budget. CNRP lawmakers claimed to have been informed about the new bill only a few days before its approval complaining that it contained a number of loopholes. Furthermore, important documents requested by CNRP have not been provided by the Ministry of Economy and Finance.<sup>25</sup>

Further problems remain, in particular political party seat swapping. At anytime, political parties can swap seats in parliament. There is no obligation to follow the ranking on candidate lists provided to the NEC before the election. In one instance, four high ranked CPP lawmakers were replaced after the election with candidates ranked lower on the list simply because of political considerations. For example, after the last national election, Hun Many, a son of Hun Sen, Sar Sokha, as son of Interior Minister Sar Kheng and Say Sam Al a son of acting CPP Senate President Chheang Vun retained NA seats after other higher ranked CPP lawmakers were forced to resign by the CPP's Standing Committee.<sup>26</sup> For the CNRP, the elected candidate for the province of Kampong Cham, Kuy Bunrouen was replaced by Sam Rainsy, despite the fact that he was not registered as candidate for the election.<sup>27</sup> The current practice follows political expedients ignoring compliance with law. The 'Law on Election of Members of the National Assembly (LEMNA) last revised in January 2013, stipulates in Art. 120, ' If a National Assembly Member loses his/her membership at least six (6) months before the end of the legislative term, the concerned political party may propose appointing a replacement by choosing another candidate whose name appears on the same party's list, in the

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<sup>22</sup> Cambodia Daily: Rule Changes Give Assembly President Broad New Powers, 19.09.2014

<sup>23</sup> COMFREL, et. al.: Joint Statement on National Assembly's President's Circular Not Following the Framework of Law and Principles of Effectiveness, Transparency and Democracy, 02.10.2014, [www.comfrel.org](http://www.comfrel.org)

<sup>24</sup> COMFREL Parliamentary Watch 2014

<sup>25</sup> COMFREL Parliamentary Watch 2014

<sup>26</sup> Cambodia Daily: Paths to Parliament Cleared For CPP's Powerful Sons, 08.08.2014

<sup>27</sup> Khmer Times: NEC Approves Sam Rainsy as Lawmaker, 25.07.2014

next descending order without holding a by-election'. Political parties in the above mentioned cases have not followed the 'descending order' to replace lawmakers. This practice might also put lawmakers under pressure to always strictly follow the party line, otherwise they risk losing their parliamentary seat. Although this can strengthen party discipline it can be a disadvantage if voters favored one political party over another because of a candidate's popularity.<sup>28</sup>

A particular weakness in 2014 was that the legislature lacked legitimacy in the first half year because of the CNRP parliamentary boycott. During this time the CPP controlled the legislature, chairing all NA commissions and occupying all positions within the NA permanent committee. The constitution, according to Article 76, requires that the NA shall consist of at least 120 members and Article 1 and 8 requires that the Kingdom of Cambodia follows the principles of a multiparty democracy. Despite the lack of legitimacy of the new legislature up to 22<sup>nd</sup> July 2014, some important laws were approved by CPP lawmakers. These included widely criticized new laws on the judiciary, which will be examined in more detail later in the report. In addition, only two out of a total of three laws and four international agreements approved and ratified by the NA were made publicly available before approval. The two laws made publically available were the 'Law on the Approval of the National Strategic Development Plan 2014-18' and the 'Law on Insurances'. Other laws and international treaties were not published before approval. These included the above mentioned laws on the judiciary, two multilateral agreements on ASEAN dispute settlement mechanisms, custom rules and two bilateral agreements with Vietnam on judicial assistance in civil matters and extradition.<sup>29</sup>

Despite these shortcomings, the performance of legislature to scrutinize the power of its members has improved in the second half of the year 2014. In total, 34 letters were submitted by lawmakers to the government to intervene, take action or respond to questions. This is an increase by 36% when compared to the previous year. Twelve letters were 'calls for action', nine letters 'calls for immediate intervention' and thirteen letters requested RGC officials answer questions. The CNRP also extensively used its right to question ministers and government officials in the second half of 2014. NA internal rules and procedures allow question sessions once a week. These must be requested in written form and approved by the President of the NA, Heng Samrin. The latter initially attempted to limit the sessions with an internal circular stating that any questioning of ministers or government officials would need prior approval from him and the Prime Minister.<sup>30</sup> After controversies over the lawfulness of the circular and criticism it would jeopardize the oversight powers of the legislative, Prime Minister Hun Sen responded to the concerns on 18<sup>th</sup> September 2014, allowing questioning of ministers and government officials without prior approval from him or Heng Samrin.<sup>31</sup>

In total, the NA questioned 13 ministers and three government officials. In September 2014 the new Minister of Education, Dr. Hang Chuon Naron was summoned after 75% of high school students failed the national exam.<sup>32</sup> This was followed, between October and December, by the summons of the Minister of Cults & Religions, Mr. Min Khin, the Minister of Water Resources and Meteorology, Mr. Lim Kean Hor, the Minister of Environment, Mr. Say Sam, the Minister of Agriculture, Forestry and Fisheries, Mr. Ouk Rabun, the Minister of Rural Development, Mr. Chea Sophara, the Minister

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<sup>28</sup> COMFREL: Parliamentary Watch 2014

<sup>29</sup> COMFREL Parliamentary Watch 2014

<sup>30</sup> Cambodia Daily: Rule Changes Give Assembly President Broad New Powers, 19.09.2014

<sup>31</sup> Prime Minister Hun Sen cited in Phnom Penh Post: The Rules of Engagement, 19.09.2014

<sup>32</sup> Cambodia Daily: Education Minister Called to National Assembly, 08.09.2014

of Public Affairs, Mr. Pich Bun Thin, the Minister of Water Resources and Meteorology, Mr. Lim Kean Hor, the Minister of Tourism, Dr. Thong Khon, the Minister of Culture and Fine Arts, Mrs. Pheu Sackana, the Minister of Labour and Vocational Training, Mr. Ith Sam Heng, the Minister of Health, Mr. Bum Bun Heng, the Minister of Social Affairs, Veterans and Youth Rehabilitation, Mr. Vong Soth and the Minister of Women Affairs, Dr. Ing Kantha Phavi. Also questioned were Phnom Penh Municipal Governor, Mr. Pa Socheatvong, Koh Kong Provincial Governor, Mr. Bun Leut on land conflicts, and the President of the Anti-Corruption Unit, Dr. Om Yentieng.

In the months August to December, eleven plenary sessions were held in which seven laws were debated and adopted. These included three laws on changes to internal NA rules, constitutional amendments on the organization and functioning of the NEC (later examined in this report) and a new 'Law on the Administration of Factory and Handcraft'. In addition, a law for the national budget 2015, and a new traffic law was adopted, and two international agreements were ratified. The latter included the 'Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity', and an 'Agreement on Cultural Cooperation Between the Governments of the Members States of ASEAN and the Government of the Russian Federation'.<sup>33</sup>

## 4.2 Judicial Power, Performance and Reforms

The judiciary continued to remain under the influence and control of the executive in 2014. Twenty years after the adoption of a liberal democratic constitution, judicial reforms to ensure and safeguard an independent judiciary and to foster the democratic rule of law have yet to be enacted. Judicial reforms continued to be blocked in 2014. This is simply due to a continued lack of political will within the the RGC to provide for a legal framework and constitutional provisions making the judiciary independent of legislative and executive power. It took eleven years to reform the legal framework to create a new 'Law on the Status of Judges and Prosecutors', a 'Law on the Organization and Functioning of the Supreme Council of the Magistracy (SCM)' and a 'Law on the Organization and Functioning of the Courts'.<sup>34</sup> In May 2014, new laws were approved by CPP lawmakers alone in the National Assembly and CPP lawmakers in the Senate in June. They were signed into law by King Norodom Sihamoni on 15<sup>th</sup> August.<sup>35</sup>

To date, these new judicial laws have not improved safeguards for the independence of the judiciary. Loopholes still exist allowing for undue political influence. In practice members of the judiciary are retained and encouraged to act as officers of the CPP, although article 15 of the law on political party prohibits officials of the court to carry out partisan activity. The CPP intended to legalise the partisan activity of court officials during the election campaign. The 'Law on the Status of Judges and Prosecutors' also requires judges and prosecutors in Article 8 and Article 77 to 'perform their functions and duties based upon legal principles, without pressure, threat or intimidation, .....'. For prosecutors this provision only applies to 'the exception of Article 75' which states that the executive represented by the Ministry of Justice (MoJ) 'is the chief of the prosecution'<sup>36</sup>. Currently, only one weak constitutional provision, Article 133 provides protection for judges from undue political influence. The article states that 'Judges should not be dismissed. However, the Supreme

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<sup>33</sup> COMFREL Parliamentary Watch 2014

<sup>34</sup> CCHR: Briefing Note – Judicial Reform, Phnom Penh Oct. 2014

<sup>35</sup> CCHR: Briefing Note – Judicial Reform, Phnom Penh Oct. 2014

<sup>36</sup> Law on the Organization and Functioning of the Supreme Council of Magistracy', unofficial translation by CCHR, Aug. 2014

Council of Magistracy shall take disciplinary actions against any judge (s) who makes mistakes’.

The ‘Law on the Organization and Functioning of the Supreme Council of Magistracy’<sup>37</sup> (SCM) also has no provisions to safeguard its independence from the executive. The SCM, a constitutional body, is responsible for promoting, appointing and disciplining judges and prosecutors. The SCM includes two high-ranking members of the CPP, other political parties are not represented. These are the Minister of Justice (MoJ), Ang Vong Vathana, a member of the executive and CPP Central Committee, and the President of the Supreme Court, Dith Munthly.<sup>38</sup> In addition, two SCM members are elected by an absolute majority vote by the Senate and NA in which the CPP holds a majority. Other SCM members include the Prosecutor-General of the Supreme Court and four judges, two of whom can also be appointed by the MoJ, providing another loophole for political influence. The SCM needs only five votes to make a decision (Article 11). To remove an SCM member it only requires ‘consent from at least six members’ (Article 5). The new law also provides loopholes for political influence on the SCM disciplinary committee of judges. The disciplinary committee is headed by the President of the Supreme Court. Moreover, the CPP led MoJ is obliged according to Article 23 to make ‘a preliminary examination and investigation to establish a disciplinary case before deciding to forward it to the Disciplinary Council of the SCM for further procedures’. Also, the SCM budget and administration are under MoJ control. Article 15 of the new law stipulates that ‘the MoJ is the legitimate budget authorizer’ and Article 8: ‘the General Secretariat is under the central administration of the MoJ’ and ‘shall be appointed upon request of the MoJ following consultation with all SCM members’<sup>39</sup>.

Likewise, no reforms were undertaken to ensure the independence of the Constitutional Council of Cambodia (CCC). The president of this nine member council, Ek Sam Ol is also a member of the CPP Standing Committee. The constitution, according to Article 139 does not prohibit membership in higher organs of a political party, except for the positions of party president or vice-president. According to article 137 of the Cambodian constitution, nine CCC members are appointed for a nine-year term, of which three are elected every three years by the King, three are elected by the NA and three are elected by the SCM. The ‘Law on the Functioning and Organization of the Constitutional Council’, approved in 1998, stipulates that only an absolute majority is needed in the NA and in the SCM to elect new constitutional council members. Decisions made by the CCC require only an absolute majority, if the vote is inconclusive the CCC President prevails. Considering that the CPP holds a NA majority, the CCC presidency and dominates the SCM, current provisions do little to safeguard the independence of the CCC.<sup>40</sup>

The new judicial laws and missing reforms to ensure the independence of the CCC were criticized by civil society organizations, in particular by human rights groups. The legitimacy of the approval of the new laws was also called into question because of the CNRP parliamentary boycott (June 2014).<sup>41</sup> Further, civil society organizations were excluded from the reform process. Prime Minister Hun Sen warned NGO’s not interfere in the judicial reform process.<sup>42</sup> An initiative organized by a network of human rights organizations petitioning the CCC ‘to declare the new judicial laws

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<sup>37</sup> Law on the Status of Judges and Prosecutors’, unofficial translation by CCHR, Aug. 2014

<sup>38</sup> see Cambodian People’s Party (CPP), website [www.cpp.org.kh](http://www.cpp.org.kh)

<sup>39</sup> Law on the Organization and Functioning of the Supreme Council of Magistracy, 22.12.1994

<sup>40</sup> Law on the Organization and Functioning of the Constitutional Council, April 1998 and 2007, official translation by the CCC and ‘Constitution of the Kingdom of Cambodia’, official translation by the Cambodian Senate, March 2008

<sup>41</sup> Phnom Penh Post: Eyes Turns to Legislation Passed Without CNRP, 23.07.2014

<sup>42</sup> Radio Free Asia: Hun Sen Warns NGOs Not to Interfere With Judicial Reform Legislation, 28.04.2014

unconstitutional<sup>43</sup> failed. The CCC approved the new laws on 3<sup>rd</sup> July.<sup>44</sup> Controversial court cases against labour unionists, civic and political activists, including CNRP lawmakers, corruption cases, a lack of law enforcement and proper court investigations and charges against members of the RGC security apparatus (as later examined in this report) seem to have strengthened this perception and undermined public trust in the judiciary.<sup>45</sup>

### **4.3 Executive Power, Performance and Reforms**

The newly formed government, like the legislative in the first year in office lacked political legitimacy. The post-election political crisis weakened executive performance and divided public opinion. COMFREL organized forums in December to allow citizens in focus groups score executive performance in 2014 on four sectors: 1: National defence, security and public order, 2: Improvement of public administration, decentralization and deconcentration, law and justice, and anti-corruption activities, 3: Development of economics and 4: Development of education, health, labour, culture and social affairs. COMFREL's 'Government Watch' found that of a total of 350 eligible voters surveyed in focus groups in Siem Reap and Phnom Penh, only 44.4% of respondents were satisfied with the executive performance, and among those most were only partly satisfied. The majority of 55.6% were dissatisfied. Indicators like 'Economic Development' with 48.1% and 'Development of Education, Health, Labor, Culture and Social Affairs' with 50.7% received the highest scores. The latter was mainly due to RGC announcements to increase spending on education and health in 2014. The other two indicators received lower scores, including 'National Defense, Security and Public Order' with 38.6%, and 'Improvement of Public Administration, Decentralization and Deconcentration, Law and Justice and Anti-Corruption Activities' with 40.3%. The scores of the focus groups indicated a division among the population along a 50% margin. COMFREL will release a detailed report about the focus group findings in February 2015<sup>46</sup>

The RGC's currently lacks legitimacy due to its failure to respect legal procedure because it was formed without following constitutional processes. The vote of confidence in Prime Minister Hun Sen, the proposed government and the vote for the leadership of NA were conducted with package vote on 24 December 2013 in the first plenary session. It was preceded with article 4 of the extra constitutional law, while it says in article 3 that if the objectives of procedures stipulated in articles 82 and 119 New of the Constitution cannot be achieved, article 4 of the extra constitutional law will be practised.

The RGC led by the CPP has increased the number of ministries to 28 as a result of the cancellation of the public service department. The government is currently comprised of 600 officials including 244 members of cabinet, 238 under general secretaries of state, about one hundred governmental advisors and other high ranking political officials. The number of governmental members has increased as there is no law or provision that stipulates how many ministries, members of cabinet, under general secretaries of state and governmental members elected by the government and the prime minister are. It is noted that for the fifth legislature, the number of female members of cabinet

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<sup>43</sup> CCHR; ADHOC, TIC; et. al.: CSO Statement – Demanding the Constitutional Council to Declare the Three Newly Passed Laws on the Judiciary Unconstitutional, 26.06.2014

<sup>44</sup> Cambodia Daily: Constitutional Council Approves Judicial Laws, Sends to King, 05.07.2014

<sup>45</sup> Special Rapporteur on the Situation of Human Rights in Cambodia, Prof. Surya P. Subedi: Press Statement, 23.01.2015; LICADHO: Statement – Unconstitutional Draft Laws Should Be Rejected, 15.06.2014; Human Rights Watch: Cambodia- Withdraw Fundamentally Flawed Judiciary Laws, 14.05.2014

<sup>46</sup> COMFREL Government Watch 2014



has increased by 17%.

Prime Minister Hun Sen, who has been in office for 30 embarked upon reorganization in response to what seemed to be a generational change within the executive. Most prominently, Finance Minister Keat Chhon was replaced by Finance Ministry Secretary of State Aun Porn Monireth. Keat Chhon served as Finance Minister from 1994 to 2013. The reorganization might also seek to strengthen the effectiveness and efficiency of governance. Among other institutions the Council of Court Reform was dissolved and its responsibilities delegated to the Ministry of Justice MoJ. Some speculated that the reorganization was undertaken to balance power distributions within the RGC.<sup>47</sup> The RGC also adopted a new 'National Strategic Development Plan 2014-2018' in July for which no consultations with the opposition had taken place.<sup>48</sup> The RGC plans to spend \$5.24 Billion for 500 projects in the next five years, of which 47.7 percent will flow into infrastructure projects, 32.2 percent into the economic sector and 12.4 percent into social affairs.<sup>49</sup> According to the new plan, key policy priorities include: good governance, combating corruption, legal and judicial reforms, reforms of the state administration and the armed forces, promotion of the agricultural sector, infrastructure, promotion of private business and industry, human resources and social and environmental sustainability.<sup>50</sup>

The challenges for the RGC are immense when newly published poverty rates by the RGC are examined. The province of Siem Reap, despite being the major growth area for tourism, continues to be among the poorest provinces in Cambodia with a poverty rate of 21.3%, higher than Kampot (20.3%), Phnom Penh (3.1%), Takeo (16.2%), Prey Veng (16.6%), Svay Reng (14.3%), Kandal (15%), Kampong Cham (19%), Kampong Chhnang (20.1%), Sihanoukville (11.9%), Battambang (20.1%), Pailin (17.7%) and Kampong Speu (17.5%). Poorer than Siem Reap are the provinces of Ratanakiri (28.6%), Oddar Meanchey (27.9%), Mondulakiri (26.1%), Preah Vihear (25.2%), Stung Treng (24.8%), Kratie (22.9%), Kampong Thom (22.9%), Koh Kong (22.7%), Pursat (22.3%) and Banteay Meanchey (21.3%).<sup>51</sup> The poverty rates point to a growing economic divide between south- and south-eastern Cambodia and the rest of the country with poverty rates above 20%.<sup>52</sup> According to a newly released ADB report in 2014, 'the international poverty line of \$1.25 per person per day, expressed in 2005 purchasing power parity (PPP) dollars, shows a sharp reduction in extreme poverty. In 2011, 10% of the population lived on less than \$1.25 per day, down from 31% in 2007, a drop of 21 percentage points in four years. However, in 2011, 41% of the population still lived on less than \$2 per day, and 72% lived on less than \$3 per day'<sup>53</sup>. Poverty vulnerability has grown to support claims that economic inequality is rising in Cambodia. According to the report, 'in 2007, 28.5% of the population fell between the \$1.25 and \$2.00 per day poverty lines. By 2011, this had grown to 31.2% of the population, or about four million people. The \$2 per day poverty rate

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<sup>47</sup> Cambodia Daily: After CPP Reshuffle, Sok An's Fiefdom Trimmed, 27.09.2014

<sup>48</sup> RGC: National Strategic Development Plan 2014-18, July 2014

<sup>49</sup> Cambodia Daily: Government Passes \$5,24 Billion Investment Plan, 08.09.2014

<sup>50</sup> RGC: National Strategic Development Plan 2014-18, July 2014, p. 104 f.

<sup>51</sup> Poverty rate calculation is projected based on sub-national level and declared as 'not official' in the national strategic development plan. Poverty rates are defined along five variables including assets (motorcycles, bicycles, house-types in village), facilities (electricity, clean water, sanitation in village), human endowments (illiteracy, school attendance in villages), work/productivity (non-farm employment, paddy productivity, less than one hectare farmer, dependency ratio in village), isolation (distance of village from urban center), compare *ibid.*, p. 8

<sup>52</sup> *Ibid.*, p. 7

<sup>53</sup> ADB: Executive Summary - Cambodia Country Poverty Analysis 2014, Mandaluyong City, Philippines: Asian Development Bank, 2014

increased from 40.7% in 2009 to 41.2% in 2011<sup>54</sup>.

Lack of government response to development discrepancies and financial transparency are illustrated by looking at the example of the tourism industry in Siem Reap. The current RGC tourism policy does not seem to provide for economic and social sustainable development in the province. This is despite the fact that Angkor Wat is a booming tourism destination in Southeast Asia. Numbers of tourists increased from about 300,000 in 2003 to five million visitors in 2014. Yet Siem Reap remains among the poorest provinces in Cambodia. Major controversies arose again between the government and opposition over the revenues generated from entrance ticket sales in the temple complex. For over a decade the controversy has centered on the RGC's decision allowing a private company SOKIMEX (Sok Kong Import Export Company) led by Sok Kong, a former CPP lawmaker to control ticket sales. SOKIMEX obtains a share of all ticket sales for its services. Details of the contract are not publicly known.<sup>55</sup> In November 2014, the NA commission on Education, Youth, Sports, Cult Affairs, Culture and Tourism, chaired by CNRP lawmaker, Son Chhay summoned the Minister of Tourism, Dr. Thong Khon for questioning over ticket sale revenues in 2014. Son Chhay accused APSARA, a governmental institution overseeing and managing the temple complex under the authority of the Council of Ministers, the Ministry of Commerce and the Ministry of Tourism, that the accounts for ticket revenues are not comprehensive. Son Chhay further accused the APSARA authority of 'embezzling millions of dollars from ticket sales for the Angkor Wat temple complex by interrupting and misinterpreting gate takings'<sup>56</sup>. The Minister of Tourism defended the latest revenue accounts reporting that as of October 2014 1.6 million international tourists visited Angkor Wat generating revenues of \$43million in ticket sales. The minister criticized the CNRP lawmaker for not providing any supporting evidence for his claim that APSARA had generated as much as \$150 million from ticket sales in 2014. Son Chhay insisted that the accounts do not match the figures provided by APSARA.<sup>57</sup>

As of November 2014 (December statistics were not available in January 2015) 4,574,986 foreigners visited Cambodia, of which 3,777,460 were international tourists, mainly from the Asia Pacific (2,931,633) followed by Europe (602,092), the Americas (228,996), the Middle East (10,347) and Africa (4,392).<sup>58</sup> According to APSARA, statistics as of January 2015 of these totals 2.02 million had visited Angkor Wat and 67 percent bought a one-day ticket costing \$20 (three day tickets cost \$40, one week tickets \$60).<sup>59</sup> According to these figures, only 53 percent of all international tourists had visited Angkor Wat in 2014. The Minister of Tourism announced that it would consider the commission's proposal that it control ticket sales and not SOKIMEX. In February 2015, it was announced that the APSARA authority will be summoned for questioning over the ticket sales to the NA the following month.<sup>60</sup>

Other instances of a lack of transparency and ambiguous financial controls also came to light during controversies surrounding the 2015 national budget. The national budget cannot be thoroughly

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<sup>54</sup> Ibid.

<sup>55</sup> Radio Free Asia: Angkor Wat Authority Defends Reported Ticket Revenues, 29.12.2014

<sup>56</sup> Cambodia Daily: Angkor Park Authority Says \$9M Lease Fee 'not gone', 09.01.2015

<sup>57</sup> Radio Free Asia: Angkor Wat Authority Defends Reported Ticket Revenues, 29.12.2014

<sup>58</sup> Ministry of Tourism: Tourism Statistics Report - Nov. 2014, [www.tourismcambodia.org](http://www.tourismcambodia.org), accessed on 23.01.2015

<sup>59</sup> Agency Kampuchea Press (AKP): Revenue from Angkor Ticket Sales Reaches Over \$59 Million Last Year, 20.01.2015

<sup>60</sup> Phnom Penh Post: Parliament Questions Angkor Revenue, 20.11.2014; Phnom Penh Post: APSARA Summoned to Account for Ticket Sales, 03.02.2015

scrutinized by the legislative because only aggregate figures, not details of budget are provided to the NA. This leaves open to question what exactly the RGC spends public money on.<sup>61</sup> The new Minister for Finance, Aun Porn Monireth was summoned on 25<sup>th</sup> November by the NA commission in charge of public financial affairs and confirmed problems with current budget procedures, and promised reforms.<sup>62</sup> Looking at the 2014 national budget, the RGC spends US\$3.4 billion including in the budget which 44% or US\$ 1.5 billion was not allocated. It may have spent 23.3% on social affairs, 13.8% on national defence and security, 8.9% on the economic sector, and 8.2% on general administration. The expenditure on social affairs is the highest of the four sectors. But only a few days later, the new budget of \$3.92 billion for 2015 was approved with a vote by CPP lawmakers. The 55 CNRP lawmakers boycotted the vote criticizing RGC's lack of transparency in procedures and information on the new budget.<sup>63</sup>

In other areas of public finance the RGC has become more responsive in an effort to regain lost voter support through the distribution of financial incentives for civil servants, military, police and garment workers, and by reallocating more public finances to education and health. Teachers and nurses received salary increases in August.<sup>64</sup> Salaries of low-ranking soldiers and police officers were increased in January 2015.<sup>65</sup> Low-ranking civil servants in the state administration had received a 40 percent increase in their minimum salaries, starting in September 2013. This followed government promises to gradually raise minimum wages of all civil servants to \$250 per month by 2018. Before the 2013 elections, civil servants received a minimum wage of \$50 per month.<sup>66</sup> The RGC was also forced to respond to labour strikes and related losses in voter support among 600,000 garment workers. Garment worker salaries were increased in 2014 from \$90 to \$128 in November, though they still fall short of the \$140 demanded by labour unions. This followed tax exemptions for garment worker on salaries below \$200, water and electricity bill subsidies for workers and students and announcements to draft a law to set maximum rental prices for labour accommodation.<sup>67</sup> The RGC also approved public expenditure increases for public health and education services. The national budget for education was increased by \$114 to \$449 up from \$335 million in 2013 and for health by \$80 million to \$324 million up from \$244 million in 2013.<sup>68</sup>

Despite the increase in social public expenditures the RGC continued in 2014 not to respond to public pressures in other key policy areas widely thought to have contributed to a loss of votes for the CPP. These were policies to resolve land conflicts, protect property rights and to reform the security apparatus. The last few years have witnessed some of the worst cases of land grabbing. According to ADHOC, 770,000 citizens have been adversely affected by land grabbing from 2000 to 2013. The human rights organization LICADHO reported that land conflicts were again on the rise

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<sup>61</sup> Transparency International Cambodia: Corruption and Cambodia's Governance System – The Need for Reform. National Integrity System Assessment 2014, Phnom Penh

<sup>62</sup> Cambodia Daily: Details Still Murky for 2015 Budget, 25.11.2014

<sup>63</sup> Cambodia Daily: CPP Lawmakers Push Through \$3.8 Billion Budget for 2015, 19.11.2014

<sup>64</sup> Cambodia Daily: Hun Sen Announces Raises for Teachers, Nurses, 22.08.2014

<sup>65</sup> Cambodia Daily: Low-ranking Police, Soldiers to See Salary Increases, 14.01.2015

<sup>66</sup> Phnom Penh Post: Government Announces Wage Raise for Civil Servants, 24.10.2014; Phnom Penh Post: Civil Servants to See Raise, 08.08.2013

<sup>67</sup> Voice of America: Unions Back Down on Planned Strike, 12.03.2014; Phnom Penh Post: Minimum Wage Set, 13.11.2014; Cambodia Daily: Workers Earning Up to \$200 To Avoid Salary Tax, 08.01.2015; Khmer Times: Water Authority Considers Subsidy For Garment Workers and Students, 24.01.2015; Phnom Penh Post: Workers Set to Get Electricity Deal, 15.01.2015; Phnom Penh Post: Rental Control Plan Afoot, 11.02.2015

<sup>68</sup> Kyodo News International: Cambodia's Parliament Approves \$3.9 Billion Budget for 2015, 29.11.2014

in the first quarter of 2014.<sup>69</sup> A land titling program initiated by Prime Minister Hun Sen before the 2013 election measured 660,000 plots of land and issued 380,000 land titles. After the election the land titling program did not fully resume, in some areas land titles were issued, but sporadically.<sup>70</sup> In February 2015, LICADHO reported that in 2014, 49,519 individuals were affected by new cases of land conflict and that 10,625 families had filed complaints, up from 3,475 in 2013 and 5,672 in 2012. The RGC criticized the LICADHO report claiming the figures are inflated and that land disputes have gradually declined from 990 in 2013 to 750 complaints in 2014.<sup>71</sup>

Similarly, no reforms of the RGC security apparatus were undertaken in 2014. Throughout the year the RGC security apparatus used excessive force against labour unionists, civil and political activists. No court proceedings against members of the security forces directly involved in the deaths of four protesters, the disappearance of 16-year old boy during the protests and injuries to dozens more, took place. However, RGC has set up two special commissions to investigate violent incidents during demonstrations, in particular the killings of four labour protesters in January, the disappearance of the 16-year old boy during the protest and other violent incidents involving the injuring of security guards during a CNRP protest in July.<sup>72</sup> But so far no information on the findings of the commissions has been released. At the same time, a number of high ranking security officials have been promoted and incorporated into the CPP Central Committee after its 37<sup>th</sup> national party congress held in January 2015. Prime Minister Hun Sen praised the RGC security apparatus for their role in establishing public order.<sup>73</sup>

#### 4.4 Corruption and Misuse of State Resources

Corruption remains a persistent problem in Cambodia's governance system and is perceived by a diverse set of national and international stakeholders as one of the main causes of poor governance, underdevelopment, poverty and a lack of democratic progress in the country.<sup>74</sup> A newly released report from Transparency International Cambodia in 2014, states that 'reports, case studies and international indicators show persistently high levels of 'grand' corruption, 'petty' corruption and political corruption in Cambodia'<sup>75</sup>. Political Corruption is defined by Transparency International Cambodia (TIC) as 'the manipulation of resources, policies and state institutions by political power-holders who abuse their position to sustain their status and wealth'. Grand corruption is defined as 'corrupt acts committed at a high level of government, enabling leaders to benefit whilst perverting the public good'. Petty corruption is defined as 'low to mid-level officials who abuse their entrusted power in everyday interactions with ordinary citizens such as in the course of service delivery'<sup>76</sup>.

After almost two decades of a non-existent anti-corruption policy and an ineffective audit policy of public financial operations, in 2010 the RGC launched an initiative to combat corruption. National auditing mechanisms had already been established in 2000 with a 'Law on Audit' and the

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<sup>69</sup> LICADHO: Statement - 2014 Brings New Wave of Cambodian Land Conflicts, 01.04.2014

<sup>70</sup> ADHOC: Land Situation in Cambodia 2013 – Executive Summary, Phnom Penh April 2014, p. 2f.

<sup>71</sup> LICADHO: Statement – Renewed Surge in Land Disputes Must Be Addressed Not Denied, 19.02.2015; Xinhua News Agency: Cambodia Says Land Disputes Gradually Decline Over a Decade, 21.02.2015

<sup>72</sup> CCHR: Briefing Note – Impunity in Cambodia, November 2014

<sup>73</sup> Cambodia Daily: Military, Police Top Brass Get Party Promotions, 02.02.2015; Cambodia Daily: Hun Sen Hands More Four-Star Promotions to 6 Police Chiefs, 06.02.2014; Phnom Penh Post: PM Lauds Military for Handling of Protests, 21.02.2014

<sup>74</sup> See for example Cambodia Daily: ADB Report Links Corruption, Political Culture in Cambodia, 10.12.2012

<sup>75</sup> Transparency International Cambodia (TIC): Corruption and Cambodia's Governance System – The Need for Reform. National Integrity System Assessment 2014, Phnom Penh September 2014. p. 17

<sup>76</sup> Ibid., p. 17

establishment of a National Audit Authority (NAA), but the NAA remained ineffective. Only in September 2009 did the NAA publish for the first time an audit report on Public Financial Management in 2006 (three years after the fiscal year) and another one in 2011 on Public Financial Management in 2007 (four years after the fiscal year).<sup>77</sup> The Asian Development Bank (ADB) concluded with an assessment of Cambodia's National Audit Authority in 2014: 'The National Audit Authority has been improving external audit scrutiny of government expenditures, revenues, borrowings, and assets. It is, however, constrained by its inadequate capacity, resulting in its inability to extend its audit coverage to all sizable ministries and government institutions'<sup>78</sup>. The lack of transparency and accountability in RGC financial operations contributes significantly to the perception that corruption is a persistent problem of the current governance system and explains to a significant extent the lack of public confidence in the RGC state administration. According to the Corruption Perception Index of Transparency International, Cambodia in 2014 ranked 156 out of 175 states. There was a slight improvement from the previous year, when Cambodia was ranked 160<sup>th</sup> out of a total of 177 states. No other ASEAN member state has such a low ranking except Myanmar, which has the same ranking as Cambodia (156 out of 175 states covered).<sup>79</sup>

The RGC seems to have recognized, as a matter of urgency, the scale of the problem. The first anti-corruption bill was finally passed on 1<sup>st</sup> April 2010, an incredible fifteen years after the first draft law on anti-corruption was debated. After criticism by different national and international stakeholders, the law was amended two months later to provide safeguards for the independence of the Supreme National Council of Anti-Corruption (NCAC) and the Anti-Corruption Unit (ACU). The law stipulated that the NCAC budget will be controlled by the RGC. This allowed the RGC to influence the NCAC which is supposed to scrutinize control of public spending and revenues of the RGC. The amended law now requires that the NCAC be financed from the national budget, which is under the control of the NA.<sup>80</sup> However, concerns about the independence of the NCAC and ACU persist to this day. Current laws require that the eleven NCAC members be elected for a renewable term of five years from members of the NA, the Senate, the National Audit Authority, the Supreme Council of Magistracy, the Council of Legal and Judicial Reform, the Council of Jurists, the Cambodian Human Rights Committee, the King, the RGC and the Ministry of National Assembly-Senate Relations. This seems to guarantee the independence of the NCAC. But the ACU chairman is appointed by the Prime Minister. Prime Minister Hun Sen has indeed nominated a close political advisor, Om Yentieng as chairman of the ACU. The influence of the chief executive on the ACU raises suspicions that the current ACU chair might not follow the guidance of the NCAC but the guidance of the chief executive and this could prevent charges and prosecution of high-profile cases or to misuse of the ACU against political opponents.<sup>81</sup>

The approval of the new laws and the establishment of the NCAC and ACU followed the adoption of a policy framework referred to as the 'Five-Year Strategic Plan 2011-15, Anti-Corruption Strategy and Politics'<sup>82</sup>. Anti-corruption campaigns, official declarations of assets and liabilities of government officials to the ACU, cooperation with UNDP and OECD to combat illicit financial flows and an increasing number of investigated corruption cases in 2014 seems to suggest that anti-

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<sup>77</sup> NGO Forum of Cambodia/Open Budget Survey 2012: Budget Transparency Brief, No. 3, January 2011, p. 3-4

<sup>78</sup> ADB: Country Partnership Strategy, Cambodia 2014-2018, Sector Assessment (Summary), November 2014

<sup>79</sup> Transparency International: Corruption Perceptions Index 2014: Results, accessed on 10.02.2015; Cambodia Daily: ADB Report Links Corruption, Political Culture in Cambodia, 10.12.2012

<sup>80</sup> COMFREL: Democracy, Elections and Reform, February 2012. p. 8

<sup>81</sup> COMFREL: Democracy, Election and Reform - Annual Report 2011, February 2012, p. 8

<sup>82</sup> ACU/NCAC: Five-Year Strategic Plan 2011-15, Anti-Corruption Strategy and Politics, Phnom Penh 2010

corruption policies are becoming more effective. The ACU/NCAC announced in January 2015 that ‘70% of officials, which accounts for 10,683 individuals have declared their assets and liabilities for the past two years. One hundred per cent of officials obliged to do so from three government institutions (Ministry of Land Management, Urban Planning and Construction, Ministry of Planning and the National Election Committee) have declared their assets and liabilities. In addition to this, 95% of obliged officials from the 13 provinces and the capital have declared their assets and liabilities. Eighty three percent of senior armed forces officials, which accounts for 2,748 officials, and 70% of senior police officials which accounts for 1,414 officials have declared their assets and liabilities’<sup>83</sup>. The question is why have only 70% of civil servants and senior police officers and 83% of military officers declared their assets and liabilities to the ACU?. The ACU further reported that a total of 1,008 complaints had been forwarded to the ACU in 2014, 50% of which were anonymous. Only 49% of the total 889 complaints until 15<sup>th</sup> December led to investigations by the ACU. The reasons for their non-acceptance by the ACU have not been publicly disclosed. According to the ACU, among the excepted cases, most related to ‘unlawful exploitation of public service deliveries, extortion, and improper bidding and procurement offenses’<sup>84</sup>. In January 2015, ACU/NCAC announced a campaign to eliminate ‘ghost officials’ on the payrolls of the state administration, in order to strengthen its outreach to the provinces, strengthen internal anti-corruption mechanisms, to seek closer cooperation with the NA anti-corruption commission and to draft a law protecting ‘whistleblowers’ from prosecution should they report evidence supported corruption cases.<sup>85</sup>

Although the efforts of the ACU are acknowledged, it seems anti-corruption policies have become more effective. That said, for almost two decades, the problem was ignored, allowing corruption to become a deeply entrenched structural political economic governance problem. The current work of the ACU is a watershed change in these practices, though late in coming. However, questions about the work of the ACU remain; in particular how effective really is the current anti-corruption policy and what are their underlying political aims? Corruption cases investigated by the ACU seem to target mainly lower ranking RGC and police officials. Only two higher ranking cases on a national level were reported in 2014 involving the prosecution of a former director of inspection of the Ministry of Post and Telecommunication, and investigations into allegations against officials of the Ministry for Transport for misuse of a performance-based bonus system.<sup>86</sup> According to ACU figures, 34% of complaints in 2014 concerned high-ranking RGC officials who had been appointed to their position by royal decree or sub-decree.<sup>87</sup> Among lower-ranking cases brought forward, the ACU reported extortion charges against a former director of the provincial tax branch of Preah Vihear province, investigation of charges against the former director of the vocational training center of the Takeo Provincial Department of Labor and Vocational Training for the embezzlement of about \$315,000, and investigations against a former district police chief suspected of stealing \$678,000 from the state and citizens during his seven years in office, and charges against a former deputy chief of the provincial administration of Banteay Meanchey who was arrested on charges of

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<sup>83</sup> ACU/NCAC: Announcement on the 49<sup>th</sup> Session of the National Council Against Corruption, 27.01.2015

<sup>84</sup> ACU/NCAC: Announcement on the 48<sup>th</sup> Session of the National Council Against Corruption, 17.12.2014

<sup>85</sup> ACU/NCAC: Announcement on the 49<sup>th</sup> Session of the National Council Against Corruption, 27.01.2015; The Cambodia Herald: Anti-Corruption Unit and Parliament Seeks Closer Cooperation, 26.11.2014; Phnom Penh Post: Watchdog Praises Plan For Whistleblower Law, 28.11.2014

<sup>86</sup> Phnom Penh Post: Seven Years Sentence Follows ACU Arrest, 11.10.2014; Cambodia Daily: Transport Minister Defends Self-Granted Bonuses, 10.07.2014

<sup>87</sup> ACU/NCAC: Announcement on the 48<sup>th</sup> Session of the National Council Against Corruption, 17.12.2014

document forgery and selling a duplicate land title.<sup>88</sup>

A further weakness of Cambodia's governance system remains the continuing practice of misuse of state resources for political party purposes. COMFREL has been observing and reporting on this issue since 2012.<sup>89</sup> The RGC has formulated no policies to prevent this practice. In 2014, COMFREL found in total 60 cases of misuse of state resources, including gift-giving ceremonies and invitation of members of the armed forces and civil servants to CPP party meetings in order to mobilize and sustain CPP support. It was observed that civil servants, court officials and members of the armed forces often carry out duties at CPP events during working hours. Most cases were observed in Phnom Penh, Kandal and Kampong Thom. As outlined in previous reports, civil servants and armed forces are required to be impartial in their function as public officials, and laws prohibit the use of public sources including state personnel for political party purposes. The current practice blurs the lines between state and party, creating the perception that public services depend on party affiliation.<sup>90</sup>

The Cambodian People's Party (CPP) integrated not only many court officials but at least 80 senior officials of the armed forces, military and police became new members of its Central Committee at the extraordinary congress at early 2015. Members of the CPP's powerful Committee, its top political structure decide on key issues of domestic and foreign policy, designate officials, manage finances and budgets thereby bolstering the party's strength. This means that members of the Central Committee are political players as CPP officers who have an obligation to serve the interests and carry out activities of the party. The inclusion of court official and armed forces is considered a violation of Cambodian constitution in article 128 which states that the "Judiciary is an independent body", and in the spirit of the constitution on strengthening and defending national unity and the principles of a liberal multi-party democracy in the new article 51 and in other laws. The law on political parties, article 15 states that "...Judicial officials, royal armed forces, and national police can be members of any political party but shall not act to support or oppose any political party." In addition, "the political party must not be involved in the appointment structure of the judicial body, the Royal Cambodian Armed Forces and national police.

## 5. Democratic Elections

The electoral reform initiative launched by the CPP and CNRP allowed for cautious optimism that improvements to Cambodia's elections process were underway. In October 2014, a reform of the composition of the NEC was approved by CNRP and CPP lawmakers, including constitutional amendments and the drafting of a new 'Law on the Organization and Functioning of the NEC'. Other major reform proposals negotiated in 2014 included revisions of the LEMNA, reform of the voter registration and of the number of NA seats allocated for elections. Notwithstanding these promising reform attempts, negotiations were not concluded in 2014. It is uncertain if envisaged reforms will improve the election process. This is because constitutional amendments and the above mentioned new NEC law to change the NEC composition have not yet been implemented. NEC members were not elected in 2014. Negotiations for revisions of the LEMNA continued into 2015.

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<sup>88</sup> ACU: Press Release, 13.02.2014 and 'Anti-Corruption Unit is Seeking To Arrest the Accused Named Chea Sophal, Accused of Corruption Charges, 10.01.2014; Cambodia Daily: Police Chief Accused in \$678K Corruption Case, 03.10.2014; Cambodia Daily: Former Banteay Meanchey Official Arrested For Corruption, 13.01.2014

<sup>89</sup> COMFREL: Report on the Misuse of State Resources For Political Party Purposes in 2011, May 2012

<sup>90</sup> Ibid., p. 2 f.; COMFREL Government Watch 2014

Civil society organizations (CSOs) were excluded from the electoral reform process. In October 2014, the ‘Electoral Reform Alliance’ (ERA), a group of more than 20 civil society organisations, including ADHOC, the Coalition for Integrity and Social Accountability (CISA), COMFREL, LICADHO, NDI, NICFEC, the People Center for Development and Peace (PDP) and Transparency International Cambodia (TIC) submitted a request to gain access to details of the negotiations, but ERA did not receive an answer from either side, although some information leaked to the public. The Joint Committee for Electoral Reform of CPP and CNRP announced that consultative workshops with CSOs will be held after the draft of the new LEMNA is submitted to the NA.<sup>91</sup>

In May 2014, sub-national elections were held. The elections were generally peaceful and unconstrained during the campaign period, despite a ban on assemblies in the first week. After the CNRP defied the ban, the RGC allowed the campaign to go ahead. COMFREL did not observe the elections directly because it considers them in current form to be a financial burden with questionable political outcomes. The NEC spent 1.7 million USD for the indirect election with closed party list system. Considering that the councils are indirectly elected by commune councillors, who voted their party list, the election results were predictable. With a few minor changes COMFREL correctly pre-calculated the election results in April 2014 before the elections were held.<sup>92</sup>

### **5.1 National Election Committee (NEC) Reform**

Lack of confidence in the impartiality and transparency of the NEC and sub-ordinated provincial and commune election commissions have a long history in Cambodia’s electoral process and were identified as a major cause of electoral disputes in all past elections. Whereas the first National Assembly elections in 1993 were conducted by UNTAC, the national elections in 1998 were the first to be organized and managed solely by Cambodian authorities. At this time, the NEC was composed of eleven members, of whom the chairperson and vice-chairperson were chosen from ‘distinguished professionals’ by the RGC thought to be close to or formerly affiliated with the CPP. Two were chosen from the CPP led Ministry of Interior (MoI), two citizen’s representatives, one representative from each political party represented in parliament (in 1998 four parties) and one representative from NGOs. The eleven member committee was required to be impartial, independent and approved by an absolute majority of the NA, dominated at this time by the CPP. The majority of NEC members were perceived by most electoral stakeholders to be biased towards the CPP.<sup>93</sup>

In 2003, the composition of the NEC was reduced from eleven to five members in an effort to make the administration more efficient. Serious questions concerning its independence remained. NEC members were now recruited by the CPP led Ministry of Interior, proposed by the executive cabinet and approved by an absolute majority of the National Assembly. The NEC budget also continued to be controlled by the government.<sup>94</sup> Following the electoral disputes after the 1998 and 2003 elections, the NEC composition was again changed in 2006 to improve its image as a balanced entity among elected political parties. Five members were appointed by the CPP led MoI and two by

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<sup>91</sup> ERA: Open Letter to Leaders of Cambodian People’s Party and Cambodia National Rescue Party, 07.10.2014

<sup>92</sup> COMFREL: Democracy, Election and Reform, April 2013. p. 28 f.

<sup>93</sup> COMFREL: 1998 National Assembly Elections – Final Report and Assessment, p. 11 f.

<sup>94</sup> COMFREL: 2003 National Assembly Elections – Final Report and Assessment, p. 19 f.



each political party represented in the National Assembly (FUNCINPEC and SRP).<sup>95</sup> Despite this change, the CPP continued to hold a majority in the NEC and could easily overrule the other four members elected by the SRP and FUNCINPEC. The composition of the NEC, apart from replacements of some former affiliated CPP members, remained unchanged for the 2013 national election and was once again one of the major causes of election disputes and the post-election political crisis.<sup>96</sup>

Following the July agreement, CPP and CNRP lawmakers unanimously passed in October constitutional changes that will make the NEC a constitutional and independent institution, with bipartisan selection under the auspices of the national assembly.<sup>97</sup> The constitutional amendment, chapter 15, Article 151 stipulates that four of the nine members must be recruited by the governing party and four by other political parties represented in Parliament. A list of the ninth member, vicechair and chair shall be endorsed by the NA.<sup>98</sup> An additional, but not yet approved draft 'Law on the Organization and Functioning of the NEC' from 1<sup>st</sup> December specifies no procedures on how to decide on a consent candidate, and how political parties represented in parliament select the NEC members. Instead it leaves the NA permanent committee to determine 'the modalities and procedures for the selection of candidate members of the National Election Committee' (Article 6). A formerly negotiated 'compromise candidate' has to be agreed upon by both parties. LICADHO President Mrs. Pung Chhiv Kev was accepted by both parties. However, both parties made the decision that the new NEC commissioners shall have single citizenship. Mrs. Pung Chhiv Kek has dual nationalities. In December a proposed draft law on the organization and functioning of the NEC (draft law on the NEC) has been agreed by the joint commission of election reform of both parties. The ERA found out that there have been significant changes to 24 provisions of the draft law on the NEC while 15 provisions are positive or better than existing provision and 9 provisions are negative or uncertain or worse than existing provisions. The annex includes a detailed assessment in table form of the key changes to the draft law on NEC.

The provisions are positive with specific qualifications and conflicts interest related to nepotism/cronyism in selecting/recruiting and appointing members of the NEC. Existing law's provisions, for instance article 5 states that "qualified criterias for NEC membership are aged at least 35 (thirty five) years old on the day of appointment, holding a degree in higher education with at least 10 (ten) years experience and not a spouse or a relative by blood or relative by marriage through the third generation of the President or Vice-president of a political party competing in the elections".

The CPP refused this proposal on the grounds that immunity of NEC members is not provided to elected bodies anywhere else, thus in their view contradicting international best practice.<sup>99</sup> The new provision is positive related to the legal protection such as his/her security and even his/her family members, decriminalizing and not subject to any civil liability for the decision they make under their competency and function. Article 13 states that "the chairperson, vice-chairperson and members of the National Election Committee shall carry out their duties impartially, based on the principle of respect for law, without pressure, threats, intimidation or instruction, either directly or indirectly, from any person or institution. Personal security and safety of the chairperson, vice-

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<sup>95</sup> Ibid., p. 61 f.

<sup>96</sup> Ibid., p. 45 f.

<sup>97</sup> Cambodia Daily: Hun Sen, Rainsy Settle Differences in Reform Deal, 29.11.2014

<sup>98</sup> COMFREL Election Watch 2014

<sup>99</sup> COMFREL Election Watch 2014

chairperson and members of the National Election Committee and those of their family shall be guaranteed as needed at their request. The chairperson, vice-chairperson and members of the National Election Committee shall not be subject to any criminal or civil responsibility for the decision they make under their competency and function”. The provisions of articles 17, 31 and 39 are also positive with transparent selection and constitution of recruiting/selecting commission to select that the composition of the Provincial/Municipal Election Commissions, commune election commission and polling / counting commission.

The draft law on the NEC requires that ‘the Chairperson, Vice chairperson and members of the NEC shall be appointed by Royal Decree at least six months after the new National Assembly starts’ (Article 7).

The provisions are negative with less respect on amendment of the constitution -Chapter 15 and ignorance of the implementation of political solution agreement on 22 July 2014 and 28 November 2014. For instance, article 61 states that the Chairperson, Vice-Chairperson and members of the current National Election Committee shall continue to perform their duties until the Chairperson, Vice-Chairperson and members of the National Election Committee appointed in accordance with the provisions of this Law take their office. The provision of article 59 is significantly negative with only the National Treasury, known as “Trust Fund Account for Election” Article 59 states that a special account shall be established at the National Treasury, known as “Special Fund Account for Election”, for the National Election Committee to administer in the conduct of the electoral work. The electoral Fund obtained from various contributions of the Royal Government, foreign governments, international organizations, charitable individuals, non-governmental organizations and legitimated sources through only the national treasury. In order to ensure the independence and effectiveness of fund management and fully functioning of its work, the ERA suggests the retention of the previous provision which is more open for development partner funds and foreign trust aid in which some of those foreign aid contributions for election fund is able to operate out of national treasury. the budget and fund of the NEC must be made through the National Treasury, and may be operated out of the National Treasury Operation Account when and if donors require it. During the year of elections, the National Assembly should immediately approve the allocated financial budget for the NEC with 100% in advance.

The deadline would have been on 5<sup>th</sup> February 2015 agreed by the leaders of CPP and CNRP in November 2014, but neither the proposed draft law nor NEC members have been approved by then. The first negotiation agreement in August 2014 was to establish the new NEC before the adaptation of amendments of the National Assmebly election laws while the new NEC is allowed to participate in discussion on proposed draft election law. Suddenly, in September both parties changed their agreement that both laws be adopted, NEC law and election law, before the establishment of new NEC. So far the CPP and CNRP have fallen behind their own set schedule in electing new NEC members.

The prolonged negotiations into 2015 raises concerns that CPP and CNRP may actually fail to agree on the composition of a new NEC.<sup>100</sup> This would be a particular disadvantage to the CNRP, who agreed on the following provision in the proposed draft law: ‘In case of failure to organize the membership of the National Election Committee, the existing National Election Committee shall continue to implement its work and be competent to administer and organize elections according to

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<sup>100</sup> Cambodia Daily: Sar Kheng Says, Parties Must ‘Reorient’ to Save Deal, 30.01.2015

the law in force'. Should the CNRP and CPP not agree, the currently active NEC remains in place with no possibility of legal redress. The CNRP would have to accept the existing NEC or agitate against the new NEC law (if approved) and the constitutional amendment which CNRP approved together with the CPP.<sup>101</sup>

During the negotiation process of the Joint Commission on Electoral Reform, the ERA proposed an alternative draft on the organization and functioning of the NEC. Among other proposals it suggested leaving the election of the NEC chair and vice-chair to the discretion of the nine NEC members elected from political parties represented in parliament. The NEC members could either adopt a consensus or majority rule for the election of its chair and vice-chair. Other ERA proposals included the establishment, under NEC authority, electoral dispute resolution commissions on national, provincial and community levels in order to better facilitate and resolve electoral disputes, and a state run media oversight commission to ensure freedom of election information and an equal level-playing field for all contesting political parties in elections. The proposed draft law that states members of the NEC can be appointed from members of political parties, and as such might not be perceived as impartial and independent, although they have to resign from their functions during time in office and can only return to a party function two years after ending their mandate (Article 8). This could lead to a renewed lack of confidence in the impartiality and independence of the NEC, though none of these parties, including FUNCINPEC have yet to publicly criticize their exclusion from the current electoral reform process. The best model would be to recruit individuals from outside the political sphere who are widely perceived by the public and among political parties themselves to be impartial and independent. Unfortunately, neither the CPP nor CNRP have demanded reforms in this direction. Party politics accordingly continues to play a role in the electoral process.

The provisions of articles 56 and 57 are negative with concern to a separate statute of the general secretariat ( or the executive of the new NEC) to be determined by a Royal Decree at the request of the National Election Committee after obtaining approval from the Ministry of Civil Service. The working method is under the sub-degree of the executive in which the Prime Minister has discretionary power to issue the degree. Article 57- states that the organization and functioning of the General-Secretariat of the National Election Committee shall be determined by a sub-decree at the request of the National Election Committee. Although the NEC is now 'structurally independent and constitutional body' from the executive of the government, the proposed draft law does not ensure NEC's executive enjoys independence.

## **5.2 Electoral Law Reform (Law on Elections of Members of National Assembly -LEMNA)**

After finishing the draft law on the NEC the Joint Committee for Electoral Reform negotiated in 2014 revisions of the LEMNA. But details of the negotiated agenda to revise LEMNA were only partly disclosed to the public, despite a joint statement of the CPP and CNRP that stated, *'to prepare the ground for electoral reform, this committee must prepare a national workshop that must be open to and welcome national and international experts, development partners, registered parties, civil society with election expertise, and other relevant actors. This must also insure the involvement of citizens through public consultation workshop'*<sup>102</sup>. Also, COMFREL in 2014 lacked access to information on the details over LEMNA revisions. The joint statement made on February 18<sup>th</sup> only outlines *'to research and prepare electoral reform in the future to ensure*

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<sup>101</sup> Cambodia Daily: Lawmakers Enshrine Election Panel in Constitution, 02.10.2014; COMFREL Election Watch 2014

<sup>102</sup> CPP-CNRP Joint Statement, 18<sup>th</sup> February 2014, unofficial translation

*elections are free and fair*' without providing details. The 22<sup>nd</sup> July agreement stated only *'to discuss on the agenda of election reform in the future (...) in which it also includes new voter registration procedures'*. Between July 2014 and January 2015 LEMNA reform proposals came to be known mainly through the media and roundtable discussions of ERA with other election stakeholders with participation of CNRP representatives of the joint commission on election reform.<sup>103</sup> Below are key issues that have been recently updated and discussed.

### **5.2.1 Election Campaign and CSOs**

LEMNA rules for election campaigns were negotiated, including time limitations, new rules for the role of CSOs in the electoral process, and partisan engagement with election campaigns of court officials, police and armed forces. The CPP proposed to limit the official election campaign activity and schedule, arguing that this will prevent traffic jams during the official campaign period.<sup>104</sup> The CNRP opposed the proposal. The CPP would agree on an official campaign period of 21 days, while the CNRP demanded the official campaign period should last 25 days and limit street rallies to only four days of the official campaign period.<sup>105</sup>

Although the final outcome of the negotiation over the official election campaign period are not yet known, any limitations of the campaign period will limit an equal level-playing field for electoral competition, in particular for the opposition and minor political parties. Election campaigns in Cambodia require public gatherings, marches and door-to-door visits to counterbalance CPP media dominance. In addition, to reach out to voters the CPP can also rely on civil servants and the state apparatus, thus facilitating campaigning in even remote areas. Logistically, campaign time limits make it very difficult for other parties to organise in these areas.<sup>106</sup>

A joint CPP/CNRP LEMNA proposal to limit the freedom of expression and rights to participation in political related activity for CSOs during campaigns and the polling and counting process was severely criticized. The proposal foresees that CSOs are required to be strictly impartial in elections and will not be allowed to provide media interviews or make statements insulting political parties or candidates. Breaches of the provision could be prosecuted under current defamation laws. CSOs fear that the proposed provision could be used to silence critics. A group of CSOs released on 5<sup>th</sup> February, a joint statement condemning the proposal.<sup>107</sup> Surprisingly, the CNRP defended the proposal stating that CSOs will 'be able to take action and express their opinions in accordance with the spirit of ethics, professionalism and responsibility'<sup>108</sup>. The CPP stated 'We don't mean to stop them from speaking, but they shall say things that are frank and true, and non-biased. They can issue non-biased statements, but not with an ill-purpose'<sup>109</sup>. The proposed provision, though details are not yet known, seem unjustifiable considering that CPP and CNRP have agreed that military, police and official of court are allowed to participate in campaigns outside official working hours. NGOs by contrast will not have the right to full political participation. Should the agreement be put into law, it would introduce double-standards and violation of the Cambodian constitution. Especially,

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<sup>103</sup> COMFREL Election Watch 2014

<sup>104</sup> Radio Free Asia: Cambodia's Ruling Party Proposes Limiting Campaign Rallies, 09.01.2015

<sup>105</sup> PhnomPenh Post: Parties Identify Sticking Points, 21.02.2015

<sup>106</sup> COMFREL Election Watch 2014

<sup>107</sup> Cambodia Daily: NGO's Concerned by Proposed Ban on Insults, 05.02.2015; LICADHO, et. al.: Civil Society Organizations Call on the Government and Political Parties to Respect Freedom of Expression, 05.02.2015

<sup>108</sup> CNRP Chief Negotiator Kouy Bonrouen cited in Cambodia Daily: Insult Ban Won't Affect Free Speech, Parties Says, 03.02.2015

<sup>109</sup> Deputy-Prime Minister and CPP Chief Negotiator Bin Chhin cited in Cambodia Daily, *ibid*.

because soldiers and police and court officials are allowed to participate in campaigns. The CNRP insists that they should exercise strict impartiality. The CPP opposes the proposal. The CPP wants to allow police, armed forces and court officials to participate in campaigns as long they participate outside official working hours and as private individuals.<sup>110</sup> The CPP seems to insist on upholding the often criticized unequal level-playing field for electoral campaigns in past elections by using the state apparatus for party and election campaign purposes.

### 5.2.2. Voter Registration

As mentioned in this report, the Joint Commission on Electoral Reform agreed during negotiations to reform voter registration procedures. In all past elections the voter registration process has always been a major cause of conflict. COMFREL and other electoral stakeholders have on numerous occasions raised concerns about weaknesses in this area. But the CPP led RGC has made few attempts in the past two decades to reform the voter registration process. To this day, voter registration is undertaken manually at the commune level. Once a year citizens need to check if they are correctly registered. In the past, including the recent NA election, the voter registration system has led to procedures that have negatively impacted upon and influenced the process including: disenfranchisement of non CPP voters, as observed by COMFREL and in a report of ERA.

The July agreement stipulates that new voter registration procedures will be established. But by the beginning of 2015 a final decision had not yet been undertaken. The CNRP insisted during negotiations that a reform of the voter registration can only be achieved with a change of voter list. The CPP opposed that voters should be identified using voter's cards issued by the NEC. The CNRP proposed this proposal and suggests that voters need to obtain specific voter cards issued by the newly formed NEC.<sup>111</sup> The CNRP and the CPP agreed national ID card for voter registration and voting although the current civic registration system for national ID cards does not ensure that all voters are registered because it is controlled by the CPP led Ministry of Interior-MoI. The MoI promises to issue 7 million new national ID cards among 12 million citizens in 2017.

The CNRP also proposed the right to vote for Cambodian citizens overseas. The CPP opposes this proposal. Because no agreement on reforms of the voter registration was reached in 2014, the current NEC continued with its annual voter registration update and voter list revisions. In a statement issued December 31<sup>st</sup>, 2014 the NEC announced that voter lists were revised following the old procedures: 9.801,535 voters are registered, 108.800 names were deleted and 177,804 added.<sup>112</sup>

COMFREL and the ERA successfully conducted a pilot test on a new proposed system of modernized registration. The system of modernized voter registration (MVR) and revision of voter lists ensures the quality using a computerized system (offline and online) and additional bio-data (thumbprints) and a photo of the voters, Importantly it also produces a Voter Card replacing other voter identity documents for example the controversial Identification Certificate for Election (ICE) used in previous elections. The new system includes GPS for the polling station location. The voter registration and revision responsibility comes solely under the authority of the National Election Committee. It requires effective cooperation from commune clerks, members of the commune council, police and village chiefs to share and provide data on people, places and security as well as

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<sup>110</sup> Cambodia Daily: NGOs To Be Restricted During Election Campaigns, 17.01.2015

<sup>111</sup> Cambodia Daily: CNRP Lays Out Four Sticking Points in Reform Talks, 03.01.2015

<sup>112</sup> National Election Committee (NEC): Statement on Revised Voter List, 31.12.2014 (Khmer)

to facilitate some other tasks as required by NEC. The procedure and scanner's system are set up to verify the double thumbprint with other data (photo, name, date of birth and sex). The test found that the equipment, including computers and the software application program used in the test, worked smoothly without error or problems. By using offline computer application program, more than 99 percent of the 652 registered applicants were registered correctly with no "double names" or "repeated information or data" occurring. The average time for each voter registration was 5 minutes, which was less than the expected 7 minutes which had been estimated prior to testing. This system also can be used in remote locations for example to register Cambodian citizens overseas. COMFREL and the ERA submit this proposal to the joint commission on election reform, Japanese and EU experts, and plan to submit this proposal to the new NEC.

### 5.2.3 National Assembly Seats

LEMNA, Article 7 stipulates that *In the third year of every legislative term, the executive board of Ministers shall form a Commission for the Determination of National Assembly Seats to modify the number of seats and allocate seats to each province/municipality*.<sup>113</sup> The distribution and total number of NA seats has not changed since 2003, despite national and provincial population increases.<sup>113</sup> According to the 'Inter-Censal National Population Survey'<sup>114</sup>, published in 2013, Cambodia's population in 1998 was 11.4 million, increasing during the decade 1998-2008 by 1.96 million, reaching 14.68 million by 2013. Based on calculations using the formula provided by LEMNA in Article 9, the number of NA seats should have been increased at least from 123 seats in 2003 to 133 seats based on only 2014 population.<sup>115</sup> A proportional increase in the number of NA seats would mean greater oversight of the executive by the legislative, which in turn could be more responsive to and representative of the electorate. In addition, more seats could increase chances for minor political parties to regain or win new seats in the assembly. This could potentially strengthen the multi-political party system which since 2013 has come under pressure with only two parties represented in the NA. The ERA including COMFREL has recommended that the new LEMNA include provisions allowing four NA seats to be re-arranged and increased, Seam Reap, Sihanoukville, Kosh Kong, Oudor Meanchey.<sup>116</sup>

<sup>117</sup> The CPP opposes an increase in NA seats, citing logistical and financial reasons, and also want to remove the formula of calculation to increase seats. The CPP-led government divided the large province of Kompong Cham, which had become an opposition with 18 seats into two provinces, Kompong Cham and Tbong Khom. The CPP wants to allocate 10 seats for Kg Chham and 8 seats for Tbong Khmom. The question is why the CPP prefers an eight seat formula for the new province of Tbong Khmom? One possible answer is the CPP has traditionally performed well during elections in that part of Kg Chham. Although, the number of population in these provinces are less than Siem Reap province; Siem Reap province has only 6 seats. The budget for the national assembly is only 0.8 % of total national budget while the national assembly increases by 4 seats means an additional fund of \$1 million.

Political reasons are more likely to explain the CPP position. For example, in the last national election CNRP won votes in those constituencies which had a higher number of contested NA

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<sup>113</sup> COMFREL: Final Report and Assessment of National Assembly Elections 2013, December 2014. p.41f.

<sup>114</sup> National Institute of Statistics/Ministry of Planning: Cambodian Inter-Censal Population Survey 2013- Final Report, November 2013. p. 15

<sup>115</sup> Calculations based on LEMNA Formula, Article 9 and Population Statistics of National Census 2008 and Inter-Censal Population Survey 2013

<sup>116</sup> COMFREL Election Watch 2014

<sup>117</sup> Phnom Penh Post: More NA Seats necessary: org, 25.12.2014

seats, whereas the CPP won more in those constituencies in which only a few or one NA seat was contested. This implies that an increase in NA seats leading towards more proportional elections could be to the disadvantage of the CPP.<sup>118</sup> Furthermore, the CPP rejected a CNRP proposal to establish a new commission to determine the number of NA seats, replacing the Council of Ministers, on the grounds that the current law is adequate. Any changes therefore from the CPP perspective would unnecessarily prolong negotiations over the electoral reform.<sup>119</sup> Indeed, on 7<sup>th</sup> February 2015 negotiations were stuck on the issue. The CPP demanded changes to the LEMNA which would keep the current number of NA seats in perpetuity. The CNRP wanted to at least keep the review mechanism to allow the possibility for changes of the number of NA seats in the future.<sup>120</sup>

### 5.3 Sub-National Council Elections in 2014

The sub-national elections for district, municipal and provincial councils went ahead as scheduled on May 18<sup>th</sup>, 2014. This was the second time they had been held since 2009. Sub-national councils are indirectly elected by 11,459 commune councilors. COMFREL believes the current elections are dispensable provided they are not reformed towards direct and universal elections and allows independent candidates to contest them. To cut costs the election should, like the commune elections, be held on the same day. In February 2014, the Youth Council of Cambodia (YCC), on behalf of six youth associations launched a campaign demanding change to the existing indirect election system for sub-national councils. The CNRP announced its intention to back the demand. The CPP rejected the proposed changes to the system.<sup>121</sup>

Based on the 2012 commune election results, the CPP, CNRP (represented by commune councilors of SRP and HRP), FUNCINPEC (represented by commune councilors of FUNCINPEC and NRP) and the League for Democracy Party (LDP) contested the sub-national election. With few exceptions commune councilors followed the party line reconfirming COMFREL's view that the purpose and political outcome of this election remains questionable. As expected, the CPP won overwhelmingly, gaining 2,540 of a total 3,324 district, municipality, capital and provincial council seats, followed by the CNRP with 765 seats, FUNCINPEC with 18 seats and the League for Democracy Party with one seat.<sup>122</sup> In only one province, (Kampong Cham), the CNRP claimed to have gained 113 votes despite having only 108 commune councilor seats. In total, CNRP did increase its numbers of sub-national council seats by 185 seats by comparison to 2009, but won only a majority of council seats in one district in Kampong Cham, and one in Prey Veng.<sup>123</sup>

The RGC had initially banned election campaigns for the sub-national election. The official campaign period was scheduled for May 2<sup>nd</sup> to the 16<sup>th</sup>.<sup>124</sup> The CNRP however defied the ban, and

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<sup>118</sup> COMFREL: Final Report and Assessment of National Assembly Elections 2013, December 2014. p.78

<sup>119</sup> Cambodia Daily: CNRP Calls for New Committee, Assembly Seats, 13.12.2014

<sup>120</sup> Cambodia Daily: Electoral Reform Talks Stuck on Issue of Assembly Seats, 07.02.2015

<sup>121</sup> COMFREL: Democracy, Election and Reform –Annual Report 2013, April 2014. p. 28

<sup>122</sup> Agency Kampuchea Press (RGC News Agency): NEC Announces the Official Results of Capital/Provincial/Municipal/District/Khan Council Election, 28.05.2014

<sup>123</sup> Radio Free Asia: Cambodia's Opposition Gain Ground in Council Elections, 19.05.2014; Phnom Penh Post: Elections Stick to Script, 19.05.2014

<sup>124</sup> Phnom Penh Post: CNRP Request Rejected Again, 24.04.2014

held rallies throughout the country, starting on May 2<sup>nd</sup>.<sup>125</sup> On 6<sup>th</sup> May, the Ministry of Interior lifted the ban and allowed CNRP election rallies to go ahead.<sup>126</sup> The CPP refrained from public campaigns, but held meetings with their commune councilors to reinforce the party line. It was claimed that CPP councilors were kept in line by financial incentives, the CPP providing each commune councilor \$125 before the election. The CPP denied the claims, stating the money was paid in February, far ahead of the elections and were intended as gifts for Khmer New Year in April.<sup>127</sup> The election rallies of the CNRP, on one occasion mobilizing up to 10,000 supporters in Phnom Penh, were held peacefully with only minor incidents reported. A heavy security presence during the rallies was perceived as intimidating by opposition supporters.<sup>128</sup> During a rally on 2<sup>nd</sup> May five people, including a monk, a journalist and three CNRP supporters were injured by security guards.<sup>129</sup>

## 6. Freedoms and Democratic Space

Continued political, civil and human rights violations involving members of the RGC security forces painted a more pessimistic picture of democratic progress in 2014. Democratic space and freedoms had not improved in the previous year. The RGC security apparatus continued to use excessive force against protesters during demonstrations. Numerous cases of attacks, harassment and intimidation directed against trade unionists, journalists, civil and political rights activists, CNRP lawmakers and party members were reported. Violence involving security forces culminated with the killing of five labour protesters and two journalists in 2014. Repression by the security forces created an atmosphere of intimidation and fear among CNRP supporters and members of the public critical of the CPP led RGC. No measures were taken by the CPP-led RGC to constrain security forces from using excessive force against protesters. No legal action was taken against those responsible for the deaths or injury of protesters in 2014. No efforts were made by the RGC to promote the freedoms of assembly, expression and information after the July agreement.

Political discourse in 2014 improved when compared with the previous year. The CNRP and CPP committed in principle to refraining from destructive verbal attacks against each other. Prime Minister Hun Sen and opposition leader Sam Rainsy agreed on a ‘culture of dialogue’. Yet, the discourse remained ambiguous, shifting back and forth from a ‘culture of dialogue’ to a ‘war of words’. Representation of women in politics in elected government positions has not undergone any major improvements in 2014 and falls short of the RGC millennium goals to reach 25% female representation at the commune/district level, and 30% women representation at national level by 2015. Likewise, the representation of youth in politics remained weak in 2014. Although political parties did begin to direct political programs towards youth voters and continue to strengthen their youth party networks. Major political parties, however, failed to nominate more youth candidates for elections. Similar to the situation of women, most youth candidates were nominated and registered by minor political parties. The political party landscape has undergone changes since the senate election in 2012 and the NA election in 2013. For the first time since 1993 the CPP had lost 22 NA seats to the opposition. Also, for the first time in two decades, only two political parties, the CPP and CNRP are represented in the Parliament. The changes in the party landscape suggest that the

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<sup>125</sup> LICADHO: Flash News – CNRP Supporters Defy Assembly Ban with Large Campaign Rally, 02.05.2014; Phnom Penh Post: CNRP Defies Ban Again, 06.05.2014

<sup>126</sup> Phnom Penh Post: Government Backtracks on Rally Ban, 07.05.2014

<sup>127</sup> Cambodia Daily: Councilors to Get Payouts Before Vote in Upcoming Elections, 20.02.2014

<sup>128</sup> Phnom Penh Post: CNRP Rallies 10,000 in Final Push, 16.05.2014

<sup>129</sup> LICADHO: Flash News – CNRP Supporters Defy Assembly Ban with Large Campaign Rally, 02.05.2014



CNRP will be the only party to be able to challenge the CPP in the next election in 2018.

## 6.1 Freedom of Peaceful Assembly and Expression

The RGC has made no progress in promoting and protecting the freedom of peaceful assembly in 2014. On the contrary, freedom of peaceful assembly was severely restricted. This is despite the fact that the RGC accepted, during the Universal Periodic Review of the UN Human Rights Council in March, ten recommendations by UN member states to improve the freedom of peaceful assembly.<sup>130</sup> Actions taken by the RGC against labor unionists, civil and political rights activists, including CNRP members and lawmakers contradicted these commitments. Recommendations by Germany concerning the use of excessive force during demonstrations, were only ‘noted’, but not ‘accepted’. Germany asked the RGC ‘to guarantee the effective exercise of the human right to assembly, in particular with respect to crowd control, formulate clear instructions compatible with human rights standards for the use of firearms, provide training for the police in conduct compatible with human rights, prohibit the use of violence by unofficial or plain clothes security forces and ensure all persons detained have timely access to their families and to legal counsel’<sup>131</sup>.

In January, the RGC imposed a ban on the freedom of assembly ‘until security and public order is restored and return to normal’. The ban followed violent clashes between striking garment workers and security forces on 2<sup>nd</sup> and 3<sup>rd</sup> January that led to the killing of four workers and the disappearance of one 16<sup>th</sup> year old youth who is thought to be dead.<sup>132</sup> Dozens others were injured during the violent crackdown, 25 workers and unionists were arbitrarily arrested, convicted and imprisoned. Under national and international pressure they were released in July 2014.<sup>133</sup> After violent clashes, the RGC accused the CNRP of instigating the violence. Cambodian embassies around the world issued press releases justifying the RGC response to the protests alleging that protesters including workers backed by the CNRP had instigated the violence, destroyed property, blocked public roads and used makeshift weapons like Molotov cocktails and slings used against security forces.<sup>134</sup> CSOs and media reported numerous instances where freedom of peaceful assembly was repressed resulting in arrests, intimidation and threats by security forces and CPP supporters.<sup>135</sup>

Some peaceful assemblies were tolerated by RGC in 2014. The previously imposed ban was partially lifted in February and August.<sup>136</sup> Nonetheless, dozens of assemblies organized by labor unionists, political and civil right activists critical or in opposition to the RGC were banned and repressed by security forces. Among those were bans and repression of labour protests for example a ‘routine’

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<sup>130</sup> UN General Assembly – Human Rights Council: Report of the Working Group on the Universal Periodic Review Cambodia, A/HRC/26/16, 27<sup>th</sup> March 2014

<sup>131</sup> Ibid.

<sup>132</sup> LICADHO: Statement - Veng Sreng Anniversary –Still no Justice for the Dead, Missing and Injured, 01.01.2015

<sup>133</sup> LICADHO: Statement – Phnom Penh Court orders Conviction with Suspended Sentences for 25 Workers and Activists, 30.05.2014

<sup>134</sup> For example Royal Embassy of Cambodia in Japan and in Geneva: Press Release ‘The Updated Political Situation in Cambodia, 28.07.2014

<sup>135</sup> CCHR: Briefing Note – Freedom of Assembly On Hold, April 2014; LICADHO: Freedom Park Violence, CNRP Arrests, Political Deal: Timeline of Events July 14 – November 28, 2014; ADHOC: The Right to Remain Silenced. Expressive Rights in the Kingdom of Cambodia, August 2014

<sup>136</sup> Ibid., one of the few exceptions see Phnom Penh Post: Demos For 21 Allowed, 11.02.2014 and Phnom Penh Post: Khmer Krom Protesters Burn Vietnamese Flag, 13.08.2014; Freedom of Radio Free Asia: Cambodian PM Lifts Ban on Protests, Warns of Government ‘Rallies’, 25.02.2014; Voice of America: Ban Lifted From Freedom Park, 07.08.2014

labor demonstrations on 1<sup>st</sup> May, the International Day of Labour.<sup>137</sup> Despite the repression, 276 labour strikes were recorded over the year, although overall the number of strikes has actually declined. In 2013, a total of 418 strikes were reported. Fifty seven union activists and workers were arrested for participating in strikes and protests.<sup>138</sup> The UN Special Rapporteur on Human Rights, Surya P. Subedi addressed the UN Human Rights Council in a report stating that ‘he is alarmed by the upsurge of judicial intimidation of union activists in April and May, which included arrests in Kandal, Kampong Speu and Takeo provinces, as well as the imposition of an unprecedented bail bond of US\$25,000 in the case against the leader of the country’s largest independent union, Ath Thun, who faced incitement charges that were later dropped in July 2014’<sup>139</sup>.

In addition, a number of peaceful assemblies of other civil right activists thought to be critical of or in opposition to the RGC were repressed throughout 2014. On 6<sup>th</sup> January, five land rights activists from Boeng Kak Lake were detained for eight hours in Phnom Penh after they had marched to the French Embassy asking for the release of ten demonstrators previously arrested on 2<sup>nd</sup> January. On 19<sup>th</sup> January, Sok Chhun Oeung, acting President of the ‘Independent Democracy of Informal Economy Association’ was detained overnight while attempting to hold a vigil for the 23 persons that were detained after the violent clashes of 2 and 3 January 2014. On 21<sup>st</sup> January, eleven human rights activists were temporarily arrested while delivering petitions to the US and French Embassies calling for the release of 23 activists and strikers imprisoned during labor conflicts on 4<sup>th</sup> January. On 27<sup>th</sup> January, a peaceful rally outside the Ministry of Information, led by civil right activist Mam Sonando, was violently dispersed. Hundreds of military police charged at the crowd, using batons and smoke canisters to break up the rally. Ten people were injured. On 22<sup>nd</sup> February, seven youth activists were temporarily detained in Phnom Penh while marching to call for peace. On 5<sup>th</sup> March, three former Boeng Kak Lake community residents were detained for several hours after they protested using a tuk-tuk mounted with loudspeakers outside City Hall for a resolution of their land conflict.<sup>140</sup> On International Women’s Day, a forum of civil society and unionists with an expected 30,000 participants was stopped from gathering by City Hall. Roads were blocked and a heavy presence of security forces deterred the gathering.<sup>141</sup>

Furthermore, land protests in August and November led to arbitrary arrests and beatings of protesters in Phnom Penh. Convictions of some protesters handed down by the courts raised serious questions over the court proceedings. In August, three of seventy land protesters were arbitrarily arrested in Phnom Penh and the others prevented from delivering a petition.<sup>142</sup> In the same month, RGC security forces also blocked activists from riding their bicycles around Phnom Penh to protest against the pending construction of a hydropower dam in Koh Kong province.<sup>143</sup> In October, a protest involving a hundred citizens representing 333 families attempting to deliver a petition to Premier Minister was violently dispersed by the RGC security apparatus, leaving 18 people injured.<sup>144</sup> In November, seven land-right activists were arrested and charged with obstructing traffic. In a summary trial the following day, lasting less than three hours, they were

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<sup>137</sup>Cambodia Daily: Unions Plan to Defy Protest Ban, Hold Rally, 01.05.2014; Radio Free Asia: Five Injured in Labor Day Clashes Near Phnom Penh’s Freedom Park, 01.05.2014; Cambodia Daily: Unions Plan 2<sup>nd</sup> Round of Mass Strikes, 13.02.2014; Voice of America: Unions Back Down on Planned Strike, 12.03.2014; Cambodia Daily: Union Leader Released; Free the 23’ Protests to Continue, 21.01.2014, p. 8

<sup>138</sup> Phnom Penh Post: Labour Strikes Plunge in 2014, 31.12.2014

<sup>139</sup> UN Human Rights Council: Report of the special Rapporteur on the situation of human rights in Cambodia, A/HRC/27/70, 15<sup>th</sup> August 2014

<sup>140</sup> CCHR: Briefing Note – Freedom of Assembly On Hold, April 2014

<sup>141</sup> Cambodian Daily: Protest Ban Firmly in Place on Women’s Day, 10.03.2014

<sup>142</sup> Cambodia Daily: Land-Dispute Villagers Protest Outside Cabinet Meeting, 23.08.2014

<sup>143</sup> Cambodia Daily: City Hall Blocks Bike Ride Against Hydro Project, 18.08.2014

<sup>144</sup> Phnom Penh Post: Another Protest Turns Bloody, 21.10.2014

sentenced to a maximum of one year in prison and fines of US\$500. The same day RGC security forces broke up a peaceful assembly in front of the court calling for the release of those arrested. The next day all four, including one monk were given a summary trial in a Phnom Penh court and sentenced to one year in prison. The convictions were upheld by the Appeal Court in January 2015.<sup>145</sup>

The CNRP tried to defy the assembly ban. Notable major CNRP rallies were held in February and March, and the CNRP party congress went ahead in July without major interference from the RGC security apparatus.<sup>146</sup> However, CNRP assemblies were subjected to RGC repression. In January, a CNRP meeting in Troeuy Sla commune in Kandal province was cancelled when participants felt intimidated by the presence of several hundred CPP supporters alongside RGC security forces. Another CNRP meeting with Kem Sokha was prevented by similar tactics of intimidation on 26<sup>th</sup> January in Kampong Cham province.<sup>147</sup> On 15<sup>th</sup> July, CNRP lawmakers and 300 supporters gathered at Freedom Park calling for a lifting of the ban to peacefully assemble at Freedom Park. Violence escalated when protesters retaliated, beating up security guards who had attacked them. Eight security guards were injured, four of them severely.<sup>148</sup>

It was the first time CNRP supporters had reacted violently against security forces despite numerous attacks, including severe beatings and arbitrary arrests by the RGC security forces.<sup>149</sup> Four CNRP lawmakers including Mu Sochua, Keo Phirum, Ho Vann and Men Sovatharin were arrested and charged the next day under the criminal penal code for instigating aggravated, intentional violence, inciting others to commit a felony and leading an insurrectional movement, and put into pre-trial detention. On the same day the Ministry of Interior ordered a ban on all peaceful assemblies throughout the country. Two more CNRP lawmakers and a CNRP official in charge of public movements under the CNRP Public Affairs department including Long Ry and Nuth Rumduol were arrested the next day and placed in pre-trial detention. This followed the arrest of another CNRP lawmaker on 19<sup>th</sup> July connected in an incident that occurred in 2011. The court claims that the lawmaker helped an opposition activist, who was charged with destroying private property, escape detention.<sup>150</sup> The arrests came three days before the CPP and CNRP reached the July agreement. After the agreement was signed all lawmakers were released on the same day, raising suspicions that the CPP used the judiciary to pressure the CNRP into negotiations and concessions to end the political crisis; an allegation denied by the CPP and Prime Minister Hun Sen who cited the independence of the judiciary, and pointing out that the lawmakers were only released on bail.<sup>151</sup>

More arrests of CNRP members followed in the ensuing months. In August, three CNRP youth leaders from Phnom Penh and Takhmao Town were arrested in connection with violent incidents on 15<sup>th</sup> July during CNRP protests. In September, an elected CNRP district council member was arrested and placed in pre-trial detention in connection with the 15<sup>th</sup> July incidents. In October,

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<sup>145</sup> LICADHO: Civil Society Groups Condemn the Ongoing Detention of 11 Activists, 26.01.2015; Human Rights Watch: Cambodia: New Crackdown on Protestors, 13.11.2014; Amnesty International: Cambodia: Free Women Protesters and Buddhist Monk Jailed After Summary Trials, 21.01.2015

<sup>146</sup> The Southeast Asia Weekly: Massive Gathering of Cambodia's Opposition Party in its Congress Held After Political Deal, 27.07.2014; Radio Free Asia: CNRP Protesters March in Phnom Penh, Rally at Headquarters, 30.03.2014

<sup>147</sup> CCHR: CCHR: Briefing Note – Freedom of Assembly On Hold, April 2014

<sup>148</sup> Phnom Penh Post: Guards Beaten Senseless, 15.07.2014

<sup>149</sup> Radio Free Asia: Five Injured in Second Day of Crackdown at Phnom Penh Park, 02.05.2014; SITHI: Freedom of Assembly on Hold in 2014, Chronology, [www.sithi.org](http://www.sithi.org)

<sup>150</sup> LICADHO: Freedom Park Violence, CNRP Arrests, and Political Deal: Timeline of Events July 14 – Nov. 28, 2014

<sup>151</sup> Cambodian New Vision (RGC publication), Issue 199, November 2014, p. 2-3; Cambodia Daily: Hun Sen Insists Recent Arrests Not Political, 21.11.2014

there followed the arrest of a CNRP grassroots activist who also placed in pre-trial detention on the same charges, and in addition was charged for violent incidents during land protests in Phnom Penh in the same month. In total, 16 CNRP officials and activists were arrested in 2014, although CNRP lawmakers were released on bail following the July agreement. Human rights organizations perceived the arrests as a concerted effort by the RGC to pressure the CNRP to join negotiations. The charges against CNRP lawmakers, who were on bail when this report was being compiled, could possibly lead to long-term prison sentences, regarded as disproportional to the offenses which have occurred on 15<sup>th</sup> July and during land protests in October.<sup>152</sup>

## 6.2 Freedom of Information and Access to Media

No progress has been made by the RGC to promote and protect freedom of expression and information in 2014, except that the CNRP was finally provided years of lobbying a TV license in November to counterbalance CPP dominance of Cambodia's media landscape. The July agreement allows the CNRP for the first time in two decades to run its own television station and extend the coverage of its radio station FM 93.5. The new analog television station and radio will be run by a CNRP affiliated private company, named 'Cambodia Independent Media Co., Ltd'. The TV and radio station will be allowed to operate in Phnom Penh and can establish relay-broadcasters in the provinces. However, it's not clear when the TV station will become operational. It seems that the CNRP lack funds to run the station.<sup>153</sup> In the past two decades, the CPP has dominated electronic media with the exception of the internet. Repeated demands for reforms to allow all political parties more equitable access to electronic media during election campaigns and in-between election events were virtually ignored by the CPP controlled Ministry of Information. COMFREL and other stakeholders have proven with extensive media-monitoring over the years that a bias in media coverage in favour of the CPP has disadvantaged other political parties. To this day, TV and radio remain the principal mediums to reach the Cambodian public. That said observation during the 2103 elections showed that internet access is increasingly becoming a counterweight to CPP media dominance. Attempts by the CPP to impose controls over the internet, in particular social media have for the time being been postponed by the RGC. This includes a controversial cyber crime law debated in 2014.<sup>154</sup>

Press freedom declined in 2014. Two journalists were killed and six journalists seriously beaten. The Cambodian Center for Independent Media (CCIM) reported in February the killing of journalist Suon Chan, who was beaten to death after publishing an article in the Meakea Kampuchea over illegal fishing in the province of Kampong Chhnang. In October 2014, journalist Tang Tri was shot dead during his attempt to document the transportation of illegal luxury wood. In April, a journalist from the newspaper Kampuchea Rikreay was seriously beaten when reporting on a planned CNRP demonstration in Phnom Penh. The same month, the Club of Cambodian Journalists (CCJ) reported the beatings of two journalists who had reported on illegal logging in Kampong Cham and Preah Vihear. In May, three journalists were seriously beaten during reporting on CNRP demonstrations in Phnom Penh. In response, the Ministry of Information released a press statement condemning acts of intimidation, violence, seizure of equipment and insults on journalists. However, no one has been

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<sup>152</sup> LICADHO: Freedom Park Violence, CNRP Arrests, and Political Deal: Timeline of Events July 14 – Nov. 28, 2014

<sup>153</sup> Cambodia Daily: CNRP Registers Company to Run Party's Television Station, 14.11.2014; Phnom Penh Post: Opposition Party Calls on Investors to Assist in Funding its TV Station, 16.12.2014

<sup>154</sup> COMFREL: 2013 National Assembly Elections – Final Report and Assessment, p. 30 f.; Cambodia Daily (Chris Mueller): Controversial Cyber Crime Law 'Scrapped', 12.12.2014

held responsible for the violent attacks against journalists in 2014.<sup>155</sup>

During the second Universal Periodic Review of the UN Human Rights Council, the RGC received a total of 13 recommendations from UN member states to improve freedom of expression of which the RGC accepted 12. It rejected the Portuguese recommendation to ‘protect free and independent media, namely through the revocation of article 305 of the Penal Code and article 13 of the Press Law’.<sup>156</sup> The above mentioned articles prohibit public defamation and insults of government officials and citizens acting in a public function. The legal provisions have been widely criticized by human right groups as an instrument to silence media critical of, or in opposition to the RGC. Three controversial defamation lawsuit cases against citizens and journalists were reported in 2014. For the first time, they have also affected publications made on blogs and social media, although those cases concerned defamation lawsuits between a journalist and a private company, and between two private citizens, not the RGC. The defamation cases were perceived as potential precedence cases which could be used to silence political dissent by CSOs, including CCIM and CCHR.<sup>157</sup> None of those affected by the three reported defamation lawsuits had to serve prison terms, but fines amounting to \$27,000, \$1,750 respectively, were imposed.. One case remained open by the end of 2014.<sup>158</sup>

In the past, fear of defamation lawsuits because of heavy financial penalties was often used to silence civic and political activists, including opposition lawmakers. The practice supported by the CPP-led the RGC to the expected outcomes, intended to silence discontent and dissent. For many years, civil society organizations have demanded the liberalization of restrictive defamation laws.<sup>159</sup> They place a heavy burden on media and civic and political rights activists when it is considered that to date no law on access to public information regarding government activities has been adopted. This makes it difficult to provide critical reporting of government activities and major issues of public concern without falling into the traps of unintentionally inaccurate and unreliable reporting. In return, the risk of defamation lawsuits increases, leading to self-censorship and key issues of public concern can go unreported. A regulatory framework and policies to ensure access to public information would increase transparency and public confidence in government activities. But, to date no attempts have been made by the RGC to develop policies for a law to protect freedom of access to information.<sup>160</sup>

### 6.3 Political Discourse

Political discourse in 2014 witnessed some improvements when compared with the previous year. The CNRP and CPP committed to refraining from destructive verbal attacks against each other. Prime Minister Hun Sen and opposition leader Sam Rainsy agreed on a ‘culture of dialogue’. Yet, the discourse remained ambiguous, shifting back and forth between a ‘culture of dialogue’ and a ‘war of words’. Prime Minister Hun Sen and Sam Rainsy declared to have agreed on a ‘culture of dialogue’. The conciliatory approach has contributed to lowering tensions and creating what seemed to be more peaceful political relations between the party leaders when compared to the past. In August, Hun Sen was quoted as saying: ‘Let us stop the culture of coloring one another. The policy of fish

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<sup>155</sup> CCIM: CCIM Demands Justice For Slain Journalist, 03.02.2014, CCIM Condemns Murder of Journalist Tang Tri, 12.10.2014; Repeated Attacks on Journalists Unacceptable, 25.04.2014; Reporters without Borders (RSF): Recent Attacks on Journalists Cast Doubt on Progress in Press Freedom, 07.05.2014

<sup>156</sup> UN General Assembly Human Rights Council: Report of the Working Group on the Universal Periodic Review Cambodia, A/HRC/26/16, 27<sup>th</sup> March 2014

<sup>157</sup> Cambodia Daily: Journalist Convicted of Defamation for Blog Post, 24.07.2014; Cambodian Center for Independent Media: Sentencing of Facebook User a Threat to Internet Freedom, 17.02.2014

<sup>158</sup> Beside the above mentioned the other case was reported by Phnom Penh Post (Chhay Channyda): Two Journalists Served Defamation Lawsuits, 18.02.2014

<sup>159</sup> CCHR Briefing Note - The Criminalization of Defamation and Freedom of Expression in Cambodia, May 2014

<sup>160</sup> CCIM: Access of Information at Root of Media Conflicts, 11.04.2014

eating ants and ants eating fish when the flood recedes should stop.’<sup>161</sup> Opposition leader Sam Rainsy responded: “The culture is what Hun Sen has spoken about, that ”when the waters flood, the fish eats the ants, and when the waters recede, the ants eat the fish”, we are in this culture of revenge, that any party that comes to power will eliminate the one that was previously in power. The background of our approach now is to create a new culture and to make the people and the CPP less afraid of any regime change, that it will not bring bloodshed and revenge’<sup>162</sup>. Prime Minister Hun Sen reinstated the importance of developing a ‘culture of dialogue’ in December: ‘Each individual, family and community and a country must make further effort – those inside or outside the Royal Government - to create a culture of dialogue.’<sup>163</sup>

By January 2015, after six months of constructive dialogue, the political discourse shifted back to the more familiar ‘war of words’ which has characterized Cambodia’s political discourse for decades. In typical fashion, the CPP reverted back to using destructive patterns of dialogue, utilizing military jargon with terms like ‘internal front’, ‘the enemy’ and ‘fight back’ reflecting a political communication culture of intimidation and threats going back to the civil war. CNRP leaders adopted well used themes best described as populist nationalism, colored with provocative terms like ‘corrupt’, ‘dictatorial’, ‘communist trick’ and ‘puppet of Vietnam’. <sup>164</sup> CNRP Vice-President and National Assembly Vice-President, Kem Sokha promised supporters in a speech on 18<sup>th</sup> January 2015 to oust Prime Minister Hun Sen from power by stating, ‘there are no leaders, regimes, era or generations that have destroyed the Khmer’s forests, land and natural resources more than the regime of Prime Minister Hun Sen. Our goal is the same, to change today’s leaders. In the world, the leaders who cling to power for a long time have not been good or honest to the nation and their people, and the longest serving leaders in the world are dictatorial and corrupt people’<sup>165</sup>.

Prime Minister Hun Sen in return accused CNRP of violating the July agreement and threatened to end the culture of dialogue.<sup>166</sup> Defense Minister Tea Banh backed up Hun Sen’s criticism of the CNRP stating: “Things are heating up because of the use of rhetoric, incitement, provocation ... to strongly attack the government and the CPP, and they say that only the CNRP can topple the CPP and Hun Sen...so we have to fight back.”<sup>167</sup> National Military Police Commander, Sao Sokha claimed according to media in a speech during the annual meeting of the Military police ‘to have learned how to maintain social order by studying Nazi dictator Adolf Hitler’ and referring to the CNRP, explained: “The trick of the destroyers ran very deep. Their tricks were to push Cambodia into turmoil and to destroy the election results, and to bring change. Change was to topple (the government). They wanted to topple, so they had created chaos. They were not successful”<sup>168</sup>.

Despite what seemed to be a derailment of the agreed upon ‘culture of dialogue’ formula, there were optimistic signs that the CNRP and CPP are in process of reshaping the way in which they engage in political discourse. The often destructive past practices could give way to a more democratic discourse characterized by a plurality of views, mutual respect, accuracy and tolerance. By the end of January 2015, political discourse had again shifted back towards a culture of dialogue. Opposition

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<sup>161</sup> Cambodian New Vision (RGC publication), Issue 196, August 2014, pp. 5-6

<sup>162</sup> Sam Rainsy cited in Cambodia Daily: CNRP’s Plans in Opposition Break With the Past, 07.08.2014

<sup>163</sup> Cambodia New Vision (RGC publication), Issue 200, December 2014, p. 7

<sup>164</sup> COMFREL Media Watch 2014

<sup>165</sup> Cambodia Daily: Kem Sokha Blasts Hun Sen’s Era of Destruction, 19.01.2015

<sup>166</sup> Cambodia Daily: Threat of Force Hangs Over ‘Culture of Dialogue’, 23.01.2015

<sup>167</sup> Tea Banh cited from Cambodia Daily, Ibid.

<sup>168</sup> Sao Sokha cited from Cambodia Daily: Military Police Commander ‘Learned from Hitler’, 16.01.2015

leader Sam Rainsy announced that he ‘will not let it go away (progress through dialogue), - I will try to keep it’<sup>169</sup> and added that he hoped that the opposition and government party will stop attacking each other. Minister of Interior and NA majority leader of the CPP, Sar Kheng confirmed that meetings with Sam Rainsy are continuing to ‘prove that both parties are still paying attention to promote the culture of dialogue’<sup>170</sup>.

#### **6.4 Women and Youth Participation**

The representation of women in elected government positions did not improve in 2014. Indeed, it falls short of the RGC’s millennium development goals (CMDG) to reach 25% women representation at the commune and district level, and 30% women representation at national level by 2015. In the 2012 commune council elections the number of elected female councilors only slightly increased to 18%. Currently, 2,038 (18%) of the 11,459 councilors are women, compared to 1,662 (15%) of the 11,353 councilors in 2007, and 951 (8.45%) of the 11,261 councilors in 2002. Ninety five women were elected as commune and sangkat chiefs in 2012, compared to only 67 in 2007, and 34 in 2002.<sup>171</sup> In the sub-national elections in 2014, 458 women (13.77%) were indirectly elected for total 3,324 contested seats compared to 400 (12.36%) women of 3, 235 in 2009.<sup>172</sup> In the 2012 Senate election, the number of women indirectly elected remained the same as the previous legislature at nine seats (14.75%) of the total 61.<sup>173</sup> From the 1<sup>st</sup> legislature NA elections 1993 to the 4<sup>th</sup> legislature NA elections 2008, number of elected female parliamentarians kept increasing and women were actively involved in the election process. In the contrast, there is a decrease in the number of elected female parliamentarians for the 5<sup>th</sup> polling. For instance, in the NA the number of female lawmakers increased only from seven in 1993 (5.7%) to 14 (11.47%) in 1998, to 25 (20.32%) in 2003, to 26 (21.13%) in 2008 and declined to 25 (20.33%) in 2013.<sup>174</sup>

The Committee to Promote Women in Politics (CPWP) demanded in 2014 a constitutional and some of articles of LEMNA amendment to ensure that women representation is significantly increased in the parliament.<sup>175</sup> One reason for the low numbers of female representation in elected government positions is that minor political parties nominated more women candidates than the major political parties in past elections.<sup>176</sup> The major political parties seem to have not yet understood that their voter base could significantly broaden with more female candidates. Among the major parties the CPP nominated most women candidates in past elections, but fell short of reaching the millennium goals. FUNCINPEC and the opposition parties SRP and HRP, and later the newly formed CNRP, nominated fewer female candidates than the CPP. Most female politicians gain first access to politics at the local level, where all political parties appear to register more women candidates than on a national level. Constraints on women entering politics are also found in traditional practices. Self-imposed constraints, financial constraints, lack of capacity building and

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<sup>169</sup> Sam Rainsy cited from Khmer Times: Opposition Wants to Keep Culture of Dialogue Alive, 24.01.2015

<sup>170</sup> Sar Kheng cited from Phnom Penh Post: Rainsy for Dialogue, Kheng Says, 26.01.2015

<sup>171</sup> COMFREL Report: The Empowerment of Women in Politics and the 3<sup>rd</sup> Mandate Commune Council Elections 2012. P. 2 & 7

<sup>172</sup> Number of Women in Decision Making and Politics: Developed by Ministry of Women Affair – Updated November 2014

<sup>173</sup> Number of Women in Decision Making and Politics: Developed by Ministry of Women Affair – Updated November 2014

<sup>174</sup> COMFREL Report: The Emowerment of Women in Politics and the 5<sup>th</sup> legislature National Assembly Elections 2013. P. 32 – Appendix 1

<sup>175</sup> Cambodia Daily: Lawmakers Told to Act on Gender Disparity, 28.08.2014

<sup>176</sup> Ibid.; and COMFREL: Final Report and Assessment of National Assembly Elections, 2008. p. 74

prejudices in a widely patriarchal organized society prevent women from entering politics and competing equally with their male counterparts.<sup>177</sup>

As outlined in previous COMFREL reports, since 2008 the amount of new youth voters has increased by an estimated 300,000 per year. For the 2013 national election, COMFREL estimated that 1.5 million citizens voted for the first time. Youth voters are widely perceived to play a decisive role in Cambodian elections. The changes in the voting age of Cambodia's electorate have led political parties to adapt their political programs to better target youth voters, and to strengthen their youth party networks. Political parties failed however to nominate more youth candidates than in previous national elections. The National Election Committee (NEC) registered a total of 179 youth candidates from the eight contesting parties (defined as candidates aged between 18 and 35 for the national election). This was equal to only 20% of the total number of 886 registered national candidates. Similar to women candidates, most youth candidates were registered by minor political parties. Among those were the LDP with 70 youth candidates equal to 57%, and the Khmer Anti-Poverty Party (KAPP) with 24 youth candidates equal to 20% of candidates registered with these parties. From the main contesting parties, the CNRP had registered only 14 youth candidates equal to 11%, FUNCINPEC with six youth candidates equal to 5%, and the CPP only four youth candidates equal to 3% of the total number of registered candidates with these parties. The CPP youth candidates included Hun Manet (30), a son of Prime Minister Hun Sen, and Sor Sokha (32), a son of the Minister of Interior, Sar Kheng.<sup>178</sup> Of the registered candidates, only a few made it into parliament. This included the above mentioned CPP youth candidates, and one youth candidate from CNRP, Korng Kim Hak (33). Female youth candidates fared better in local elections. In the 2012 commune election the number of elected youth councilors and commune chiefs increased from 163 youth councilors in 2007, to 615 youth councilors in 2012. However, this is equal to only 5% of the total 11,459 commune councilors elected. A total of 423 youth commune councilors and 16 youth commune chiefs were elected from the CPP. The SRP had 145 elected youth councilors and two youth commune chiefs. Thirty nine youth councilors were elected from the HRP, four from FUNCINPEC, three from LDP and one from the NRP.<sup>179</sup>

## 6.5 Political Party Landscape

Cambodia's party landscape has undergone changes since the past election in 2012/13. For the first time since 1998, the CPP had lost seats, 22 in all to the opposition. The opposition won an additional 26 seats to the 29 seats won in the 2008 national election. The CPP now occupies 68 seats in the NA and 46 seats in the Senate. The CNRP occupies 55 seats in the NA and 11 Senate seats. Also, for the first time in two decades, only two political parties are represented in the parliament. Other political parties, including FUNCINPEC, LDP and CNP play a minor political role in the fifth legislature and were, with the exception of FUNCINPEC, not represented in the Parliament before. FUNCINPEC won no NA seats in 2013, and won only 151 of total 11,459 commune councilor seats in 2012. The League of Democracy Party (LDP) and Cambodian Nationality Party (CNP) gained only nine seats in the commune election in 2012. It is unlikely that any of these political parties can mobilize sufficient voter support in the next national election to challenge the

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<sup>177</sup> Cambodian Development Research Institute (CDRI): Gatekeepers in Local Politics: Political Parties in Cambodia and Gender Policy, Working Paper Series No. 87, Phnom Penh January 2014. pp. 12-22

<sup>178</sup> COMFREL: Final Report and Assessment of National Assembly Elections, October 2013. p. 18; 79

<sup>179</sup> COMFREL: Final Report and Assessment of Commune Council Elections, December 2012. p. 49 f.



CPP.<sup>180</sup> The changes in the party landscape suggest that only the CNRP has a realistic chance to win a majority in the next election against the CPP. This would be a fundamental political change which brings with it the possible risk of further political instability. For the last three decades the CPP leadership has dominated Cambodian politics. If the CPP were to lose in 2018 and step aside, it would mean the first democratic change of government since Cambodia's independence in 1953.

If the recent past is anything to go by then it is unlikely that a stable transfer of power could take place after the next election in 2018. Since the UNTAC elections the CPP has re-consolidated a dominant one-party system. This has largely been achieved through an extensive system of patronage and nepotism. As a possible portent of things to come this was reinforced at the CPP party congress in January 2015. Three hundred and six new members were elected to the now 545 member strong CPP Central Committee. New members include a number of high-ranking military and police officials. According to a Khmer newspaper cited in the Cambodia Daily, these are 'Chhay Sinarith, who heads the Interior Ministry's powerful internal security department; Hing Bunheang, commander of the prime minister's personal bodyguard unit; Touch Naruth, head of the Interior Ministry's bodyguard unit; deputy national police chief Mok Chito; Phnom Penh police chief Chuon Sovann; and Phnom Penh military police commander Rath Srieng'<sup>181</sup>.

Other high-ranking military and police officials including the Minister of Defense, Tea Banh, who is also a member of the CPP Standing Committee have been outspoken in their support for the RGC and accuses CNRP of responsibility for the post-election political crisis.<sup>182</sup> Furthermore, in January and February 2015 military and police promotions demonstrated that the CPP returned favours for the loyalty of the RGC security apparatus during the political crisis. In February 2015, 29 military members were promoted to Four-Star Generals by the RGC. The promotions followed salary increases for low-ranking soldiers and police in January.<sup>183</sup> In addition, two sons of Prime Minister Hun Sen hold high-ranking positions in the Royal Cambodian Armed Forces (RCAF). Hun Manet, the PM's eldest son is Deputy Chairman of the RCAF Joint Staff, Head of the Defense Ministry's counterterrorism department, Head of the Joint Counterterrorism Task Force and Deputy Commander of Hun Sen's Bodyguard Unit. Hun Sen's second son, Hun Manith is Deputy Head of the powerful Military Intelligence Unit. All two sons and another son in law of Hun Sen were selected for the CPP Central Committee at the 47<sup>th</sup> party congress in January 2015.<sup>184</sup>

In addition to its military backing, the CPP power base has been built upon an extensive and entrenched system of political and economic patronage and nepotism: In a recently published book on Cambodia's political development, the author described this system as follows: 'Today, Cambodia's economy is controlled by this new quasi-palace elite: a sprawling network of CPP politicians, military brass, and business families arranged in vertical *kehsae*, or "strings," of patronage emanating from Hun Sen and his close associates. Given the dearth of trust in Cambodian society, political and financial ties are frequently consummated by marriage. Of Hun Sen's six children, five have been married off in politically auspicious arrangements. Hun Sen's youngest daughter, Hun Mali is married to Sok Puthyvuth, a son of Sok An. Sok An's other son is married to Cham Krasna,

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<sup>180</sup> COMFREL: Final Report and Assessment of National Assembly Elections, December 2013, p. 77 f.; Final Report and Assessment of Commune Council Elections, October 2012, p. 55 f.

<sup>181</sup> Cambodia Daily: Military, Police Top Brass Gets Party Promotions, 02.02.2015

<sup>182</sup> Phnom Penh Post: Tea Banh 'Hurt' By Calls for PM to Step Down, 19.03.2014; Cambodia Daily: Tea Ban Tells Armed Forces to Defend Government, 24.01.2015

<sup>183</sup> Cambodia Daily: Low-ranking Police, Soldiers to See Salary Increases, 14.01.2015; Radio Free Asia: Cambodian PM Promotes 29 to Four-Star General, 05.02.2015

<sup>184</sup> Cambodia Daily: More Military Promotions, Stars for Hun Sen's Sons, 24.07.2013; Cambodia Daily: Military, Police Top Brass Gets Party Promotions, 02.02.2015

a daughter of Cham Prasidh. Hun Sen's nieces and nephews are similarly enmeshed. In this way, the oligarchs are linked to ministers, police chiefs to party power-brokers. Money circulates within a nexus of political and economic connections in which allies are not just friends—but family too.<sup>185</sup>

In 2007, the Phnom Penh Post published a chart, showing that Hun Sen is related through marriage to a number of Cambodia's power players, including Senate President Chea Sim, Deputy Prime Minister Sar Kheng, deceased National Police Commissioner Hok Lundy and Sok An, Chairman of the office of Cabinet of Ministers.<sup>186</sup> After the national election 2013 a number of relatives of high-ranking CPP officials obtained after the 2013 election NA seats. This includes Hun Many, a son of PM Hun Sen, Sor Sokha, a son of Interior Minister Sar Kheng and Sok Sokan, a son of Sok An, Deputy-Prime Minister and Chairman of the Council of Ministers. So Sokan obtained a National Assembly seat and membership in one of the National Assembly commissions to replace CPP lawmaker So Khun, who had passed away in January 2015. Sok Sokan also holds the position of Deputy Secretary General of the Council of Ministers to which he was appointed one year earlier. The other relatives of high-ranking CPP officials obtained NA seats after other CPP candidates ranked higher on the CPP candidate list had to resign following the vote losses in 2013.<sup>187</sup>

Despite these constraints, the SRP and HRP succeeded in merging into a united opposition force, challenging the CPP in the 2013 national election; and remaining united during the post-election dispute and the negotiations with the CPP to end the post-election political crisis. However, disunity and fragmentation in the past have cost the opposition in previous elections. Party defections, splits and mergers and the formation of new political parties in the coming years are possible. The FUNCINPEC experience is instructive in this regard. The party emerged as the first genuine political challenger of the CPP in the 1990s and won the first parliamentary election in 1993 held under the supervision of the United Nations Transitional Authority in Cambodia (UNTAC). However, its power and position in successive coalition governments with the CPP was severely compromised preventing a repeat of its 1993 electoral victory. FUNCINPEC was primarily weakened by defections and divisions within its ranks following its cooperation with the CPP. In 2006, amidst a financial scandal FUNCINPEC ousted its leader Norodom Ranariddh. He went on to form new political party the 'Norodom Ranariddh Party' (NRP). In 2012, the NRP merged with FUNCINPEC. Two years later, Prince Norodom Ranariddh was declared as party president and became FUNCINPEC's prime candidate for the next national election in 2018, despite being expelled from the party in 2006 for alleged corruption of party finances and despite having formed a new political party named the 'Community of Royalists People's Party' before rejoining FUNCINPEC in 2014.<sup>188</sup> FUNCINPEC and NRP combined took only four seats in the 2008 elections and none in 2013.<sup>189</sup>

Other well established political parties following the first multi-party elections in 1993 could also not challenge the CPP in the past five national elections because of disunity leading to party splits and defections. These included the Buddhist Liberal Democratic Party (BLDP), the Sam Rainsy Party (SRP) and the Human Rights Party (HRP). The BLDP gained only ten seats in the first national

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<sup>185</sup> Strangio, Sebastian: Hun Sen's Cambodia, New Haven and London: Yale University Press 2014. p. 134; New Mandala: Blood and Marriage in Cambodia, Australian National University 24.03.2007

<sup>186</sup> Asia Times Online: One Big Happy Family in Cambodia, 20.03.2007

<sup>187</sup> Phnom Penh Post: Sok An's Son Joins Government Ranks, 03.01.2014; Khmer Times: Sok Sokan Named to National Assembly, 02.01.2015

<sup>188</sup> Cambodia Daily: Ranariddh Named FUNCINPEC President Again, 20.01.2015

<sup>189</sup> COMFREL Election Watch 2014

election and gained no seats in the second national election because of a party splits and defections.<sup>190</sup> The SRP, founded in 1995 by Sam Rainsy, a former FUNCINPEC minister in the first coalition government steadily gained in popularity in terms of the numbers of votes and seats won since the 1998 elections. However, mainly due to the disunity of the opposition could not succeed in winning more than 26 seats in the 2008 election. In 2007, Kem Sokha a former senior member of the BLDP and FUNCINPEC, formed the Human Rights Party (HRP). The HRP won only three seats in the 2008 election. As a possible collective opposition to the CPP both parties were weakened by party defections and internal conflicts ahead of commune and national elections held in 2007, 2008 and 2012. The prospect of rifts within the CNRP before 2018, therefore, cannot be ruled out.<sup>191</sup> Other parties contesting in elections are only represented at the commune level. Since 2012, these include afore mentioned League for Democracy Party – LDP.<sup>192</sup>

It is possible that CNRP could also be weakened by other political parties, currently not represented in Cambodia's parliament. This is possible because they have been excluded from the reform process in 2014, and thus could emerge as an alternative political force to the CNRP weakening the united opposition before the next national election. In particular, FUNCINPEC may play such a role in weakening the CNRP's position. In 2014, the party embarked on a process of reform and re-organization. Given FUNCINPEC's recent past it is not expected to make major gains, but it could prevent the CNRP from receiving an absolute majority of NA seats required to form a government. FUNCINPEC has already announced its intention to work closely with CPP as it has done in the past. FUNCINPEC appears to think that the CPP is the only party that can keep the royalist traditions alive, warning that electoral gains for the CNRP would threaten the monarchy.<sup>193</sup> Such claims are dismissed by the CNRP, including its senior royalist member Prince Sisowath Thomica, a longtime secretary to the late King Norodom Sihanouk.<sup>194</sup> In the past, opposition alliances between FUNCINPEC and SRP formed after national elections in 1998 and 2003, with the express purpose of removing Hun Sen from office, failed. On these occasions, Hun Sen successfully out manoeuvred his opponents drawing Ranariddh and FUNCINPEC back into a subservient role within a new coalition thus marginalizing the SRP. Probably because of FUNCINPEC's potential impact on CNRP's voter support, the reelection of Prince Norodom Ranariddh was welcomed by Prime Minister Hun Sen.<sup>195</sup>

Outside the mainstream of Cambodian politics it is worth drawing attention to a newly emerging social network collectively known as 'Khmer for Khmer' (KFK) led by former leaders of NGOs, and former opposition politicians, political commentators, and social researchers. KFK is comprised of a diverse, but seemingly committed group of civil society, union officials and youth activist leaders. This group set out with the intention of mobilizing citizens dissatisfied with both, CPP and CNRP. The network announced intentions to form new local development political parties in local communities and at the provincial level, including an Islamic and ethnic party. The network claims

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<sup>190</sup> Phnom Penh Post: Mouly's History: The Disputes That Split a Party, 22.09.1995

<sup>191</sup> Phnom Penh Post: Defections Rattle Opposition Parties, 21.03.2008; Fresh Defections Hit HRP In Run-Up To May Council Elections, 19.02.2009; Mao Monyvann Says More Defections Coming From SRP Ranks, 27.05.2011

<sup>192</sup> COMFREL: Final Report and Assessment of Commune Council Election 2012, Phnom Penh October 2012. p. 55

<sup>193</sup> The Cambodia Herald: Only FUNCINPEC and CPP support of Royalism: Ranariddh, 31.01.2015

<sup>194</sup> Cambodia Daily: Ranariddh Plays Old Politics with New Party, 17.03.2014

<sup>195</sup> Cambodia Daily: Prince Says FUNCINPEC to Work Closely with CPP, 03.01.2015; Cambodia Daily: Prime Minister Congratulates Ranariddh on FUNCINPEC Return, 21.01.2015; Phnom Penh Post: Reunited Royalists Aim for CNRP, 03.01.2015

the new parties would act as role models for intra-party democracy at the grass-root level.<sup>196</sup> Although it is doubtful, that the KFK can in the short to medium term challenge the CNRP, questions remain about the capacity of smaller parties including FUNCINPEC, LDP and CNP to take votes from the CNRP. For example, in 2003 minor political parties mobilized 10% of the votes, dropping to 2.7% in the 2008 national election and rising only slightly to 3.05% in 2013.<sup>197</sup>

Moreover, CPP dominance of Cambodian politics over the last decades and the often cited weaknesses of opposition parties alone do not provide enough supporting evidence to exclude the possibility of a CNRP victory at the next national election. Neither of the alternative opposition parties referred to above gained more than four percent of the votes in 2013. Based on past experience, it remains uncertain therefore that minor political parties and FUNCINPEC can mobilize enough voter support to prevent the CNRP from gaining an absolute majority of NA seats in 2018. Also, in 2014 the CNRP appeared to be more united than other opposition parties. Electoral success in 2013 has probably reinforced this unity. Nonetheless, doubts also remain about the future strength of CNRP support among the electorate. Questions about voter's motivations for choosing CNRP have been raised. For instance, was it because they want a government or/and leadership change, or were they merely registering a 'protest vote' signaling a desire to see CPP reform? In 2014 there was no supporting evidence for either, other than the CNRP vote was based upon voter grievances that have been well documented in other COMFREL reports. If CNRP voters wanted to see a change of government then the results in 2013 were, for CPP supporters, indeed a 'surprise vote', comparable only to the UNTAC supervised 1993 election, when the CPP, despite expectations came only second to FUNCINPEC.

At the same time, it is important to note that the CPP won the national election in 2008 with 58.11% of the vote, but the number of votes fell sharply to 49% of absolute votes in 2013. In 2013, the CPP received only 3,235,969 votes of total 9,675,453 registered voters (33%), a decline of 10% of votes compared to the 2008 election, when the CPP gained 3,492,374 votes from total 8,125,529 registered voters (43%). The CNRP gained 2,946,176 votes in 2013 equivalent to 30% of the total number of voters registered, an increase of 19% compared to the 2008 election, when the SRP and the HRP together gained 1,714,530 votes (21%). The election results thus seem to show that the CPP is in a relative political decline despite, or maybe because of its control and maintenance of patronage networks, its media dominance and control of the military and security apparatus. The reform deadlock to overhaul the judiciary, combat corruption, to ensure social and environmentally sustainable development, to decrease economic inequalities and poverty rates and to continue political reforms towards a functioning liberal democratic system is unlikely be resolved by the CPP within one five year term. This is especially so when one considers the glacial pace of reform over the last two decades. Perceptions of CPP performance in government among many of its supporters seemed to have shifted and it remains to be seen if the party can regain the trust among these groups it once had. In addition, the election results 2013 show that more than 30% of the registered voters did not vote for the CPP or CNRP. Accordingly, a tight and probably political tense electoral competition between the CNRP and CPP can be expected in the next five years in the run up to national election in 2018.

Highly uncertain in this regard, is how the CPP and CNRP will respond to electoral defeat either

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<sup>196</sup> Phnom Penh Post: New Parties on Horizon, 01.12.2014; Cambodia Daily: New Political 'Network' Heads to the Provinces, 31.10.2014

<sup>197</sup> COMFREL Election Watch 2014

requiring a government change or continued CPP dominance. So far both CPP and CNRP seem convinced of the strength of their voter support in preparation for 2017 and 2018, but have not fully considered how to respond to electoral defeat. Whereas electoral reforms might lead the CNRP to accept an electoral defeat in the next elections, the current reform process is uncertain and leaves the question of CNRP acceptance of the results whatever they may be, open. Looking back at past responses to electoral results, it is unlikely that the CNRP will accept an electoral defeat. Currently, there is no publicly available information regarding any possible government plans for a peaceful transition of power in the event of a CPP electoral defeat in 2018. During the 47<sup>th</sup> CPP party congress in January 2015, the CPP leadership acknowledged to its 1,300 member's the shortcomings of its rule and proclaimed reforms. It did not however elaborate publicly how a government change in case of electoral defeat of the CPP can be accomplished. In a classified document obtained by media, during the conference the CPP acknowledged often cited problems of the current government, including corruption, nepotism, the abuse of power, social and economic inequality, a lack of trust in the judiciary, weak public services, poverty, deforestation and land conflicts.<sup>198</sup>

## 7. Recommendations

- Continue and intensify the ‘culture of dialogue’ between the CPP and CNRP to overcome once and for all the destructive political discourses of the past and foster a democratic political discourse based on the principles of mutual respect and tolerance of difference.
- Continue the legislative reform process. Redirect more human and material resources to the legislative. Develop mechanism to better integrate civil society and minor political parties not represented in the parliament in the legislative process. The current legislative process needs to be more inclusive and publicly accessible. The number of National Assembly seats should be increased to make the legislative more representative and effective in its functions. The internal regulations of the National Assembly allowing only political parties with ten seats to hold public speeches in the plenary session should be abolished.
- Improve public policies to increase the transparency and accountability of the executive. Current audit policies need to be reformed and the National Audit Authority strengthened. The current land-titling policy should be reviewed and reformed to secure that land titles are held by all citizens entitled to hold land property rights. The Anti-Corruption Unit should conduct more investigations into grand corruption and political corruption to strengthen public trust in the RGC.
- Reemphasize legal reforms to strengthen the independence of the judiciary and rebuild public trust. Current judicial laws do not instill public trust and should be amended to incorporate safeguards for the independence of the judiciary. Positions in the judiciary should be incompatible with political party membership. The judiciary should be required to be apolitical. The Ministry of Justice should have no influence on appointment, promotion and disciplinary actions against judges and prosecutors. The Supreme Council of Magistracy alone should be responsible for this task and equipped with its own budget.
- Emphasize the electoral reform process to ensure that in future elections, public trust in the electoral process is assured and leave the opposition no cause to undermine the credibility of election results and resolve electoral disputes with new dispute mechanisms to prevent major post-

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<sup>198</sup> Cambodia Daily: Self-Criticism at Center of CPP Congress, 31.01.2015

election political crisis:

- The new NEC should be formed as soon as possible to increase public trust in the electoral reform progress.
  - The voter registration system should be changed with the technical assistance of qualified individuals in this process, including the NEC, civil society organizations and experts from the international community.
  - Under NEC authority electoral dispute resolution commissions on national, provincial and community level should be established in order to better facilitate and resolve electoral disputes during and after elections.
  - A state run media oversight commission under NEC authority should be established to ensure freedom of election information and an equal level-playing field for election competition for all contesting political parties in future elections.
  - The banning of official election campaign periods and restrictions on civil society organizations freedom of opinion sends the wrong signal. The RGC should better focus on the judiciary and security apparatus, including officials of the court, police, military and military police. They should be prohibited from participating in campaigns and be strictly impartial. Laws should be strictly enforced against political parties misusing state resources for campaign purposes.
  - The sub-national election system should be reformed into a direct election system and held at the same time as the commune election.
  - A closed party list system should be considered, prohibiting political parties from changing the candidates rankings after the elections, displaying the candidate lists on ballots and in this way provide voters at the very least with information about the candidate's ranking before the election.
  - Alternatively an open-list system could be introduced, allowing voters on ballot papers to give a 'preferential vote' for candidates and oblige political parties to follow the number of preferential votes which determine the new ranking of candidates after the election.
- The RGC security apparatus should be reformed to prevent further lethal incidents and fatalities during demonstrations and protests. The RGC security apparatus need to be trained in democracy and human rights, in particular in civic and political rights. Trainings should be provided to police and military forces, including crowd-control techniques and violence de-escalating tactics. The RGC security apparatus should be held accountable for possible criminal offenses committed by its members during protests and demonstrations in the past. The Ministry of Interior should release a public report on the ongoing investigations about the death of five labour protesters during the violent protests in January 2014.
- The RGC should liberalize current practices to limit fundamental political and civic freedoms through reforms of the criminal penal code, in particular the laws on insults and incitement, the prevention of arbitrary arrests and a more relaxed and open political attitude towards criticism. Restrictive measures against civil and political activists backfire, because they attract more public attention.
- The RGC should foster nationwide civic education campaigns in peace, democracy and human rights in public and private education institutions and other educational facilities, emphasizing in particularly youth and women and public policies to strengthen women and youth involvement in politics. Youth should through education be politically well informed.

➤ The legislative and executive should develop mechanisms apart from the constitutional provisions to allow a peaceful power transfer and transition when future election results require it. Current constitutional provisions and laws might have established sufficient procedures, but they have never been tested in practice. Power transfers will need more than legal and proper proceedings. They require practical tools and policies allowing for a peaceful transition

## 8. Annex

The ERA's assessment with key point of changes of the Draft Law on the Organization and Functioning of the National Election Committee made by the Joint-Commission of both parties (CPP&CNRP) in comparison with the existing law on the Election of the members of the National Assembly (Chapter III).

<p><b>The Proposed Draft of the Joint Commission (agreed by CPP &amp; CNRP)</b></p> <ul style="list-style-type: none"> <li>• Italic font refers to key point of changes</li> </ul>	<p><b>ERA's Assesment in comparing with the Existing Law on the Election of Members of the National Assembly ( LEMNA) and ERA suggestions with minimum principles .</b></p> <p>Key terms for the Assessment</p> <ul style="list-style-type: none"> <li>• Positive refers to some improvement.</li> <li>• Negative refers to worse</li> <li>• Uncertain refers to ambiguous</li> <li>• Significantly – refer to largely impact</li> <li>• Green fonts refer to positive points and ERA suggestions</li> <li>• Red fonts refer negative or uncertain points</li> </ul>
<p><b>ORGANIZATION OF NATIONAL ELECTION COMMITTEE</b></p>	
<p>1</p>	<p><b>Qualification Criteria of the NEC's membership :</b></p> <p><b>Article 5:</b> Qualified Criteria for NEC membership</p> <ul style="list-style-type: none"> <li>- <i>Must be Cambodian nationality by birth and hold only one citizenship while performing duties at the National Election Committee</i></li> <li>- <i>Aged at least 35 (thirty five) years old on the day of appointment</i></li> <li>- <i>Eligible to vote</i></li> <li>- <i>Holding a degree in higher education</i></li> <li>- <i>At least 10 (ten) year experience</i></li> <li>- <i>Not a spouse or a relative by blood or relative by marriage through the third generation of the President or Vice-president of a political party competing in the elections.</i></li> </ul>
<p>2</p>	<p><b>Recruitment and Selection :</b></p> <p><b>Article 6:</b></p> <p>The 09 (nine) members of the National Election Committee shall be recruited with:</p> <ul style="list-style-type: none"> <li>- <i>04 (four) members recruited by the ruling party</i></li> </ul>



- 04 (four) members recruited by parties that have seats in the National Assembly, not joining the government ,and
- 01 (one) recruited with a consensus among all parties that have seats in the National Assembly.

*Based on the above-said principle, the Permanent Committee of the National Assembly shall coordinate with all political parties having seats in the National Assembly to make public, open and transparent announcements for recruiting members of the National Election Committee for at least 10 (ten) days. Then, the Permanent Committee of the National Assembly shall coordinate with all political parties having seats in the National Assembly to examine and select the candidate members of the National Election Committee among the candidates who have submitted applications with qualifications as stated in article 5 of this law.*

*The modalities and procedures for the selection of candidate members of the National Election Committee shall be determined by the Permanent Committee of the National Assembly.*

*Based on the membership selected above, the Permanent Committee of the National Assembly shall prepare a list of members of the National Election Committee and submit it to the National Assembly to vote in confidence based on the absolute majority of the total number of the members of the National Assembly.*

*The Chairperson, vice-chairperson and members of the National Election Committee shall be appointed by the Royal Decree at least 06 (six) months after the new National Assembly starts.*

*The Chairperson, vice-chairperson and members of the National Election Committee shall take an oath of allegiance before holding office.*

*The Chairperson, vice-chairperson and members of the National Election Committee shall be appointed by the Royal Decree at least 06 (six) months after the new National Assembly starts.*

*The Chairperson, vice-chairperson and members of the National Election Committee shall take an oath of allegiance before holding office.*

vice-chairperson) as the same package of the selection of the NEC members while the NEC has no power to select its chairperson and vice chairperson.

The ERA suggests that in order to strengthen its autonomy, its effectiveness working supervision and independence, the new NEC should be empowered to select its leaders (chairperson and vice chairperson).

3	<p><b>Term of the NEC members</b></p> <p><b>Article 7:</b>  <i>The Chairperson, vice-chairperson and members of the National Election Committee shall have a 05 (five) year term, which ends when the new National Assembly takes an office.</i>  <i>In case of failure to constitute the membership of the National Election Committee, the existing National election Committee shall continue to implement its work and be competent to administer and organize elections according to the law in force.</i></p>	<p>The provisions are uncertain with term of the NEC members; however, the provisions suggest in case of failure to constitute the membership of the National Election Committee, the existing National election Committee shall continue to implement its work.</p>
3	<p><b>Neutrality of NEC members:</b></p> <p><b>Article 8:</b>  <i>The Chairperson, Vice-chairperson and members of the National Election Committee shall suspend their right to vote temporarily until their positions come to an end.</i></p> <p>The Chairperson, vice-chairperson and members of the National Election Committee who are <i>members of a political party shall resign from the party and may join the party in 02 (two) years after they end their mandates or lose their positions.....</i></p> <p>The Chairperson, Vice- Chairperson and Members of the National Election Committee who are members of a political party and/or who are leaders of a non-governmental organization, an association, a trade union and/or a business shall resign from the party....</p>	<p>The provisions are positive with the restriction of political partisans (suspending right to vote during his/her term office, resign from his/her political party and prohibit of joining political party in two years period after his/her term of office expires or he/she loses his/her office, while current provisions do not have it.</p>
4	<p><b>Loss of NEC membership and accountability:</b></p> <p><b>Article 9-</b>  The Chairperson, Vice-Chairperson and members of the National Election Committee shall lose their position in one of the following cases:</p> <ul style="list-style-type: none"> <li>• He/she dies</li> <li>• He/she resigns in writing</li> <li>• He/she lost his/her professional aptitude as certified by competent ministries/institutions</li> <li>• <i>He/she has been sentenced with imprisonment for a felony or a misdemeanor.</i></li> </ul> <p><b>Article 10:</b>  The Chairperson or the Vice- Chairperson or Members of the National Election Committee shall <i>be accountable to the National Assembly.</i>  <i>The decision to dismiss the Chairperson or the Vice- Chairperson or Members of the National Election Committee shall be the competence</i></p>	<p>The provisions are positive with losing/depriving of NEC membership when “sentenced with imprisonment for a felony or a misdemeanor” which replaces the provisions of the existing law which says that “he/she acts in contravention of the internal rules regulated by the National Election Committee. Another important positive change is the the Chairperson or the Vice- Chairperson or Members of the National Election Committee is accountable to the National Assembly. The decision to dismiss the Chairperson or the Vice- Chairperson or Members of the National Election Committee shall be the competence of the National Assembly. This can be explained that the National Assembly has power to question the NEC while the NEC shall make regularly reports to the National Assembly.</p>

	<i>of the National Assembly.</i>	
5	<p><b>Replacement of the NEC member</b></p> <p><b>Article 11:</b>  In the event that the Chairperson or Vice-Chairperson or Member of the National Election Committee loses his/her office the <i>Standing Committee of the National Assembly shall coordinate with relevant political parties to make a public announcement for recruitment of candidates to fill the vacant position in an open and transparent manner in 05 (five) days' time.</i>  <i>Then, the relevant parties shall select a new member from those who apply not later than 03 (three) days and submit it to the Permanent Committee of the National Assembly so that the latter can present the new member to the National Assembly for vote of confidence based on an absolute majority of all members of the National Assembly not later than 03 (three) days in case where election is held and not later than 05 (five) days in case where election is not held.</i></p>	The provision is positive with the procedure on replacing new member to substitute the lost/deprived member through the same procedure with bi partisan selection.
6	<p><b>Legal protection for NEC members</b></p> <p><b>Article 13</b>  The chairperson, vice-chairperson and members of the National Election Committee shall carry out their duties impartially, based on the principle of respect for law, <i>without pressure, threats, intimidation or instruction, either directly or indirectly, from any person or an institution.</i>  <i>Personal security and safety of the chairperson, vice-chairperson and members of the National Election Committee and those of their family shall be guaranteed as needed at their request.</i>  <i>The chairperson, vice-chairperson and members of the National Election Committee shall not be subject to any criminal or civil responsibility for the decision they make under their competency and function.</i></p>	The provision is positive related to the legal protection such as his/her security and even his/her family members, decriminalizing and not subject to any civil liability for the decision they make under their competency and function, while the provisions of the existing law do not provide any legal protection for the NEC Members.
<b>ORGANIZATION OF MUNICIPAL/PROVINCIAL ELECTION COMMISSIONS-(PEC)</b>		
7	<p><b>Selection of PEC</b></p> <p><b>Article 17:</b></p> <ul style="list-style-type: none"> <li>• The National Election Committee shall establish a Selection Commission to select the composition of the Municipal/Provincial Election Commission in an open and transparent manner.</li> <li>• The actual formalities and procedures for selection of members of the Municipal/Provincial Election Commission shall be determined by a decision of the National Election</li> </ul>	The provision is positive with transparent selection and constitution of recruiting/selecting commission, while the current provisions of the existing law says that the composition of the Provincial/Municipal Election Commissions shall be appointed by the National Election Committee. Additionally the ERA suggests that PEC members should include female and youth officials into the selection processes and as the members of PECs.

	Committee.	
8	<p><b>Accountability and Dismissal of PEC</b> <b>Article 21</b></p> <p>The Chairperson or Vice- Chairperson or members of the Municipal/Provincial Election Commission <i>shall be accountable to the National Election Committee.</i></p> <p><i>The National Election Committee shall have the right to dismiss the Chairperson or Vice- Chairperson or members of the Municipal/Provincial Election Commission in case he/she acts in contravention of the law in force, internal rules, regulations and procedures for elections or code of conduct for electoral officials.</i></p>	The provision is positive with accountability and dismissal of PECs while current law does not provide any provisions regarding these matters.
<b>ORGANIZATION OF COMMUNE/SANGKAT ELECTION COMMISSIONS- ( CEC)</b>		
9	<p><b>Article 28:</b></p> <p><i>The National Election Committee shall establish a Selection Commission to select the composition of the Commune/Sangkat Election Commission in an open and transparent manner.</i></p> <p>The actual modalities and procedures for the selection of members of the Municipal/Provincial Election Commission shall be determined by a decision of the National Election Committee.</p>	<p>The provision is positive with transparent selection and constitution of selecting commissions.</p> <p>The current provisions of the existing law state that the members of the Commune/Sangkat Election Commissions (CECs) shall, upon the request of Provincial/Municipal Election Commissions (PECs) be appointed by the National Election Committee from among.</p> <p>Additionally the ERA suggests that CEC members should include female and youth officials in the selection processes and as the Members of CECs.</p>
10	<p><b>Accountability and Dismissal of CEC:</b> <b>Article 32:</b></p> <p><i>The Chairperson or Vice- Chairperson or members of the Commune/Sangkat Election Commission shall be accountable to the National Election Committee.</i></p> <p><i>The National Election Committee shall have the right to dismiss the Chairperson or Vice- Chairperson or members of the Commune/Sangkat Election Commission in case he/she acts in contravention of the law in force, internal rules, regulations and procedures for elections or code of conduct for electoral officials.</i></p> <p><i>The National Election Committee can issue a decision to delegate its powers to the Municipal/Provincial Election Commissions as needed to implement the provisions specified in this article.</i></p>	The provisions are positive with accountability and dismissal of CECs and NEC delegation its power to CEC while the current provisions do not provide any provision regarding this matter.
<b>ORGANIZATION OF POLLING STATION COMMISSIONS-(PSC)</b>		
11	<p><b>Selection of PSC</b> <b>Article 36:</b></p> <p><i>The National Election Committee shall establish a Selection Commission to select the members of the Polling Station Commission in an open and transparent manner.</i></p>	The provision is positive with transparent selection and constitution of selecting commissions. The current provisions of the existing law states that the members of the Polling Station Commissions shall, upon the request of the Provincial/Municipal Election Commissions (PECs) be appointed by the National Election Committee.

	<i>The actual formalities and procedures for selection of members of the Polling Station Commission shall be determined by a decision of the National Election Committee.</i>	Additionally The ERA suggest that in order to increase transparency and prevent the conflict on voting and results of counting, two members of the polling/ballot counting stations should added; one person should be appointed by the ruling party (ies) and the other one should be appointed by the non-ruling party (ies) which have acquired seat(s) in the National Assembly. Both officials should have a duty to verify voters' names and information held in the electoral identity cards and to compare it to the information held in the voters' list. Both members should also standby to verify the organization of counting ballots processes. PECs members should include female and youth.
12	<p><b>Accountability, and Dismissal of PSC</b>  <b>Article 40._</b>  <i>The Chairperson, Vice- Chairperson, Secretary and Members of the Polling Station Commission shall be accountable hierarchically to the National Election Committee.</i>  <i>The National Election Committee shall have the right to dismiss the Chairperson or Vice- Chairperson, Secretary or members of the Polling Station Commission in case he/she acts in contravention of the law in force, internal rules, regulations and procedures on elections or code of conduct for electoral officers.</i>  <i>The National Election Committee can issue a decision to delegate its powers to the Municipal/Provincial Election Commissions as needed to implement the provisions specified in this article.</i></p>	The provisions are positive on the accountblaity and dismissal of PSC and NEC delegation to PSC, while the current provisions of the extsing law do not provide any provision regarding to this matter.
<b>THE FUNCTIONING OF THE NATIONAL ELECTION COMMITTEE (NEC)</b>		
<b>THE COMPETENCE OF THE NATIONAL ELECTION COMMITTEE (almost the same as the existing law which provides in Chapter III.</b>		
13	<p><b>Duties of NEC Chairperson, Vice Charperson and members</b>  <b>Article 43 -</b>  <i>The Chairperson of the National Election Committee shall:</i></p> <ol style="list-style-type: none"> <li>1. <i>Ensure that all members of the National Election Committee comply with election law, its internal rules (by-laws), regulations and procedures and the code of conduct for electoral officers.</i></li> <li>2. <i>Convene and lead all ordinary and extraordinary meetings of the National Election Committee.</i></li> <li>3. <i>Represent the National Election Committee in relationship with the King, institutions, national and international organizations.</i></li> <li>4. <i>Submit annual reports of the National Election Committee to the National Assembly and the Senate.</i></li> <li>5. <i>Sign all official documents of the National Election Committee.</i></li> </ol> <p><b>Article 44-</b>  <i>The Chairperson of the National Election Committee shall assist the chairperson according to the tasks allocated by the Chairperson. In the event that the Chairperson is absent or unable to come to work the Vice-chairperson replaces the chairperson as the Acting</i></p>	The provisions are positive on the determination of the duties, powers of the Chairperson, Vice chairperson of the NEC, while the current provisions of the existing law do not stipulate any duties of Chairperson and Vice-chairperson.

	<p><i>Chairperson through a letter of authorization.</i></p> <p><b>Article 45-</b>  <i>Members of the National Election Committee shall receive the tasks as defined in the Internal Rules and assigned by the Chairperson of the National Election Committee upon consultation with the Vice-chairperson and members of the National Election Committee.</i></p>	
14	<p><b>Delegation:</b>  <b>Article 46._</b>  <i>The National Election Committee may issue a decision to assign its rights to the Municipal/Provincial Election Commission, Commune/Sangkat Election Commission, Polling Station Commission and electoral officers or electoral agents to implement their electoral duties.</i></p>	<p>The provisions are positive on the term of delegation power, while the current provisions of the existing law do not confer any provision on this matter.</p>
<p><b>WORKING FORMALITIES OF THE NATIONAL ELECTION COMMITTEE</b>  It almost the same as in Part III of the existing Law (LEMNA)  Quorum and vote for 2/3, in case no quorum or/and vote for approval on any problem Chairperson summons for second meeting. The quorum or/and vote for the second meeting require only absolute majority.</p>		
15	<p><b>Working and decision methods of NEC :</b>  <b>Article 50</b>  The Chairperson of the National Election Committee shall convene the meetings of the National Election Committee.  Members of the National Election Committee shall attend the meetings as convened and invited by the Chairperson of the National Election Committee.  <i>In the event that any member of the National Election Committee fail to attend the meetings or are absent without reason for 3 (three) times she/he shall be deemed to give up his/her position.</i>  <i>One third (1/3) of the members of the National Election Committee shall have the right to make a written proposal attached the specific agenda or subject to the Chairperson of the National Election Committee to convene a meeting of the National Election Committee and the Chairperson shall convene the meeting of the National Election Committee.</i>  The meetings of the National Election Committee shall be valid only if:  - There is a quorum of 2/3 of all members of the National Election Committee for any approvals that require a majority vote of two third (2/3) of all members of the National Election Committee.  - There is a quorum of more than half of all members of the National Election Committee for any approvals that require an absolute majority of all members of the National Election Committee.  <i>The National Election Committee shall adopt the Internal Rules and election regulations and procedures with two third (2/3) majority of all members of the National Election Committee. If it does not meet the above quorum and/or enough vote for approval based on the two third majority of all members of the National Election Committee the Chairperson of the National Election Committee shall convene a second meeting the next day and the quorum and the vote for</i></p>	<p>The provisions are positive as similar with the provisions current existing law and in case there is an equal vote for an approval of any issue, the vote by the Chairperson of the National Election Committee shall over-ride. The positive provisions stipulate that 1-) the National Election Committee is encouraged to adopt the Internal Rules and election regulations and procedures with two third (2/3) majority of all members of the National Election Committee, 2-) all decisions of the NEC shall be announced in public later than 5 days, 3-) one third (1/3) of the members of the National Election Committee shall have the right to make a written proposal attached the specific agenda or subject to the Chairperson of the National Election Committee to convene a meeting of the National Election Committee and the Chairperson shall convene the meeting of the National Election Committee.</p>

	<p>approval shall be the absolute majority of all members of the National Election Committee.</p> <p><i>Other than the Internal Rules and election regulations and procedures, the National Election Committee shall approve with the absolute majority vote of all members of the National Election Committee.</i></p> <p>In case there is an equal vote for an approval of any issue, the vote by the Chairperson of the National Election Committee shall override.</p> <p><b>Article 51</b></p> <p><i>All decisions of the National Election Committee shall be announced in public not later than 5 (five) working days after they are made.</i></p>	
16	<p><b>Dissolution of NEC</b></p> <p><b>Article 50</b></p> <p><i>In the event that the functioning of the National Election Committee is stalled due to lack of quorum or lack of adequate vote to adopt any issue the National Assembly shall decide to dissolve the composition of the embattled National Election Committee and shall organize a new membership to replace it according to the provisions of this Law.</i></p>	<p>The provisions are uncertain with no clear procedure in which the National Assembly (partisan body) is empowered to dissolve NEC while the ruling party (ies) could manipulate the situation for dissolving the NEC.</p> <p>The provisions could be manipulated :</p> <ul style="list-style-type: none"> <li>• Members who are absent or fail to attend the meetings for 3 times, he/she is deemed to give up his/her position.</li> <li>• The National Assembly has power to dissolve the composition of the embattled NEC in case it is stalled due to lack of quorum or inadequate vote to approve any matter.</li> </ul>
<p><b>GENERAL-SECRETARIAT</b>  The provisions are extracted/imported from “specific provisions of the current existing election regulation/procedure of NEC but it does not provide any role, duties and authorities of the Secretariat-General and his Deputy and the working methods of the General Secretariat</p>		
17	<p><b>Qualification and selection of the Secretariat-General and his Deputy of the NEC:</b></p> <p><b>Article 54:</b></p> <p><i>The Secretary-General and Deputy Secretaries-General shall have the following qualifications:</i></p> <ul style="list-style-type: none"> <li>- <i>Must be Cambodian national by birth and hold only one citizenship while performing duties</i></li> <li>- <i>Aged at least 30 (thirty) years old on the day of appointment</i></li> <li>- <i>Be Eligible to vote</i></li> <li>- <i>Holding a degree in higher education</i></li> <li>- <i>At least 05 (five) year experience</i></li> <li>- <i>Not a spouse or a relative by blood or relative by marriage through the third generation of the President or Vice-president of a political party competing in the elections.</i></li> </ul>	<p>The provision is positive on the restriction nepotism/cronyism to avoid the matter of conflict of interest. The provisions prohibit of spouse or a relative by blood or relative by marriage through the third generation of the President or Vice-president of a political party competing in the elections, to be appointed as the Secretary-General and Deputy Secretaries-General. While the provisions of the existing law do not provide any detail regarding the matters of the Secretary-General and Deputy Secretaries-General.</p>

18	<p><b>Selection of the Secretary-General and Deputy Secretaries-General</b>  <b>Article 55-</b></p> <p><i>The Secretary-General and Deputy Secretaries-General shall be appointed by the Royal Decree at the request of the Chairperson of the National Election Committee upon approval obtained based on the absolute majority of the entire composition of the National Election Committee.</i></p> <p><i>The National Election Committee may recruit contracting staff to carry out its work as needed.</i></p>	<p>The provision is uncertain whether the NEC will have an open selection. There is no provision to provide for public recruitment and selection of the Secretary-General and Deputy Secretaries-General.</p>
19	<p><b>Loss of the Secretary-General and Deputy Secretaries-General positions:</b></p> <p><b>Article 56:</b>  <i>The Secretary-General and Deputy Secretaries-General shall lose their positions in one of the following cases:</i></p> <ul style="list-style-type: none"> <li>- <i>He/she dies</i></li> <li>- <i>He/she resigns in writing</i></li> <li>- <i>He/she loses his/her professional aptitude as certified by competent ministries/institutions</i></li> <li>- <i>He/she has been sentenced with an imprisonment for a felony or a misdemeanor.</i></li> </ul> <p><b>Article 57:</b>  <i>The organization and functioning of the General-Secretariat of the National Election Committee shall be determined by a Sub-decree at the request of the National Election Committee.</i></p>	<p>The provision is uncertain. Unlike PEC and CEC, the NEC has no clear power to dismiss Secretariat-General in case he or she violate the severe regulations of the NEC while the working methods of the General Secretariat and its leaders (the executive ) are under the government regulation.</p>
20	<p><b>Working method of the General-Secretariat and its leaders ( the executive ):</b></p> <p><b>Article 55-</b>  <i>Officials/staff of the General-Secretariat of the National Election Committee and those of the Secretariat of Municipal/Provincial Election Committee shall be covered by a separate statute to be determined by a Royal Decree at the request of the National Election Committee after obtaining an approval from the Ministry of Civil Service.</i></p> <p><b>Article 57-</b></p> <p><i>The organization and functioning of the General-Secretariat of the National Election Committee shall be determined by a Sub-decree at the request of the National</i></p>	<p>The provisions are significantly negative with concern on a separate statute to be determined by a Royal Decree at the request of the National Election Committee after obtaining an approval from the Ministry of Civil Service and working method is under the Sub Degree the executive in which the Prime Minister has discretionary power to issue the degree.</p> <p>In order to strengthen its autonomy, its effectiveness of work and independence, the ERA suggests that the new NEC shall be empowered to regulate its General-Secretariat's functioning and working method.</p>



	<i>Election Committee.</i>	
<b>BUDGET OF THE NATIONAL ELECTION COMMITTEE</b>		
21	<p><b>The NEC budget:</b></p> <p><b>Article 58._</b> The National Election Committee shall have an autonomous budget for its work. <i>The National Election Committee shall handle and use the budget for election with transparency, integrity, efficiency and effectiveness according to the Law on Public Financial System.</i></p> <p><b>Article 59._</b> <i>A special account shall be established at the National Treasury, known as "Trust Fund Account for Election", for the National Election Committee to administer in the conduct of the electoral work.</i> <i>The electoral Fund obtained from various contributions of the Royal Government, foreign governments, international organizations, charitable individuals, non-governmental organizations, and any other legitimate revenues shall be integrated into the national budget to be directly credited to this special account</i></p>	<p>The provisions are significantly negative with only the National Treasury, known as "Trust Fund Account for Election" while the current provisions are more open for development partner fund and foreign trust aid in which some of those foreign aid contributions for election fund is able to operate out of national treasury.</p> <p>In order to ensure the independence and effectiveness of fund management and fully functioning of its jobs, the ERA suggest that the budget and fund of the NEC must be made through the National Treasury, and may be operated out of the National Treasury Operation Account when and if donors require it. During the year of elections, the National Assembly should immediately approve the allocated financial budget for the NEC with 100% in advance.</p>
<b>PRENALTIES</b>		
22	<p><b>PENALTIES:</b></p> <p><b>Article 60-</b> <i>Any member of the National Election Committee and Election Commissions at all levels, who does not follow the provisions of this Law, shall be meted out with disciplinary sanctions, excluding any other possible criminal penalties. The disciplinary sanctions shall be defined in the Internal Rules of the National Election Committee.</i></p>	<p>The provisions are uncertain with no clear disciplinary sanctions against NEC staff at all level. The provisions of the existing law (of LEMNA) have disciplinary sanctions including fines.</p>
23	<p><b>TRANSITIONAL PROVISIONS:</b></p> <p><b>Article 61</b> <i>The Chairperson, Vice-Chairperson and members of the current National Election Committee shall continue to perform their duties until the Chairperson, Vice-Chairperson and members of the National Election Committee appointed in accordance with the provisions of this Law take their office.</i></p>	<p>The provisions are negative with less respect on amendment of the constitution -Chapter 15 and ignorance of the implementation of political solution agreement on 22 July 2014 and 28 November 2014.</p> <p>The ERA suggests that after adopting the law on organization and functioning of the National Election Committee (NEC), New NEC shall be established in February 2015, meanwhile the current NEC composition should be dissolved.</p>

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