



Election campaigns unleashed

Political parties continue to flout election law,
NEC authority during election campaigns

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An investigative report by **VOD**

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Political parties continue to flout national election law, NEC authority during illegal election campaigns

The Law on Election of Members of National Assembly (election law) states that the electoral campaign should last for one month and that all activities of the electoral campaign shall end 24 hours before the polling day. However, a few months prior to the mandated electoral campaign period in 2013, several leading political parties out of the eight political parties registered actively advocated and delivered their political platforms to supporters and activists at both the national and sub-national levels.

A 2012 report from COMFREL identified 500 election-related irregularities including use of state assets (cars or buildings), finances, human resources and media.

Early campaigning activities unchallenged

In the fifth national assembly election, eight political parties registered to run in the election, including: Cambodian Nationality Party, Funcinpec Party, Democratic Republican Party, Cambodian's People Party (CPP), Khmer Economic Development Party, Khmer Anti-Poverty Party, Cambodian National Rescue Party (CNRP), and League for Democracy Party.

Though Article 72 of the election law states that the electoral campaign period shall last 30 days, and all activities of the electoral campaign shall end 24 hours before the polling day, the Executive Director of Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NIFEC) Mr. Hang Puthea observed that of the eight political parties registered to run in the fifth National Assembly election, several ran electoral campaigns before the date set by the National Election Committee (NEC).

“For the 2013 general election, I have noticed that the NEC is not able to enforce the date of the electoral campaign as

set by the NEC itself, since there have still been some campaigns prior to the start date,” he said. “We have seen that there was already a brief exchange between the ruling party and the opposition party. And sometimes the tension has come into existence before the date of electoral campaign set by NEC, but sometimes it can be a kind of campaign or a meeting of the party’s members. That is why, what we have identified can make eligible voters and political parties unhappy.”

The NEC’s Secretary-General Mr. Tep Nytha said that any political parties running political campaigns before the date set by law have to abide by the Law on Political Parties, which is not under the authority of the NEC.

“Electoral campaign times are set by the Law of Election, which is 30 days before the polling day. It is called an ‘election campaign’,” Mr. Nytha said. “But many other activities before the electoral campaign will be covered by this [other]

law: Cambodian citizens have rights to conduct activities [prior to the allowed, 30-day timeframe] under the Law on Political Parties.”

However, many election monitors consider any election campaigns that are held outside the limitations set by the NEC to constitute unfair competition.

A report from the Committee for Free and Fair Elections in Cambodia (COMFREL) dated April 10, 2013, explained that three main political parties — CPP, CNRP and Funcinpec — had already conducted several campaign activities at the local

level, including forums to persuade others to join their party and promotions of their political platforms to their members and the public. However, other political parties did not promote their political platform at the local level.

The report indicated that compared to other political parties,

“The NEC is not able to enforce the date of the electoral campaign as set by the NEC itself, since there have been some campaigns prior to the start date.”

**MR. HANG PUTHEA,
NIFEC EXECUTIVE DIRECTOR**



Prime Minister Hun Sen gives an interview to local media outlets. Allegation of inequal access to the media has been an issue of contention leading up to the 2013 National Assembly Elections. ©VOD

CPP had more ability and resources to promote its political platforms, its achievements and CPP leadership through a number of media outlets, both state-run and private.

Opposition claims bias in location denials

The COMFREL report, “Using State Resources of Political Parties,” released in May 2012 found that from 1 Sept. 1, 2011, to Jan. 15, 2012, there were 200 cases of systematic usage of state resources for political campaigning ahead of the 2012 commune elections. The ruling CPP displayed its signs in public spaces, state buildings and schools, also using these spaces for meetings. COMFREL also found that government officials, police and military police actively joined hands with the CPP in attacking opposition parties.

COMFREL raised an example in the cases of Mr. Ma Chhoeun, the head of the National Police Academy and Major General Soun Phalla, both of whom asked eligible voters to vote for CPP. Furthermore, COMFREL claimed that the CPP has strengthened its structure in governmental ministries and departments, the police force and the military armed forces. COMFREL found that most provincial governors, district governors and high-profile public servants are affiliated with the CPP, in opposition of Article 37 of the Law on the Co-Status of Civil Servants.

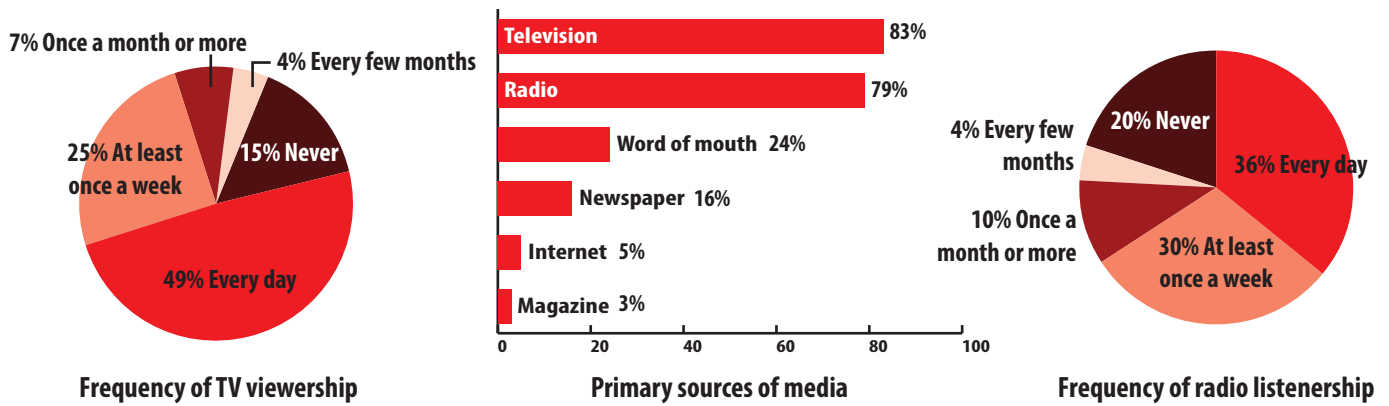
Mr. Nytha, the NEC Secretary General, said that prior to the election campaign, the NEC requires all political parties to submit their activity plans to the relevant Commune or Sangkat Election Committee at least three days before commencing the campaign.

“It is required [that the parties] submit the political activity plan three days before the campaign,” he said. “If there is an overlap of campaigning among the parties, we will talk and discuss with them in order to avoid problems or to find alternatives. In our experience, we have been able to avoid the problem since we had prior discussions before starting the campaign. That is why before allowing any political party to run their campaign, we need to talk and coordinate first.”

However, Funcipec representative Mr. Tep Nun Ry said that in the previous election, his party had asked local authorities for a location to run their campaign, but those local authorities discriminated and worked toward the interest of the ruling party.

“As a political party, we asked for location to run our campaign, but it was rejected, while the ruling party’s proposal was approved,” he said. “The ruling party was allowed to hold the campaign at the pagoda, but when my party asked for permission to hold a campaign outside the pagoda, we were not allowed, as they provided us a number of reasons, and that is difficult for us.”

IRI public opinion survey sheds light on how voters get their information



Source: IRI. "Survey of Cambodian Public Opinion." Jan.-Feb. 2013.

In relation to the installing of political party signboards, CNRP spokesman Mr. Yim Sovann claimed that the authorities always prevented his party from installing signboards by saying that it impedes public order. He added that to date, as many as 60 CNRP signboards had been destroyed.

"In our experience, we lodged thousands of complaints associated with [destroyed] signboards, but not a single case has been resolved in a just manner. Now, the case of destroying CNRP signboards has happened nationwide, and, as of today, 40 to 60 signboards have been destroyed. We already lodged complaints to the authorities, but less than 1 percent have been resolved, and the rest will be ignored because the authorities themselves are in favor of perpetrators."

The COMFREL report found that CPP is relatively prioritized in terms of use public space for its electoral campaign. COMFREL observed that unlike CPP, other political parties that wished to use public spaces such as parks, national roads or boulevards, were intimidated or threatened, and the portraits of their parties' leaders would not be allowed to be displayed. In Pailin Province, for instance, on Aug. 22, 2011, the [former] Sam Rainsy Party sought permission to install a signboard near a CPP signboard, but they were stopped, and the signboard was confiscated by police.

Opposition parties question state, private media compliance to election law

Article 75 of the election law stipulates that the NEC shall undertake measures to publicize political messages at the request of political parties that have registered for the election, based on an equal principle and an orderly "first-come, first-serve" basis.

A recent Ministry of Information report showed that a total of 151 radio stations are currently broadcasting in Cambodia, with 11 TV stations in Phnom Penh and 43 TV stations in other provinces.

COMFREL observed that state-run media outlets National Television Kampuchea (TVK) and radio AM 918 provided more airtime to CPP and very little airtime to other political

parties despite the "equitable principle" in the code of conduct of the NEC and Ministry of Information.

In one case, TVK broadcast about government gift-giving activities in Bankan District, while radio AM 918 aired coverage of meetings between the Bakorng District and members of the Central Committee of the CPP. There were also reports on gift-giving activities by CPP youth in Kam-pot Province.

Mr. Sovann, the CNRP spokesman, said the state should have provided opposition parties with equal airtime to that received by the ruling party so that the election can be considered free and fair. However, he said suggestions on this front from his party have been ignored or rejected by the ruling party

A 2013 report from the International Republican Institute (IRI) found that 49 percent of Cambodians watch TV every day, 25 percent watch once or twice a week, 4 percent watch two or three times a month, and 15 percent never watch TV. The same report found that 36 percent of the population listens to the radio every day; 30 percent listen once or twice a week, 30 percent listen more than once a week, 10 percent listen once a month, 4 percent listen two or three times a month, and 20 percent never listen to the radio.

Altogether, 90 percent of the country's 151 TV and radio stations are affiliated to the ruling CPP. Other major political parties such as CNRP and Funcinpec are only able to broadcast via two or three ration stations.

Recently, mainstream media outlets broadcast comments made by Prime Minister Hun Sen accusing Mr. Kem Sokha, acting-president of CNRP, of saying that Toul Sleng Prison (S21) was an artificial prison part of a Vietnamese conspiracy. However, these same media outlets would not allow Kem Sokha to clarify his comments.

The ruling party largely controls the country's TV media, while the opposition does not have even one TV station. When opposition parties asked leaders of the CPP to a live, televised debate in order to convey the weaknesses and strengths of each political party, there was no response from the ruling party.

COMFREL Executive Director Mr. Koul Panha said TV media outlets, both state-run and private, are broadcasting in heavy alignment with ruling party during the election campaign season.

“There is huge imbalance of media coverage between the ruling party and other political parties,” he said. “The ruling party, CPP, has used all TV channels to broadcast its political platforms before the polling, and 50 to 60 radio stations have given all their airtime to CPP. I have seen that the opposition party can broadcast through four or five radio stations, which is very limited coverage compared to CPP, and that is a huge imbalance.”

With regard to the imbalance of media coverage imbalance, a spokesman for the Council of Ministers Mr. Phay Siphan rebutted that there is no law requiring state-run media to broadcast the opposition’s political platform.

“Let them pass the law which requires state-run TV to air all sides of information. We need the law since we do not have it now,” Siphan said. “What we have now is that TVK or national radio has played an active role in broadcasting and airing the achievements of the government. Similar to Western countries, the national TV or radios will broadcast the achievements of the ruling party. It does not mean that opposition party will have media outlets — not in Cambodia.”

Article 74 of the election law requires all media outlets, including state-run press, television and radio, to disseminate information upon the NEC’s request at no cost, for the purpose of publicizing work related to the election and of educating voters.

President of League for Democracy Party Mr. Khem Veasna said that state-run media provided him very little of airtime during the electoral campaign so that coverage was limited. Purchases of airtime on private media is too expensive for his party to afford.

“It is not about money, but the price is hugely different from the normal one. As I mentioned earlier, the normal price is \$300 USD per month, but during the election campaign, it was up to \$500 USD per day, which is equal to \$5,3000 USD per month,” Veasna said. “It is not the matter of money, but it is the matter of price...the price is so far different from the normal one. Even if we have money, we would not buy that airtime.”

The Totality Department Chief of the Cabinet of the CPP Central Committee Mr. Uok Kim Han claimed that the CPP could use most of the airtime from private radio stations because the ruling party paid for that airtime.

“The [CPP] radio broadcasts are rented airtime. If we or other political parties want to broadcast, we will have to rent the airtime,” Mr. Kim Han said. “It is based on the law on

election, and we can’t order any radio stations to air our political platform as we wanted, because it is against the law.”

However, Mr. Nytha of the NEC explained that during the period of the election campaign, the NEC required both state-run and private media outlets to obey the law on election, and if any political parties are found to violate law, the NEC will take legal action. Mr. Nytha explained how airtime is allocated.

“All state-run media must abide by the code of conduct and guidelines outlined by the NEC in terms of broadcasting election campaign materials of each political party,” He said. “As for the private media, they have to be neutral in broadcasting election campaign footage. If the private TV or radio station sells airtime to any political party, they have to also inform the NEC of the sale, since NEC has a formula to encourage all political parties to have access to, fair prices and equal airtime. If there is no more airtime to rent, [the broadcasters] have to be neutral, or otherwise legal action will taken against them.”

Misuse of State resources

Prime Minister Hun Sen filed a defamation lawsuit against Sam Rainsy Party Member of Parliament Ms. Mu Sochua when Sochua tried to stop military forces in Kampot who had used a state vehicle to run the election campaign for CPP.

A 2009 survey by COMFREL found that from 2009 to 2013, 8 percent of those surveyed witnessed vehicles with State, police, civil servant or royal armed forces license plates participating in the election campaign. Another 20 percent said they had seen vehicles with State license plates joining in political activities or

ceremonies.

Article 9 of the Law on General Statutes for the Military Personnel of the Royal Cambodian Armed Forces mandates that “military personnel shall be neutral in their functions and work activities, and the use of functions/titles and State’s materials for serving any political activities shall be prohibited.” The Code of Conduct for the Royal Cambodian Armed Forces Military Personnel further requires that, “military forces shall be at all times neutral and impartial in implementing the duties and all tasks” and that “military personnel of the Royal Cambodian Armed Forces shall not use their position or state resources to serve political party activities. The use of military clothes for participating in private activities and public political activities and electoral campaign shall be prohibited.”

In contrary, COMFREL found that from Sept. 1, 2011, to Jan. 15, 2012, some government officials participated in political activities and campaigning, including military police and armed forces. Most of those activities were to serve the political interest of the ruling party.

“Similar to Western countries, the national TV or radios will broadcast the achievements of the ruling party. It does not mean that the opposition party will have media outlets — not in Cambodia.”

MR. PHAY SIPHAN, SPOKESMAN FOR COUNCIL OF MINISTERS

COMFREL observed 200 cases of systematic violations in the use of state human resources. These violations are in direct violation of the general statutes for military personnel.

Mr. Nytha of the NEC explained that the election law does not allow any political parties to use the State's resources for political gain. Nytha said that some political parties have used the State's resources for political activities but that the NEC has already taken legal action against it.

"In fact, we already took legal action, and if you compare the reality to the rumor which is said that the State's resources are being widely and wastefully used, it is a sort of falsified information. During the electoral campaign, the violation of the use of State's resources has happened very few times," he said. "As I already told you, there were only 10 cases in 2008, and some cases were not clear. We already took legal action for the cases where there was enough evidence."

Mr. Nytha explained that if complaints are filed after the election campaign, the NEC uses them to review and reform the weak points for next election.

"When we obtain the complaint before polling day, conduct an investigation and take action. However, if we obtain the complaint after the election, we keep it as a lesson learned for next general election," he said. "If we compare the general election in 2008 and 2003, the number of complaints lodged to the NEC decreased accordingly and election-related violations also decreased. Recently, during the Commune and Sangkat Council election, there were not any significant violations or crucial complaints submitted to the NEC."

In response to this, Mr. Sovann, the CNRP spokesman, claimed that his party had identified numerous irregularities and had lodged complaints to the NEC, but that no legal action had been taken. The NEC was likely to ignore the complaints rather than address them in a transparent manner, he claimed.

In this regard, Article 15 of the Law on Political Parties (1997) states that "religious priests, members of the judiciary, members of the Royal Cambodian Armed Forces (RCAF) and National Police Forces may join as members of political parties, but they must not conduct any activity for supporting or opposing any political party. A political party must not organise its organisational structure inside the religious bodies, Royal Cambodian Armed Forces and in the National Police Forces." Any person who violates this portion of Article 15 shall be subject to a fine of 1 million riels (\$250 USD) based on Article 40 of the same law.

Mr. Nun Ry, the Funcinpec representative, said he had previously proposed for the NEC to amend some articles of this law to ensure that the penalty can be applied to any persons

who violate the election law. However, up to the fifth National Assembly election, no action has yet been taken.

"I already proposed amendments to some articles of the Law on Election associated with penalizing any person who violates the law and just pays only 50,000 riel or 1 million riel to be freed. I proposed to have a more serious penalty for those who violate the law on election, including withholding the right to stand as a candidate or, in the case of serious misconduct, that political party should be removed from the list of parties running for election," he said. "This sort of penalty is acceptable. However, if it is just a monetary fine, the violators can just pay the fine in cash of 1 million or .5 million."

COMFREL found that a gap in political party activities and election campaigns would have a sizeable impact on free and fair elections. COMFREL observed that CPP has excessively used the State's resources and those of private supporters, while other political parties have very limited resources obtained from their members or party leaders. Some political

parties have decided not to register for running in the election due to budget constraints and the fact is that those political parties would lose the 15 million riel deposit required to register for running in the election if they receive less than 3 percent of overall votes or if they could not win at least one seat in Parliament. COMFREL encourages development of a Law on Financial Management for Election Campaigns in order to strengthen and support all political parties' activities.

COMFREL Executive Director Mr. Panha told VOD that civil society organizations had identified 500 cases of irregularities in the 2012 election campaign, including the misuse of state resources, such as state financ-

es, human resources and vehicles.

"In 2008, the European Commission found this irregularity and [the National Democratic Institute] also invited all registered political parties to discuss it. COMFREL and NICFEC have been working on elections for a long time, and we found that the ruling party has more chances to use the state's resources, including vehicles and human resources, for its own political gains or against other political parties. We have identified around 500 cases during the last eight or nine months, and we are now in the process of calculating these irregularities and finalizing the 2013 report."

However, the Mr. Kim Han of the CPP Central Committee said that in the campaign for the last National Assembly election (in 2008), delegated party representatives at the province or municipality level supported CPP with the funds for their campaign. The principle of CPP is to ban all its members from using state resources for party activities or on an election campaign, he said.

"If you compare the reality to the rumor which is said that the state's resources are being widely and wastefully used, it is a sort of falsified information."

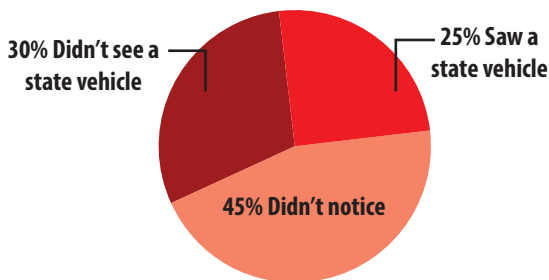
**MR. TEP NYTHA,
NEC SECRETARY-GENERAL**

COMFREL finds political gift-giving, misuse of state resources ‘systemic’

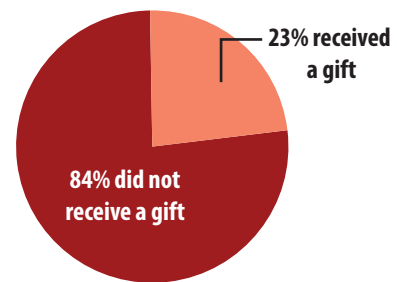
Observations by COMFREL from Sept. 1, 2011 to Jan. 15, 2012, uncovered 200 cases of misuse of the state’s human resources. Of these incidents, 60 percent involved state employees using working hours to participate in political activities or campaigns. COMFREL also found 13 cases of political parties misusing state property, including vehicles and public buildings. The same study also found that gift-giving is rampant during campaigns and that occasionally state employees take a direct role in the gift-giving, in violation of the law.

Source: COMFREL. “Report on Misuse of State Resource for Political Party Purposes.” May 2012.

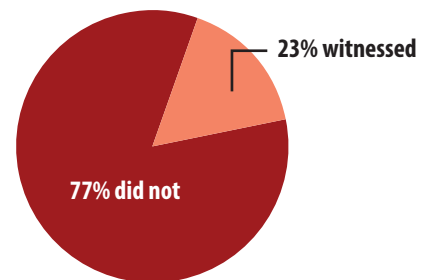
Citizens who saw state vehicles at political events



Citizens who received a gift at a political event



Citizens who saw a public servant distribute gifts



“I do not know what happened at the sub-national level, but I would like to draw your attention to this point,” he said. “There are not many state vehicles, and most of the time, we use our own cars. I also heard about the use of state cars and already issued an announcement to all representatives and members in the provinces and municipalities not to use state vehicles for election campaigning and to respect the land traffic law — it means that we use vehicles with license plates issued by Ministry of Transportation.”

Executive Director of the Cambodian Defenders Project, Mr. Sok Sam Oeun, a prominent lawyer, explained that the Law on Political Parties also states there is a fine for any officials who violate the code of conduct and ethics. He said that what was stated in the law is good, but that the law has not been enforced effectively yet.

“Our political party has already organised material for the election campaign, and we also prepared short messages to inform eligible voters about the importance of [making an informed decision] before voting for the CNRP,” he said.

Mr. Sam Oeun added that amendments to some articles of the Law on Political Parties could be possible if opposition party politicians drafted them and sent them to the National Assembly to verify and pass. However, it is too late for the 2013 election, since the polling day is fast approaching.

“In my point of view, the fine penalty is not too bad, but what matters the most is the law enforcement,” he said. “Judicial police are law enforcers in criminal law, while the Law on Election of Members of the National Assembly does not. It is dependent on opposition parties who have less authority and try to collect evidence to file against the violators. So what matters the most is law enforcement.”

The election law states that the NEC is a non-political, independent and neutral body. However, COMFREL alleges that the body has been careless and imbalanced in managing election campaigns. COMFREL points to the last (fourth) National Assembly election, when numerous irregularities were identified, including CPP misuse of state resources such as vehicles, government officials and finances for its election campaign. Prior to the 2013 National Assembly election (during the visit of UN Special Rapporteur Surya Subedi), national and international civil society organizations proposed that the government and NEC amend the election law and reform the composition of the NEC. However, the government and the NEC ignored the suggestion, leading members of civil society to criticize the NEC as lacking independence and being affiliated with the ruling party.

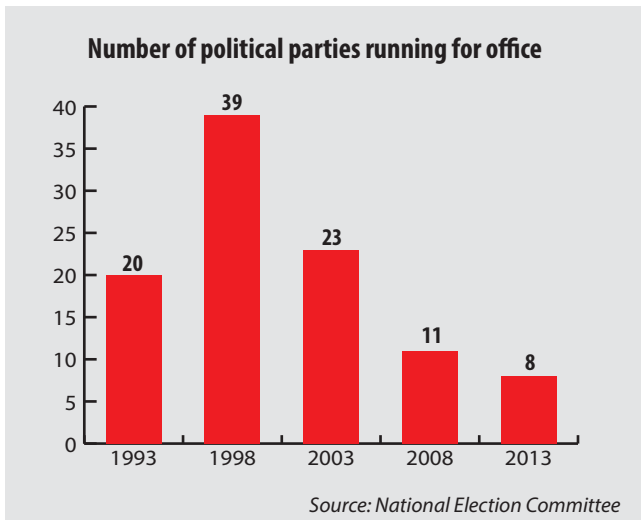
Gift-giving a widespread campaign practice

COMFREL found that from 2009 to now, 23 percent of Khmer citizens claimed to have received gifts from political parties. Mr. Meach Hor, a villager in Prek Sdey Commune, Koh Thom District, told VOD that, in his village, each eligible voter had received a T-shirt, a hat and 20,000 riel in cash, which was better than the previous year, when he only received one sarong and 10,000 riel in cash.

“I accepted the gifts, but we will vote according to our own decision. Most of the villagers thought and knew about that,” he said. “It is time to change, but if they invite us to get a gift, we will just simply go and take it.”

In Kampong Speu’s Thpong District, CPP has actively delivered gifts such as seasoning, soap and detergent to its members, activists and eligible voters. A member of the lo-

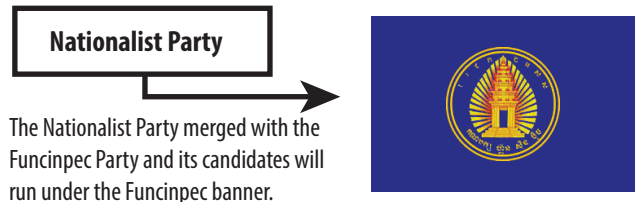
NEC data shows sharp decline in number of parties running for election



Political mergers contributed to 2013's decline in parties



Two major parties, the Sam Rainsy and Human Rights Parties merged in 2013 to form the Cambodian National Rescue Party.



The Nationalist Party merged with the Funcinpec Party and its candidates will run under the Funcinpec banner.

cal Am Laing Commune Council, Ms. Tek Nim told VOD, “some (villagers) simply go to get the gifts, while some will definitely vote for CPP as they are senior activists.”

COMFREL noted that CPP has implemented a strategy of building relationships with elites and okhna who are in favor of the CPP. These strong relationships with elites and okhna provide the CPP with the financial resources to buy gifts for the poor and provide positions to opposition party members who transfer their party membership to the CPP.

Gift-giving is considered the most popular strategy implemented by CPP during its election campaigning. CPP member Ms. Som Sinath explained that the CPP’s strategy is to offer gifts at the village level in hopes that 90 percent of the villagers will vote for CPP.

“The gifts were given to eligible voters and CPP’s activists, and I do expect that 90 percent of the gift-takers will vote for CPP,” she said.

A recent COMFREL survey asked villagers, “From 2009 to now, have you ever seen civil servants and armed forces (police, soliders, military police and bodyguards) participating in gift-giving or political party activities?” The survey found that 16.4 percent of those interviewed said they had.

President of the League for Democracy Party Mr. Khem Veasna said his party does not money to buy gifts for eligible voters or activists during the election campaign, but that his party had received some donations from its activists.

“This money does not come from a single person or place, but it comes from people in the community and the amount given is around 1,500 riel, \$1 USD or \$2 USD each month.

“In my point of view, the fine penalty is not too bad, but what matters the most is law enforcement ... The election law does not [have enforcers]. It is dependent on opposition parties.”

**MR. SOK SAM OEUN,
EXECUTIVE DIRECTOR,
CAMBODIAN DEFENDERS PROJECT**

We collected money — around 6,000 to 7,000 riels from activists — and we rent transportation for them when we have meetings or campaigns. In general, we use the money for transportation of activists,” he said.

The imbalance of campaign financing has led to a decrease in the number of political parties registered for running in the election from one general election to another. A report from COMFREL showed that as of 2013, 55 political parties have been established, though only 42 have registered with the Ministry of Interior. Some 20 percent of political parties registered are active and have headquarters and offices.

In 1993, 20 political parties were registered to field candidates in the national election. There were 39 political parties in the 1998 election, 23 in 2003 and 11 in 2008. For the fifth National Assembly election this year, less than 10 political parties registered to run in the election a decrease from the last National Assembly election in 2008 and also from last year’s Commune and Sangkat Council election. COMFREL explained that one of potential challenges leading to the decrease in the number of political parties registered for running in the elections is

the latest trend of some political parties merging.

Party mergers led to the withdrawal of the Sam Rainsy Party, the Human Rights Party and the Nationalist Party (formerly the Norodom Ranaridh Party) from the roster for the fifth National Assembly election in 2013. This is due to the fact that the candidates will stand for election under the name of their new parties. For example, candidates from Sam Rainsy Party and Human Rights Party will be included in the

CNRP's list of candidates, while candidates of Nationalist Party will be in Funcinpec's list of candidates.

The League for Democracy Party has organized considerable political activities, including hosting public forums with an intention to talk to eligible voters and activists, and broadcasting its political platforms through radio FM 105. This party has faced many challenges in expanding its media coverage due to interference from authorities.

Mr. Kem Ley, an independent social development researcher explained that if the NEC creates monitoring and reporting systems that are open to participation from civil society and the public, it would be more successful in its enforcement.

Currently, penalties associated with violating the election

law are outlined in Article 131 of the law, which states, "any person or political party who violates Article 73 or Article 76 of this Law, excluding any other possible criminal penalties, shall be fined from five million (5,000,000.00) to ten million (10,000,000.00) riels, or/and shall have his/her name deleted from the voter list for a period of five (5) years." Moreover, Article 133 stipulates that "any person who violates Article 72 of this Law shall be warned. In case of failure to comply with the warning, the person concerned shall have his/her name be deleted from the voter list for a period of five (5) years, shall have his/her candidacy or his/her candidature running for the political party in the Election be revoked; or/and shall be fined from five million (5,000,000.00) riels to ten million (10,000,000.00) riels." ■

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