



A problem of identity

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The coalition of 40 civil society organizations (CSOs) present in the Situation Room on Election Day 2013 issued a joint media statement dated Sept. 6, 2013, in which they declared that the fifth National Assembly Election had not been free and fair.

One of obstacles identified by the coalition is related to the more than one million copies of certificates of identity they allege were issued by the government ahead of the election, with monitors claiming that the process of issuing of the identity documents lacked transparency. Among their allegations were that people without valid identification had been allowed to vote, while voters who arrived at their polling stations with valid identification only to find that someone else had voted in their place and were not allowed to vote.

The certificate of identity approved for use in the fifth National Assembly Election by the National Election Committee (NEC) is used to provide official documentation to eligible voters who do not have valid identification documents, allowing them to cast a ballot. The decision to introduce the documents was announced by the Cambodian Ministry of Interior and the NEC on July 13, 2011.

Process for issuing Certificates of Identity

Article 54 of amended Law on the Election of Members of the National Assembly states that the NEC shall delegate its power to the Commune and Sangkat Councils and the commune and Sangkat clerks to issue certificates of identity in order to implement voter list revisions and to register voters. The NEC produced the certificate of identity in the form of a printed booklet and ledger with letterhead, receipt, numbering and other technical features to prevent fraud.

The law requires local authorities to issue certificates of identity to eligible voters in two phases. The first phase is during the voter list revision and voter registration phase. The certificate of identity can be issued upon request to voters who do not have identity documents eligible for use during the election. Eligible identification documents must include the holder's age and residency in commune or Sangkat.

The second phase for issuing identity certifications is in the year of preparation for the National Assembly election or the year of the National Assembly election, during which the NEC validates voter lists and orders the issuance of this form 15 days prior to the polling day in order to allow stakeholders (responsible institutions and civil society organizations) to verify election officers' accuracy in completing the forms at the local level.

Election observers and civil society groups have identified a number of potential issues pertaining to the identification certifications, including:

Stolen votes, disenfranchised voters

Even though the law delegates the power of issuing identification certificates to the Commune and Sangkat councils, controversial methods of implementation continue to be employed by local officers. Some election observers fear that this mechanism could give more opportunities to the ruling party or to those who are influential at a local level by increasing the number of voters.

Some political parties registered to run in the election alleged that the certificates of identity have been issued with a lack of transparency since they claimed most of the certificates were issued to individuals affiliated with the ruling Cambodian People's Party (CPP). They argue that this mechanism allows CPP to gain more voters and supporters.

A member of the Battambang City Council, Mr. Chea Mach informed VOD reporters that at the Sangkat Chamka Samrong polling station where he went to observe, some voters arrived to vote, only to find that someone had already voted in their place. In some cases, this happened even though the voters had experience casting ballots in several previous elections and held valid identification cards.

"The problem is that they issued the certificate of identity for someone who is going to take somebody's place to vote," claimed Mr. Mach. "They asked those guys to go to vote in the early morning, while the valid voters would normally go to vote after shopping."



An election official holds the voter registration card of Cambodian National Rescue Party President Sam Rainsy. Following his return in July from self-imposed exile, the candidate had to register to vote. ©VOD

A villager from Chamka Samrong 1 Village, Sangkat Chamka Samrong, Battambang City Ms. Hem Ny said she was unable to cast a ballot during the election because someone had already used her identity when she arrived at the polling place on Election Day. Ms. Ny said she had cast a ballot for all general elections since 1993. However, when she arrived at the polling station on July 28, 2013, she was told that her name had already been used to vote. Ms. Ny added that even though she showed election officers evidence and documentation, such as her National ID card and her finger — which was not inked with the indelible ink used to mark those who have voted — the election officials did not allow her to vote.

“They could not resolve my issue. They said that they could not do anything since my place had already been taken,” she said. “They added that they always carefully check the name, age and gender before allowing someone to vote.”

Not different from what Ms. Ny described, Mr. Heng Sopheap, 33, of Prek Preah Sdach Village, Sangkat Prek Preah Sdach, Battambang City told VOD that his name too had been used by someone else to vote. He said that he arrived at the polling station at 10 a.m. After checking the documents, the election officers told him he had already voted. He told VOD that even though he showed the election officer his National ID card and information card, he was still not allowed to cast a ballot.

“I asked the election official who then made a phone call to the upper level. He told me that I had already voted. I showed him my finger, which was not yet inked, but he did not allow me to vote,” he recounted. “I am sorry that I could not cast my ballot. I want a free and fair election. It is really sad that we cannot vote for who we like.”

Underage voters

VOD reporters who visited several villages in Battambang Province in August 2013 found that some Cambodian citizens who were illegible to vote because of their age were able to cast a ballot using an NEC certificate of identity.

Second deputy chief of Samrong Commune, Baphnom District, Battambang Province, Mr. Phoeuk Lam, told VOD that a girl (who wished to remain anonymous) who lived in this village and was born on June 6, 1997, had already voted twice. During the 2013 National Elections, she was just 16 years old, but he claimed that she voted both in the 2013 fifth National Assembly election as well as in the 2012 Commune and Sangkat Council election.

Lam claimed that the girl was able to vote because she used the certificate of identity issued by the NEC in which her name and age had already been adjusted to meet the age requirements outlined in the election law.

In addition, the girl's family book, obtained by VOD, confirmed that that girl lives in Samong Commune, Ek Phnom District, Battambang Province and was born on June 6, 1997, placing her at 16 years old at the time of the National Election. Her father and mother likewise wished to remain anonymous. However, in the certificate of identity issued by the NEC, the girl's name was changed, and her date of birth was also changed to October 1991.

The girl granted an interview to VOD at her home. She informed our reporters that in 2012, village authorities took her to change her name and age so that she would be eligible to vote. She admitted that she has already voted twice.

The girl's father said village authorities changed her name and increased her age, though he said he did not know the underlying reason. He asserted that his cousin, a deputy village chief, took his daughter to fill in the certificate of identity. Since then, his daughter has had the right to vote. He claimed that his daughter was told to use the certificate of identity in the National Assembly election in 2013.

"Since she was able to vote, nobody stopped my daughter during the polling day," the father said.

Samrong Khnong Commune Clerk Mr. Roeung Phearum explained how the documents may have been used to allow the underage girl to vote.

"The certificate of identity for election can be issued if any person has a certificate of birth or temporary residency and a witnesses who live in the same community," he said. "In the case of that girl, she may have used document from last year's Commune and Sangkat Council Election to register since she already voted once in 2012."

"She brought in the information card and claimed that she had already voted once. We must issue the certificate of identity for her. If we do not do so, it is against the procedure. For example, if her name is Hach Sokong; She had information and asked us to issue the certificate of identity. We verified with the voters' lists and that name was in the list, so that we have to issue it for her."

Opposition claims process is partisan

A member of the Battambang City Council Mr. Chea Mach claimed that, in his observation, the issuance of certificates of identity is likely to be beneficial for the ruling party since those who are authorized to issue the certificates, such as commune chiefs and commune clerks, are largely in alignment with the CPP. He claimed that the commune chief and commune clerk are not always independent or neutral, though they have authority to issue the certificate.

"They write the same name and stamp on the certificate

without sticking the photo ID. On polling day, they saw that name and then stick the photo for voting," he said. "

In accordance figures released by the NEC following the third Commune and Sangkat Council election in 2012, the CPP dominated, winning 1,593 of the 1,633 seats available on Commune and Sangkat Councils across the nation. The CPP was followed by the then-Sam Rainsy Party (SRP), which won 22 communes or Sangkats, and the then-Human Rights Party, which took 18 communes or Sangkats.

The election law states that the Commune or Sangkat Chief or Deputy Chief are entitled to issue certificates of identity for elections. However, because the overwhelming majority of communes and Sangkats were swept by the CPP in the 2012 elections, most of these officials are affiliated with the CPP. Moreover, opposition party officials allege that in reality, the Ministry of Interior assigns a local government clerk to take responsibility for preparing identity documents before sending them to Commune or Sangkat chief to sign and stamp.

Ms. Sin Chanpeuv Rozeth, second deputy chief of Sangkat O'Ch in Battambang City asserted that the issuance of certificates of identity has had a definitive impact on election results, while also criticizing the independence of the NEC.

"The certificate of identity has more negative impact than positive, since it can be issue fraudulently and in a partisan manner," Ms. Sin claimed. "For example, migrants' names or places of residence were stolen and voted with by someone else using a certificate of identity."

Rozeth claimed that in Sangkat O'Cha, officials issued 1,000 certificates of identity for the fifth National Assembly election in 2013. However, she said less than 500 voters used the certificate of identity on the polling day due to the fact that many election monitors worked on that case.

"It means that the issuance and use of the certificate of identity is based on the strengths or weaknesses of the opposition party," she said. "If we [the opposition] are weak, the certificate of identity will be issued more, but since we are strong and active in Sangkat O'Cha, not so many certificates of identity were issued because they are afraid that we will find their flaws/ticks."

Executive Director of the Cambodian Defenders Project, Attorney Sok Sam Oeun told VOD that encouraging the Ministry of Interior to issue certificates of identity for elections is not conducive to free and fair elections in Cambodia.

However, Samrong Khong Commune Clerk Mr. Roeung Phearun argued that the issuance of certificates of identity is transparent since the commune chief must assign two members from Commune Council — one from the ruling CPP

“The certificate of identity has more negative impact than positive, since it can be issued fraudulently and in a partisan manner.”

**MS. SIN CHANPEUV ROZETH,
SECOND DEPUTY CHIEF,
SANGKAT O'CH, BATTAMBANG**

and another from an opposition party — to work with the clerk on this issue.

In relation to the irregularities in the process of issuing of certificates of identity for the election, Mr. Kem Ley, an independent social researcher, recommended that it is not necessary to issue certificates of identity for the next election. Instead, he says, the government will be better off issuing National ID cards to all Cambodian citizens and loading that information into a central database by using modern technology or uploading it onto the NEC website or displaying the lists at commune offices. This will be more convenient for all eligible voters, Mr. Ley said.

Nevertheless, monitors and political parties registered for running in the election allege that the past use of certificates of identity has negatively affected election results, leading to duplication of names, stealing of votes from valid voters, and the removal or change of some voters' names

A member of the Battambang Provincial Council Mr. Chea Chiv said that the issuing of certificates of identity has had a limited positive impact on the election process. To the contrary, he said this mechanism has become a bad example for the next general election since responsible officials at the local level are not transparent and neutral.

“We have already known that if the election officer have an affiliation with any political party, he or she will work in politically partisan manner and would issue certificates of identity for people who are his or her supporters or who have the same affiliation,” Mr. Chiv said. “That is why those who support CNRP would have very little chance to get the certificate of identity.”

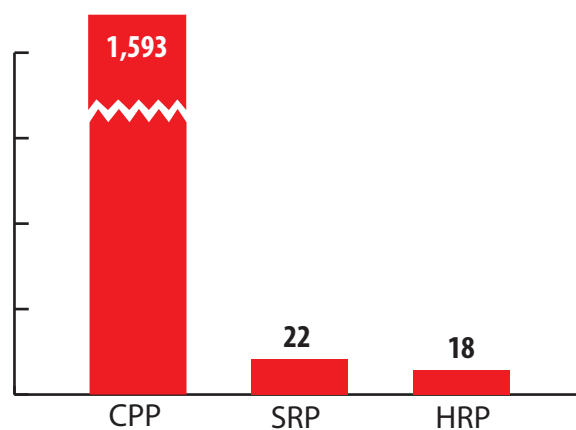
Mr. Chiv proposed an amendment of the election law that will require that the person assigned to issue the certificates of identity be transparent and neutral. It would be imperative to assign people who are not aligned with any political party, he said..

Chairman of the Battambang Provincial Election Committee (PEC) Mr. Vorn Porn claimed that his committee has already advised local Commune and Sangkat chiefs and responsible officials to abide by the procedure and code of conduct related to the election law regardless of their own political affiliation.

“Sometimes, when they [election officers] found the same family name they will allow the voter to cast ballots regardless other information. Sometimes, when they found the same name and they do not verify other information such as date of birth, gender or address, they allow the person to vote. However, before allowing voters to cast the ballots, election observers always stand behind the clerk. So why does this happen? It is the fault of everyone,” he said.

Participants in the Situation Room for the 2013 election released a joint media statement on Aug. 8, 2013 expressing its disappointment and frustration and criticizing the NEC as not being neutral and impartial in addressing election irregularities in a transparent manner. The NEC declined to provide civil society organizations with a copy of the lists of certificates of identity for revision, monitoring and research.

CPP sweep of 2012 elections gave ruling party authority to issue IDs



CPP victories in the 2012 elections secured 1,593 seats on local Sangkat and Commune Councils, putting the ruling party in a position to control the issuance of certificates of identity ahead of the 2013 elections.

Source: NEC election data 2012.

The CSOs were concerned that the lack of cooperation between the NEC and themselves in monitoring and reviewing the list of certificates of identity will lead to controversial results and political deadlock.

For this reason, the CSOs proposed several recommendations to the NEC aimed at improving its working procedures to be more transparent and promoting CSO engagement in investigating election irregularities. The recommendations sought to address the concerns of eligible voters as well as recommendations from the international community, who wished to see neutral and fair elections.

However, NEC Secretary-General Mr. Tep Nytha explained that CSOs' demands for copies of those documents violate the privacy of voters.

“We cannot make any copies for them, since it will violate the [voters'] rights to privacy, but they can sit and watch what we are doing,” Mr. Nytha said. “It is not right to copy the identity of anyone, so the NEC won't allow it. They [CSOs] can record the name, but we will not allow them to make any copies of those certificates of identity.”

In accordance with the joint guidelines of NEC and the Ministry of Interior, the certificate of identity is a new document for voter registration and voting to ensure that eligible voters can exercise their rights to vote whenever those eligible voters do not have a national ID card or have lost it. The certificate of identity for election was developed to replace the Form 1018, which the NEC accepted for registration and identification purposes during the third Commune and Sangkat Council Election in 2012. A number of irregularities had been identified from use of that form as well.

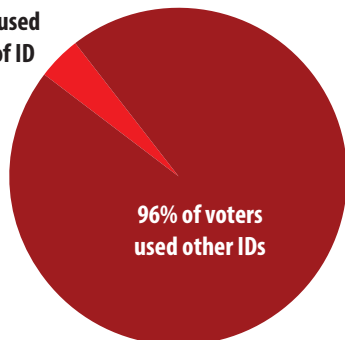
In 2012, prior to the fifth National Assembly election, the United Nations Special Rapporteur for Human Rights in Cambodia Mr. Surya Subedi recommended that the NEC

NEC, civil society disagree on extent of identity certificate use in election

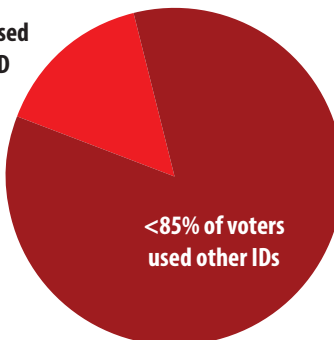
The National Election Committee says:

270,000 certificates of identity were used

4% of voters used certificates of ID



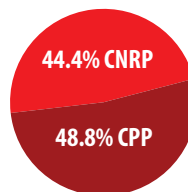
>15% of voters used certificates of ID



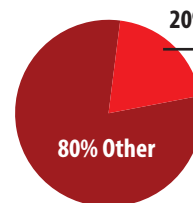
6.6 million votes total

In the final vote count, the difference between the CPP and CNRP parties was **less than 300,000 votes**, meaning the use of identity certificates could have swayed the election. About 20% of Election Day complaints to the NEC dealt with identity certificates.

Source: NEC; ERA. "Joint report on the conduct of the 2013 Cambodian Elections." Nov. 2013.



2013 Popular vote



Complaints to NEC

reform the composition of the election committee from the national level to the local level. Mr. Subedi likewise proposed that the composition of the NEC itself include representatives of elected parliamentary members from each political party in order to ensure transparency and neutrality in the election process. However, the NEC and the government declined this recommendation, saying that Cambodia would not accept orders from foreign nations and that it is only bound to Cambodian laws and the Cambodian Constitution.

Following the release of the National Assembly election results in 2013, which showed the opposition party drastically increasing its seats to claim almost as many seats as the ruling party, the opposition CNRP rejected the results and refrained from taking their seats during the National Assembly's swearing-in ceremony on the grounds that they claimed the election results were fraudulent.

“The small amount of irregularities would not affect the results of the election.”

MR. TEP NYTHA,
NEC SECRETARY-GENERAL

CSOs call for more transparency

Executive Director of the Committee for Free and Fair Elections in Cambodia (COMFREL) Mr. Koul Panha told VOD that getting an in-depth assessment on the effects that certificates of identity had on the election had been difficult since the NEC did not cooperate in providing documentation for verification. This lack of cooperation meant that COMFREL's results, released on Aug. 8, 2013, were highly controversial. In the report, COMFREL found that there were a number of complaints and concerns from political parties,

and especially the opposition party, associated with the local governments' lack of transparency and accountability in issuing the certificate of identity.

“We have some evidence collected by citizens and some observers who found some irregularities, including issuing the certificate of identity without photo or adjusting the name based on the voter lists,” he said.

Mr. Panha recommends that the NEC change the system of voter lists by issuing only one election card, which can be used for the election without using other cards or certificates.

NGOs monitoring the results from the Election Day Situation Room issued a joint statement on Sept. 6, 2013, claiming there had been 300,000 duplicated names in the voter lists and, in particular, complaining of a lack of transparency in the issuance of certificates of identity.

Mr. Sam Oeun, who serves on the COMFREL board in addition to his position with the Cambodian Defenders Project, suggested that in order to issue the certificates of identity in a transparent manner, a commune or Sangkat chief and clerk from another political party should issue this certificate, meaning that both parties (ruling party and opposition party) would have to sign on the document. During the polling day, he said, representatives from all political parties should participate to check and verify the certificates of identity. He added that those who could not vote due to their place being taken by someone else should have clear

guidance in the law on how to address this issue and whether that polling station should allow them to cast a ballot.

In response to the irregularities identified by civil society and the opposition party, Mr. Nytha, the NEC secretary-general, said that the NEC printed a total of 480,000 certificates of identity in 2012. Following validation with the voter lists, only 270,000 of the certificates of identity were used — not 1 million or more, as alleged by the opposition party and civil society, he said. Mr. Nytha confirmed that this figure (480,000) was equal to the number of youth who have just reached legal voting age.

However, Mr. Nytha recognized that some irregularities exist in issuing the certificates of identity. He added that prior to the polling day, it was reported that there were irregularities in the process of issuing certificates of identity and that the NEC took immediate measures to deal with those certificates of identity that did not have a photo and stamp.

After the polling day, less than 20 percent of a total of 200 complaints received by the NEC were associated with irregularities in issuing certificates of identity, the official said.

“The small amount of irregularities would not affect the results of the election,” Mr. Nytha said.

Election monitors suggested that the law and code of conduct as well as the mechanism for elections should be reformed and modified, including reforming the election committee from the national to the local level, changing the procedure for voter registration, strengthening law enforcement and more.

The NEC’s Secretary General Mr. Nytha claimed that following the fifth National Assembly Election, thousands of voters would be removed from the voter lists due to changes of residency, death and duplicated names.

“Based on the survey and statistics of Commune and Sangkat Councils, around 130,000 names were removed from the lists due to duplicated names, changing of residency or death,” he said. “In accordance with the computerized calculations, the NEC found 379 names were duplicated, and the NEC already sent those names to the relevant commune clerks to verify and remove the duplicated names. In general, we delete old names and keep the new ones.”

Mr. Nytha rejected civil society recommendations to pro-

vide copies of lists of certificates of identity for the elections to CSOs as unnecessary because he said officers at the commune or Sangkat level had already allowed representatives of political parties to review the lists before they were sent to Provincial Election Committee.

The first meeting between top leaders of the ruling party, including Prime Minister Hun Sen, and the opposition party, led by Mr. Sam Rainsy, was held on Sept. 16, 2013, at the National Assembly Office. The purpose of the meeting was to find ways to address the current political deadlock. The two parties agreed that an in-depth reform of the electoral system was needed in order to ensure free and fair elections that are acceptable for all parties that register for the polls.

Mr. Nytha of the NEC said he has no idea about any in-depth reform by the political parties on mechanisms for future elections, and he also said he could not comment on whether the certificates of identity should continue to be used, saying he would wait for the decision from the National Assembly and government of the fifth national election.

Independent researcher Mr. Ley told VOD that the issuing of certificates of identity has very little use for election procedures but has extensive benefits for the ruling party.

“Because they do not want to have a fair play, they issue many certificates of identity for those who promise to vote for them, including underage children or armed forces (police or military police),” Mr. Ley said. “For example, he or she did not register at his or her hometown but would be sent to vote in any particular polling station that the CPP lost during the previous Commune and Sangkat Council Election. Therefore, the result of that polling station is very negative and unfair.”

In the media statement released by CSOs involved in the 2013 Election Day Situation Room dated Sept. 6, 2013, the CSOs claimed there were more 300,000 duplicated names in the voter lists and a particular lack of transparency in issuing the certificates of identity.

Election monitors continue to recommend that the law and code of conduct as well as mechanisms for elections be modified and improved, including the reforming of the election committee from national to local level, changing the voter registration process and strengthening enforcement of the election law. ■

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