



**Office of the Council of Ministers
Press and Quick Reaction Unit**

**WHITE PAPER
ON
THE 2013 GENERAL ELECTION FOR THE 5TH
MANDATE OF THE NATIONAL ASSEMBLY OF
THE KINGDOM OF CAMBODIA**

Phnom Penh, 17 September 2013

Preface

On 28 July 2013, 69.61% of Cambodian registered voters cast their votes, fulfilling their entitlement as citizens to choose their favorite political parties according to their will in a free and secret manner. As a result, the Cambodian People's Party (CPP) received 68 seats and the Cambodia National Rescue Party (CNRP) received 55 seats. In this way, the Cambodian people elected the CPP to lead the country for the 5th mandate of the National Assembly. Nevertheless, the CNRP rejected the election results, alleging irregularities and ignoring the truth as recognized by national and international observers – the election was held in a free, accurate, fair and non-violent manner.

To confirm the correctness and transparency of the electoral process, the National Election Committee (NEC) issued a *White Paper on the 2013 General Election for the 5th Mandate of the National Assembly of the Kingdom of Cambodia*, providing detailed information on all stages of the electoral process, claims and resolutions of complaints.

This White Paper, prepared by the Office of the Council of Ministers, demonstrates that the entire electoral process for the 5th mandate of the National Assembly was properly conducted in accordance with the Law on the Election of the Members of National Assembly (LEMNA) and the NEC Regulations and Procedures for the 5th Mandate of the National Assembly (Regulations and Procedures). As well, it documents the various manoeuvres and tricks used by CNRP, before, during and after the election in order to reject the election results.

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Introduction

After liberating the country from the Pol Pot genocidal regime on 7 January 1979, the government led by the Cambodian People's Party (CPP) restored and rebuilt the country from scratch while every Cambodian all over the country lived in extreme poverty. Under the CPP's wise leadership, our nation has gradually achieved peace, political stability, development, freedom, democracy, and respect for human rights and the rule of law. Achievements have been made all over the country and the national development has been sustained. Yet, another remarkable success of Cambodian people was the elimination of the Khmer Rouge's political and military structures through the "Win-Win" policy initiated by Samdech Techo Hun Sen in 1998, through which Cambodia has enjoyed full peace for the first time over the last 500 years of her long history.

Since 1993, Cambodia has adopted a constitutional monarchy with a parliamentary system based on the principles of liberal democracy and pluralism, thereby enabling all political parties to freely compete in the general election regularly held in every five years.

In the past, the formation of a new government encountered obstacles due to the requirement for a vote-of-confidence by two-thirds of all members of the National Assembly, and all political parties exercised their rights to impose conditions for their support by demanding titles and positions in both the legislative and executive bodies. In order to prevent such a recurring political impasse, the National Assembly undertook amendment of the Constitution in early 2006, reducing the requirement for the formation of a new government from a two-thirds majority to an absolute majority (50% +1), an amendment that was adopted by the National Assembly with the support of all political parties. Even though in 2008 CPP received as many as 90 seats during the elections for the fourth mandate of the National Assembly, in the spirit of national reconciliation, the then-coalition government was formed in partnership with the FUNCINPEC party.

I. Overview of Cambodian Election in 2013

The general election of the members of the National Assembly for the 5th mandate was held on 28 July 2013 from 7:00 a.m. to 3:00 p.m. at 19,009 polling stations throughout the country. The NEC's *White Paper on the General Election for the 5th Mandate of the National Assembly of the Kingdom of Cambodia* in 2013, published on 5 September 2013, indicates that the voter turn-out was 69.61%, representing 6,735,244 voters out of 9,675,453 registered voters. According to the Institute for Democracy and Electoral Assistance, the figure for Cambodia is higher than that of the following countries:

In the Philippines, the voter turn-out in 2013 was 60.7% representing 31 million voters out of 52 million registered voters or 50.8% of the 62 million eligible voters.

In India, the voter turn-out in 2009 was 58.19% representing 417 million voters out of 717 million registered voters or 56.48% of the 738 million eligible voters.

In the United States of America, the voter turn-out in 2010 was 41.59% representing 90 million voters out of 218 million registered voters or 38.46% of the 235 million eligible voters.

The election was held in a smooth and peaceful manner. The success of the election reflects the remarkable progress in implementing democracy in Cambodia. Cambodian citizens fully enjoyed their freedom and rights to express their will at all stages of the election process.

They participated in the election campaigns in order to express support for their preferred political parties without fear. Activists of each political party carried out their political activities freely and without any pressure or intimidation from anyone. Throughout the election process, no case of severe violence affecting the election process nor any form of harassment or political assassination of any political party member was reported. The election was held in the presence of 292 international observers and 40,142 national observers including COMFREL's at all polling stations, who confirmed that the election was conducted in a free, fair, transparent and acceptable manner without intimidation or violence.

Nevertheless, the opposition party intoxicated the election environment, notably through mobs of its party members standing in front of polling stations to cause disturbance to voters, to prevent voters who are of fair complexion from voting by accusing them to be "Yuong" (Vietnamese) and to convince voters to vote for the CNRP. Opposition party members committed these unlawful acts to create a pretext for blaming the NEC so that their ultimate goals would be served after their loss of the election.

II. Manoeuvres and Tricks of CNRP to Overturn the Election Results

1. Rejection of Election Results Before the Election

The Voter List is updated annually from 1 October to 31 December (or from 1 September in the year preceding an election). The Voter List for the 2013 Election was updated in 2012 by the NEC, which reserved a period of four months for complaints or appeals concerning voter names. With ill intent to create excuses for post-election complaints, the two opposition parties – Sam Rainsy Party and Human Rights Party – boycotted the process to update the Voter List because they knew the list was the 2012 Voter List would be acceptable. After the updated Voter List was officially announced, thus becoming the official Voter List, allies of the opposition party accused the NEC regarding missing names. According to the National Democratic Institute (NDI)'s calculations, some 1.04 million names were missing from the Voter List. Likewise, COMFREL issued another document alleging the NEC had missed 1.25 million names. However, COMFREL admitted that the 2012 Voter List is a little better than the ones previously observed in their 2008 and 2011 surveys.

Relying on groundless pre-arranged data, and as an excuse to boycott the Voter List updating process, the opposition party repeatedly declared either that it would not take part in the election or it would reject the election results. Prior to the election, the opposition party said it would reject the election outcome but that it would still participate in the election. The question must be asked: had the opposition party won the election, would it now accept the election results? In fact, that was just loud proclamation by the opposition in order to mislead public opinion and to create a pretext for rejecting the results if it lost the election, but it would have silently accepted the result had it won the election.

2. Discrediting Voter Registration Procedures

Complaints shall not be filed after the deadline as stipulated by law. Although the CNRP knows this very clearly, it filed numerous complaints to the NEC, mostly related to voters who could not find their names on the Voter List, seven months after the posting of the official Voter List. The filing of these complaints was clearly just to make cases to mislead those who did not know much about the registration procedures into believing that the NEC was biased. Moreover, the Sam Rainsy Party (SRP) and the Human Rights Party (HRP) did not send their representatives to participate in the registration and verification process. **Such**

an act is a plot to blame the NEC whose Voter List is supposedly the main cause of their defeat in the Election.

In the 2008 Election, the NDI alleged that 88 persons could not find their names on the Voter List. However, the NEC managed to find that 15 people had their names on the 2007 Voter List, 19 had 2 names in one polling station, 7 had registered twice, 3 had lost their right to vote, 2 had died, 2 had not residence in that commune and 1 had not registered. **The NEC's finding showed that the allegations made by NDI regarding the missing names was baseless.**

According to the NEC's White Paper, in 2013, under the pretext of confidentiality, the NDI refused to cooperate with the NEC in providing the names allegedly missing from the Voter List. And the same goes for COMFREL. Did COMFREL provide any names it claimed to be missing from the List to the NEC for verification? If they were doing their job in good faith and good will, the two NGOs should have worked in cooperation with the NEC in finding the truth and improving the List, since such cooperation was not prohibited under any law. If there were missing names, why didn't they provide the missing names for the NEC's verification? **This above act highlights the hypocrisy and manoeuvres by the opposition groups.**

3. Fomenting Racism and Xenophobia

The CNRP has often used the issues of Vietnamese living in Cambodia and the Cambodia-Vietnam border as topics to lambast the Royal Government of Cambodia in order to gain sympathy from its supporters. But why did they never raise the issue of Thais or Laos living in Cambodia or the Cambodia-Thailand or Cambodia-Laos borders?

During the electoral campaign as well as before, the opposition party repeatedly used unethical words, denigrating Cambodian people who support the the CPP and its leaders by labeling them as "Yuon head with Khmer body", "Yuon's puppets", "the ones who bring Yuons into Cambodia", "the ones who sell Cambodian territory to Yuons" or "the Yuons" etc. These acts clearly illustrate their attempts to damage internal solidarity and national reconciliation, which can lead to violence and conflicts with the neighboring country. The question is: are those who vote for the CPP are really Yuons? Moreover, is the CNRP inspiring its supporters to use unethical words the correct way to protect human rights or strengthen real democracy in Cambodia?

Our contemporary history has taught us that racism employed during the Lon Nol and Khmer Rouge eras plunged Cambodia into wars and destruction. Some three million Cambodians were killed during Khmer Rouge regime, some of whom were alleged as Yuons. At that time, how many countries expressed concerns or took actions to end the tragedy of Cambodian people?

The opposition party's behaviour involved fomenting racism and xenophobia -- serious violations of basic human rights. Have the UN Special Rapporteur for Human Rights in Cambodia, Mr. Surya Subedi and other human rights advocates expressed any reactions to these matters?

If the answer is that they have never reacted to these matters, this means that Mr. Surya Subedi and other advocates, who loudly proclaim themselves as being the protectors of human rights, are implementing double standards on human rights practice in Cambodia.

The CNRP must be aware that the Constitution clearly states that *“The exercise of personal rights and liberties by any individual shall not adversely affect the rights and freedom of others. The exercise of such rights and liberties shall be in accordance with the laws”*.

4. Exaggeration of Information by COMFREL concerning the Indelible Ink

On the pre-election day, which is called a quiet day, COMFREL made exaggerated pronouncements that the indelible ink to be used for marking those who have voted can be washed off easily in a few minutes. It is the first time that the ink issue was raised in the election in Cambodia. The claim was widely spread and misled the public to believe that voters can cast more than one ballot. However, no complaint related to this issue was filed after the election.

Even without filing any complaint, Mr. Kem Sokha said at the CNRP’s Tuol Kok Headquarters: “We found on the election day that the indelible ink could be washed off with substances available in the market, hair salon or even by using liquid soap in combination with cooking oil. Thus the fact that one person can cast only one ballot is questionable as the ink can be removed”. Mr. Kem Sokha did not mention how many people had removed the ink after casting the first ballot and had then gone to vote again. On 6 August 2013, at the Democracy Park when Mr. Kem Sokha raised his hand to pay respect to his supporters, we could observe the ink marked on his finger very clearly.

Mr. Devin Morrow, who worked with COMFREL as an election observer, said that “However, COMFREL observers in northwest Cambodia said that tests of the ink showed that it was certainly indelible. In Rattanakiri, Kratie and Mondolkiri provinces, attempts to wash off the ink with readily available substances were unsuccessful”.

A team of 14 observers from the Khmer Institute of Democracy observed 20 polling stations and indicated that “our team members did a test by inviting voters to clean off the ink after they voted, and walked steps or minutes away from the polling stations”. On 16 August 2013, the Khmer Institute of Democracy demonstrated through photos and videos that the ink could not be washed off completely by water, liquid soap, lemon, alcohol and gasoline. In addition, some international observers, who dipped their fingers into the indelible ink, also confirmed that the ink could not be removed. As a matter of fact, the ink produced by an Indian state-owned company is of top quality and has been used in Cambodia since the 1998 election. It is also used in elections in countries such as India, Afghanistan, Malaysia, Nigeria, Singapore, South Africa and Thailand.

5. Use of Social Networks

For the 2013 election, the NEC provided a variety of means to all registered political parties to inform voters about their political platforms via public radio and television in a transparent and equitable manner. Meanwhile, the NEC ordered public radio and television to allocate 4 hours a day during the electoral campaign period with each political party having 30 minutes per day on each station.

Moreover, further broadcasting of their political platforms through private radio stations and television networks and local newspapers could be done according to private agreements and business interests between the political party and private media owners. Each political party had access to media outlets according to their respective possibility.

In addition to the time allocation for public radio and television, the CNRP rented additional time from other local radio stations such as Beehive Radio FM105, Moha Nokor Radio FM 93.5, Women's Voice Radio FM102 and Voice of Democracy Radio (VOD). Those radio stations also rented time to Voice of America (VOA) and Radio Free Asia (RFA) to broadcast news in Khmer language, adding their sessions live from Washington. These two radio stations are financially supported by a certain country, and they are biased in their broadcasting and abusive of media professionalism, acting as the staunch political mouthpieces of the opposition party. VOA and RFA have been continuously broadcasting news on their local activities, political platforms and other activities, most of which were fabricated, distorted and twisted, before and after the election. *The Cambodia Daily* and the *Phnom Penh Post* have been doing the same.

The Royal Government of Cambodia has observed that the CNRP leaders have fully exercised their rights and freedoms, as seen in subsequent press conferences following Election Day and the announcement of the provisional results.

The social networks including Facebook, YouTube and Twitter have been widely used to spread political news and to post videos and photos with fabricating, distorting and provocative characteristics including rumours, manipulated by the CNRP and its supporters in order to intoxicate the social climate and to destabilize the CPP for its own political gain, regardless of media integrity. Even though freedom of expression is being exercised beyond its legal scope, the Royal Government of Cambodia has not taken any legal actions or prohibited any such forms of communication. Instead, the Royal Government of Cambodia is still ensuring the freedom of expression.

It can be seen, therefore, that taking into account all forms of communication, information regarding the policies of each political party in various forms of media was balanced in the 2013 Election. All Cambodian citizens as voters were well informed by all political parties.

6. Announcement of False Election Results

After all ballots were counted at all polling stations throughout the country, in the evening of 28 July 2013, based on the figures recorded in all Forms 1104 sent from all polling stations to the NEC by Commune/Sangkat Election Commissions (CECs) and Capital/Provincial Election Commissions (PECs), the NEC announced the preliminary results on TVK and these results showed that the CPP gained 3,235,969 votes while the CNRP received 2,946,176 votes.

Beside the results calculated by the NEC, each political party or any organization can sum up the preliminary results on its own, based on the figures in Forms 1104 that each political party received from its own representatives or observers at the polling stations or based on the figures in Forms 1102 posted in front of all polling stations.

The CPP summed up its own preliminary result based on the figures in Forms 1104 it received from its own representatives at the polling stations throughout the country or based on the figures recorded in Forms 1102, and concluded that the CPP had gained 68 seats while the CNRP had received 55 seats.

In the evening of 28 July 2013, the CNRP declared that it won the election, without citing the source of its total claimed number of votes. However, that claim was soon withdrawn by Mr. Sam Rainsy.

In contradiction with the CNRP, on 29 July 2013, COMFREL announced that its calculations showed that the CPP had gained 49.49% of the vote to the CNRP's 43.05%, giving the CPP 67 seats to the CNRP 56. Since that announcement, strangely COMFREL subsequently ceased to mention these figures, to protect their allies' fabrication of the election results.

Next, on 4 August 2013, in Kang Meas District, Kampong Cham Province Mr. Kem Sokha declared that *"at 5:00 PM, the ballot counting showed that CNRP won 76 seats. Someone (unknown) reported to the diplomatic missions that we won; then the counting was suddenly stopped. Someone (a CPP member) announced that CPP won; that is the trick to cheat us. ...International Organizations, Diplomats from the Democratic countries and all NGOs knew that CNRP won the election."* On 6 August 2013 at Democracy Park, Mr. Kem Sokha told CNRP's activists that *"at around 5-6 PM, H. E. Sam Rainsy and I are well informed that we get 76 seats. I do not mention the source, but it was from a foreigner, but then an hour later the result was upside down."*

The above statement is just only an invention to lie to people and the international public. Indeed, nobody other than Mr. Kem Sokha himself reported it to the diplomatic missions or completely invented this story.

Then, on 12 August 2013 at its Headquarters in Phnom Penh, Mr. Kem Sokha announced that the CNRP had won at least 63 seats, but on other days (4, 6 and 25 August 2013), Mr. Kem Sokha proclaimed that the CNRP won 76 seats, based on the made-up figure by an unnamed NGO. The questions are:

- Which organization did he refer to?
- Which organizations, diplomatic missions from which democratic countries and which NGOs recognized the CNRP's victory and from which sources?
- Where are the relevant figures on Forms 1104, which CNRP's representatives had received from each polling station, or figures in Forms 1102 posted at each polling station? Did they calculate based on these figures or use different figures from other sources to make up the 76 or 63 seats claimed by the CNRP?
- Since the CNRP alleged that the NEC's official figures are falsified, how could they justify their figures from unknown sources?
- The CNRP alleged that the NEC's Forms 1104 were fake or had been altered. In which polling stations did those fake or altered forms exist in a manner different from the ones obtained by its representatives?

If these claims had been based on the original Forms 1104, which every one of CPP and CNRP's representatives as well as COMFREL's observers had received from each polling station, or the figures in Form 1102 posted in front of each polling station, the preliminary results should not have been different or would be the same as the preliminary results announced by the NEC.

On 4 August 2013, in Srey Santhor district, Kampong Cham Province, Mr. Sam Rainsy said that *"the CPP claimed that it has around 6-7 million members, but it received only around 3 million votes and where are the rest? Those 3 million votes for CPP were mostly from threatening, stealing, cheating, buying, ghost ballots, Yuon and empty ballots"*. Nobody would believe Sam Rainsy's statement and if such a statement were true, there would hardly be any supporters for the CPP. Is this a truth or does anyone believe in such Sam Rainsy's statement?

In addition, Mr. Sam Rainsy incited people in the provinces near Phnom Penh to *“participate in a historic mass demonstration... trembling the earth ... to liberate our country ... If we let the dictators who are destroying our nation, who are totally corrupted and who had their hands used by Yuons to kill our own people, and if let it be for another four or five year time, our nation will disappear; we therefore cannot let this happen and are prepared to rescue our nation at all costs.”*

The CNRP must know that although they may lie to the Cambodian people now, sooner or later, the people will see that these people are liars.

Even in front of the statues of Preah Ang Chek & Preah Ang Chorm or Ta Dambang Kra Nhoung, who are believed by the people to possess spiritual powers, the two CNRP leaders still dared to manipulate the truth and tell lies without fearing that such powers would curse them.

7. Sam Rainsy’s Attempts to Reject the Election Results

The day before the polling and counting day, during a meeting with international observers at CNRP’s Headquarter, Mr. Sam Rainsy and Mr. Kem Sokha announced that they would not accept the NEC and would reject the election results; and Mr. Sam Rainsy stated that CNRP might win. In that meeting, one international observer challenged Mr. Sam Rainsy that “if CNRP does not accept the NEC and the election results, why would your party participate in the election?” “And if your party won, would you still reject the election results?” These questions were not answered by Mr. Sam Rainsy and Mr. Kem Sokha. They diverted to other topics. Such an attitude implies that CNRP would have accepted the results only if it had won the election, and rejected the results if it lost; which is not the spirit of sportsmanship or a stance appropriate to be taken by leaders.

On 20 July 2013 in Kampong Speu Province, Mr. Sam Rainsy said: *“ ... all compatriots – this is the last opportunity, if we don’t rescue our nation now, it will be too late in four or five years as Vietnamese will come and settle all over Cambodia and we will become slaves of Vietnam...”* By this remarks, Mr. Sam Rainsy meant that there would not be any election in the future because Cambodia would then have become a part of Vietnam and a “slave of Vietnam”.

Furthermore, on Mr. Sam Rainsy’s Facebook page of 8 August 2013, he wrote: *“I know such activities (security force movements) are happening on the order of a ruler, and I also know that you – my fellow compatriots, soldiers, policemen and all members of the armed forces – are looking forward to a new government which will provide you with a salary of at least 1 million Riels and to living under a new government which cares, is responsible and upholds social values. Therefore, now is the golden opportunity for all of you to unite and stand up with our people and fellow CNRP youths to demand for change toward a new government (led by CNRP) in 2013 at all costs.”* This was no longer an appeal for all soldiers to vote for CNRP because the election was over. It was instead a call for them to rise up and install a new government (led by CNRP) with a promise that they would be rewarded with salary increase, if they had done. Furthermore, Mr. Sam Rainsy strongly urged the armed forces and policemen to give up their given duty and positions in order to join CNRP’s mass demonstrations. Other manoeuvres and tricks of Mr. Sam Rainsy and Mr. Kim Sokha included:

- Distorting the election results in various public forums, telling the people that the CPP won the election owing to election fraud, and that the CNRP is the one who seeks

justice for the voters. In so doing, they are, exploiting the voters' will for their own political gain.

- Inciting voters' anger, so that they join demonstrations that they called "mass demonstration for expressing people's will". This was their last resort to mobilize people and use people's power to protest against the election results aimed at achieving its own ambitions to come to power at all costs; and such act is against fundamental principles of democracy and existing laws.
- Making groundless accusations and irresponsibly using unethical words as pretexts to create negative images of CPP and its leaders so that CNRP's leaders can continue their political career and gain their supporters' sympathy for the next five years.

By using such an approach, the opposition party hopes it would politically and financially gain more support from their supporters at all levels, especially from those who are hostile to and pessimistic about the Royal Government of Cambodia.

However, all attempts by Mr. Sam Rainsy and Mr. Kem Sokha have failed and therefore the two leaders are becoming ever more desperate and hopeless. Mr. Sam Rainsy knew that 2013 was the last opportunity for him to realize his dream of becoming Prime Minister. With such failure, the momentum generated by the uniting of the two opposition parties won't last another next five years. This new party will split having failed in their joint political battle, especially when their differences in terms of political and/or economic interests grow wider and wider in the future.

8. Allegations against the National Election Committee

The NEC is an independent election management body established in accordance with the LEMNA. The NEC has to follow the LEMNA, which requires the NEC members to be neutral and impartial. Moreover, before taking office they have to resign from any political party with which they may be affiliated. Likewise, members of PECs and CECs are no longer recruited on the basis of political affiliation.

The NEC has organized eleven national elections, including that of the members of Senate and the National Assembly and those of the Commune/Sangkat Council. All these elections were highly commended by national and international observers, NGOs, civil society and friendly countries of Cambodia.

The NEC's recent White Paper illustrates that during the voter registration process, the NEC has properly followed the procedures established by law, which allow all citizens to register their names or to have their names, dates of birth and sex etc. corrected. Moreover, as for the 2012 Voter List, the registration period, which normally lasts only one month, was extended to four months for verification.

The NEC also facilitated and created an election campaign environment which was smooth, without intimidation and non-violent. All political parties fully exercised the rights to conduct their election campaigns either in a large or small scale.

The opposition party has demanded that the NEC recount votes at certain polling stations, but did not present any evidence in justification. Such a demand could not be met due to the facts that :

- (1) no written complaints about fraud were lodged from polling stations,
- (2) after vote counting, all forms recording the election results were signed with no objection by political parties' agents and observers present at each polling station,

- (3) LEMNA does not allow the NEC to recount the votes at any polling station without evidence in justification and complaints from political parties' agents,
- (4) no decision has been made by the Constitutional Council to order the NEC to conduct vote recounting.

At all stages of the process, political parties' agents at all polling stations were present and signed all relevant documents indicating that proper procedures were followed and that the vote counting and vote figures obtained by each political party were correctly recorded in Form 1104 given by the polling station chief to each political party's agents. Election observers were present at all polling stations to witness the whole process and were also given Form 1104. None of the party agents present at the 19,009 polling stations refused to sign any relevant documents. This clearly proved that the polling and ballot-counting process went smoothly and transparently, which was completely in contradictory to what the opposition party alleged.

According to the above clarifications, the NEC carried out its duties as mandated by the Constitution, laws and regulations and procedures in a proper and impartial manner unlike what was alleged by the CNRP -- that the NEC is not independent and an instrument of the CPP. Under these transparent and sophisticated procedures, there is no room for anyone to commit fraud as alleged by the opposition party.

9. Allegations against the Constitutional Council

After the Constitutional Council rendered its decisions on all complaints, the opposition party rejected the decision of this supreme body and alleged that its rulings were unjust and biased towards the CPP.

In accordance with the Constitution and LEMNA, the Constitutional Council is mandated to guarantee the respect of the Constitution as well as to interpret the Constitution and laws adopted by the National Assembly and reviewed by the Senate. The Constitutional Council shall have the right to examine and decide on disputes concerning the election of the members of the National Assembly and the Senate.

The Constitutional Council shall consist of nine members with a nine-year term. One third of its members shall be replaced every three years. Three members shall be appointed by the King, three by the National Assembly and three by the Supreme Council of the Magistracy. The Chairman shall be elected by the members of the Constitutional Council. He/she shall have a deciding vote if voting is tied. Members of the Constitutional Council must not be Senators, members of the National Assembly, members of the Royal Government, sitting judges, public servants, presidents or vice-presidents of a political party or presidents or vice-presidents of a union.

Based on this composition, it is observed that members of the Constitutional Council are appointed by three different supreme bodies and, therefore, no individual, institution or political party has direct or indirect influence on its decision. Its decisions are final without appeal, and apply to all authorities stipulated in the Constitution.

10. Demand to Establish Joint Committee with the Participation of Civil Society and UN

The day after the polling and counting day, the CNRP alleged that there had been many irregularities in the election process and proposed the establishment of a new mechanism

referred to as a “Joint Committee” or “Special Committee”, outside the framework of LEMNA, in order to investigate into the so-called irregularities. The CNRP proposed that the Committee be led by the UN or any NGO, leaving the NEC just as a facilitator. Such a mechanism does not allow the NEC and the Constitutional Council to perform their duties and obligations as stipulated in the Constitution and LEMNA. Thus far, the NEC has ably carried out its work, and has already organized eleven elections: including general elections, Senate elections and Commune/Sangkat Councils elections.

The proposal by the CNRP for the new mechanism is unacceptable and impractical on the grounds that:

- Cambodia is a sovereign state adhering to the rule of law. She has laws and clear judicial mechanisms for organizing the election and dealing with complaints in the election process.
- This proposal violates the Constitution, which is the nation’s supreme law, and LEMNA, which stipulates that the NEC and the Constitutional Council are the mechanisms mandated to deal with all complaints in the election process.
- The NEC announced the provisional election results on 12 August 2012. All complaints about irregularities were resolved transparently and fairly by the NEC and the Constitutional Council. The official results of the election were announced on 8 September 2013.
- His Majesty the King also clearly stated in his Royal Message of 30 August 2013 that resolution of any national affairs should be based on the Constitution and dealt with by the competent institutions as mandated by the Constitution and the relevant national laws.

The NEC called on all political parties, the UN and civil society organizations to participate as observers in the process of investigation, led by the NEC, into irregularities alleged by the opposition party.

In the spirit of national reconciliation and with the soft stance, the CPP sent its representatives to participate as observers in the investigation process. In contrast, the CNRP kept on using tricks, urging the UN and NGOs to lead the investigation process while being aware that the proposal would be unacceptable due to its violation of the Constitution and the relevant laws.

The CNRP’s demand violates the laws and principles of the rule of law, relinquishing the sovereignty and independence, and it is an act severely undermining the nation’s constitutional body and existing laws.

III. Election Observers

1. CNRP’s Agents and COMFREL’s Observers

At every stage of the election, the CNRP’s agents were always present along with observers from the Sam Rainsy Party, Human Rights Party and COMFREL, witnessing all steps in the election process from the checking of the ballot box, polling, opening and closing of the ballot box, vote counting and transporting of the ballot box to the CEC, PEC and NEC. The agents of all the political parties present signed all relevant forms, recording the results at each polling station. Had there been any irregularities, those agents and observers would surely have refused to sign the forms or would have filed their complaints at once at the polling stations. Despite the presence of the CNRP’s agents at all polling stations, and the

fact that they did sign Forms 1104, 1102 and 1108, and the tally sheets confirming the results at each polling station, the CNRP still rejected the election results, offensively alleging that the election was full of irregularities. If what was being alleged had been true, it would have meant that the CNRP's agents were also taking part in the election fraud.

Such an allegation is nothing new. Sam Rainsy has rejected the results of every election. And, while claiming itself to be an observation mechanism for free and fair elections, why did COMFREL take a stance biased towards the opposition party, claiming that there were irregularities in the election, while its own representatives took part in every process on the polling and vote counting day?

2. National and International Observers

For the 2013 Election, the NEC accredited election observers from various countries, political parties, embassies, NGOs and associations, comprising 35 institutions and totaling 292 international election observers. Also, 40,142 national observers and agents from political parties were accredited, including COMFREL's observers, who were present in every polling station. Based on a decision issued by the NEC on 23 July 2013, only a few days before polling day, the NEC also accredited 9,931 observers from the Sam Rainsy Party and 4,780 from the Human Rights Party. The number of the CPP's agents equalled that of the CNRP's. However, in each polling station, there were also observers from COMFREL, Sam Rainsy Party and Human Rights Party, implying that there were two observers from the CPP versus five observers from the opposition.

Among the international observers were dignitaries from certain countries and organizations such as former five-term Speaker of the House of Representatives of the Philippines; former Vice-President of Indonesia; former Deputy Prime Minister of Canada; former Deputy Prime Minister of the Republic of Korea; a Senator from Pakistan; Chairmen of the Election Commissions from the Philippines, Thailand and Myanmar; election commissioners from Malaysia, Laos and Russia; and also the Director of Community Affairs Development Directorate of the ASEAN Secretariat. Those international observers issued statements considering the election on 28 July 2013 in Cambodia as having been held in a free, fair, peaceful and non-violent manner.

The statements by the International Conference of Asian Political Parties (ICAPP) and the Centrist Asia Pacific Democrats International (CAPDI) led by the Honorable former Speaker of the Philippines and former Vice President of Indonesia stated that *“The ICAPP-CAPDI considers the elections in Cambodia as a triumph of popular will and a victory of the Cambodian people in their quest to build a better future based on the supremacy and sanctity of the ballot. That the elections were free, fair and transparent, and, above all, peaceful, non-violent and smooth bears testimony to the fact that Cambodian democracy has not only matured, but come of age politically. We extend our heartiest congratulations to the people, political parties, leaders, media, civil society and the NEC of Cambodia for the successful and orderly conduct of the general election.”*

Chairpersons of the election commissions from several countries also appreciated experiences gained from the election in Cambodia. They expressed their satisfaction with the election, before during and after, which had been held smoothly and peacefully, and confirmed that the election was free and fair.

IV. Resolution of Complaints

1. Resolution of Complaints by the NEC

On 12 August 2013, at 9 a.m., the NEC announced the provisional results on TVK after resolving 13 complaints, and issued decisions on 4 complaints in accordance with LEMNA and the Regulations and Procedures, after questioning the complainants and examining the evidence provided by the complainants.

2. Resolution of Complaints by the Constitutional Council

The CNRP appealed 15 complaints against the decisions made by the NEC to the Constitutional Council. The Constitutional Council resolved all complaints, ordering the NEC to open the Safety Packages A in four provinces, namely Kratie, Battambang, Siem Reap and Kandal.

The NEC opened the Safety Packages A as ordered by the Constitutional Council, in the presence of representatives of the Constitutional Council, the NEC, CPP, CNRP, and FUNCINPEC, as well as journalists, and local and international NGO observers. The results were as follows:

- **Kratie Province:** Among 13 polling stations checked, 8 of the Safety Packages A were unsealed. However, after checking various different forms made at the time of counting and consolidation, the NEC found that the figures of ballots received by each political party remained unchanged in every polling station.
- **Siem Reap Province:** Among 12 polling stations checked, 7 of the Safety Packages A were unsealed and Form 1102 from one polling station was not filled in at all, bearing only the signatures of the polling station officials and of the political parties' agents from CPP and CNRP. Nevertheless, Forms 1108¹ and 1104 and the tally sheets record the same figures for this polling station.

Even though the aforementioned Safety Packages A were not properly sealed due to the negligence of polling station officials, the Safety Packages A were placed in respective Packages B, which had been fastened at the polling stations. Polling station officials, political parties' agents and observers had taken Packages B to hand over to the respective CECs, with signature of delivery as proof of receipt.

On the day following the election, at a clearly pre-determined time, the CEC opened Packages B before political parties' agents and observers. After the results for the whole commune/Sangkat were consolidated, Package B containing Safety Packages A was placed into Package C when was in turn sealed. Packages C and Packages C Special then were taken and handed over to the respective PECs, accompanied by CEC officials, political parties' agents and observers.

Package C and Package C Special were handed over to the PECs, with signature of CEC officials and political parties' agents acknowledging delivery-receipt. The PEC opened Package C Special before political parties' agents and observers. After the results within capital/province were consolidated, Package D was sealed, taken and handed over to the NEC, accompanied by PEC officials, political parties' agents and observers.

¹ The table to record votes.

The process of sending Package D, which encloses Packages A, B and C, was transparent and interconnected, whereby no one could have a chance to steal the votes, as was alleged by the opposition party. Overall, after the checking of various different forms made at the time of counting and consolidation, the figures of ballots received by each political party remained unchanged in every polling station. The plaintiffs from CNRP in the two provinces accepted that the signatures on all forms were those of their agents.

- **Battambang Province:** All the 8 Safety Packages A checked were properly sealed, and the NEC found that the figures of ballots received by each political party remained unchanged in every polling station, and are consistent with the Form 1104² held by the CNRP. However, due to the negligence and omission of polling station officials, Forms 1102³ from 2 polling stations were not filled in at all, bearing only the signatures of the polling officials and the political parties' agents. Nevertheless, Forms 1108 and 1104 and the tally sheets recorded the same figures for both polling stations.
- **Kandal Province:** All Safety Packages A checked were properly sealed. In the Safety Package A from one polling station, polling station officials mistakenly placed two copies of Form 1101 altogether while in fact one copy should have been Form 1101 and the other Form 1102. The two copies of Form 1102 were placed into Package B, which was in turn sent to CEC. Nevertheless, Form 1108 and the tally sheets recorded the same figures for the polling station. The plaintiffs from CNRP accepted that the signatures on all forms were truly those of their agents.

Having obtained results of the opening of Safety Package A at each province, on September 6, 2013, the Constitutional Council decided as follows:

- to uphold all the decisions made by the NEC; and
- this decision shall be final and also shall prevail over any authority as stipulated in the Constitution and shall be published in the Royal Gazette.

Despite decisions already made by the Constitutional Council and the election results announced on 8 September 2013, the CNRP has violated the law and disobeyed the decisions of the Constitutional Council. The law stipulates that decision of the Constitutional Council is final and any person violating this decision shall be subject to penalties of imprisonment from one month to one year and fine from 100,000 Riels to 600,000 Riels, or either of them.

V. Comments by the International Community on the Election in Cambodia

After the election, many leaders and political parties' representatives from foreign countries have sent letters to welcome the smooth election and to congratulate the CPP on the electoral victory.

The Government of Japan welcomed the National Assembly election in the Kingdom of Cambodia, which was held on 28 July 2013, as smooth and peaceful overall. The Government of Japan said it would closely follow up the post-election developments, and hoped that the successive processes to resolve the complaints would be carried out in a fair, prompt, and peaceful manner through negotiations and cooperation between the parties

² The paper on preliminary polling results that each political party receives at each polling station. The chief of the polling station provides it to political parties' agents and observers for information.

³ The minute of counting.

concerned in conformity with relevant laws and regulations, and that security and order would be maintained.

The United States of America, the United Nations and the European Union issued statements welcoming the peaceful election, considering this election to be a historical milestone of the developments of democracy in Cambodia. Those statements also encouraged an investigation into irregularities. In particular, the European Union expressed its hope that “any dispute addressed to the NEC and the established judicial mechanisms will be dealt with fairly and swiftly.” Professor Shiro Harada from the University of Tokyo said that “Those kind of careless mistakes were also found... but I could not see any clear evidence of manipulation against the CNRP.”

Many heads of States and Governments from countries such as China, Thailand, Bangladesh, Laos, Vietnam, Myanmar, Brunei, Malaysia, East Timor, Kuwait and Belarus, expressed their congratulations to Samdech Techo Prime Minister on the CPP’s electoral victory in order to continue leading the country.

VI. The Initial Session of the National Assembly

The first paragraph of Article 82-New of the Constitution stipulates that “the National Assembly shall hold its initial session no later than sixty days after the election upon notice by the King.” The first paragraph of Article 76 of the Constitution stipulates that “the National Assembly shall consist of at least 120 members”, meaning that at least 120 members of the National Assembly shall be elected in every general election. In the 2013 general election, 123 members of the National Assembly were elected. Neither of these Articles stipulates that the initial session presided over by the King shall require the presence of at least 120 members of the National Assembly.

After the initial session, the National Assembly shall hold its first session under the chairmanship of a provisional President who is the oldest elected member, assisted by the five youngest elected members present at the session. If the number of members present exceeds the quorum of half of the National Assembly’s members, the first session is also able to approve the validity of each member’s mandate and elect its President and Vice-Presidents and the Chairperson, Vice-Chairpersons and members of its various Commissions by absolute majority of all its members, as stipulated in the first and second paragraphs of Article 82-New of the Constitution and in Article 5-New (two) of the Internal Rules of Procedure of the National Assembly of the Kingdom of Cambodia. When required by a political situation, the first session shall be convened in accordance with the Supplementary Constitutional Law in order to ensure regular functioning of national institutions.

On 8 August 2013, a roundtable discussion was held to clarify doubts about the National Assembly’s initial session, participated by professors and dignitaries who are knowledgeable about and have experience in the Constitutional Law, namely His Excellency Pen Panha, Chairman of the Legislation and Justice Commission of the National Assembly, His Excellency Chhim Phal Virun, Director of the Institute for Civic Education, His Excellency Bun Hun, President of the Bar Association of the Kingdom of Cambodia, and His Excellency Lam Chea, Professor of Law. The roundtable discussion explained that the initial session presided over by the King shall be convened without a quorum requirement, and the National Assembly shall hold its first session and subsequent plenary sessions according to the quorum requirement as stipulated in Article 88-New (two) of the Constitution.

Therefore, for the fifth mandate of the National Assembly, the sixty eight members of the National Assembly from the CPP will attend the initial session highly presided over by the King. After that, the National Assembly shall hold its first session and its subsequent plenary sessions and shall vote on any issues requiring an absolute majority of all its members in compliance with the quorum requirement as stipulated in Article 88-New (two) of the Constitution, including the formation of the Royal Government.

Conclusion

In the 2013 general election for the fifth Mandate of the National Assembly, two political parties won seats: the CPP (68 seats) and the CNRP (55 seats). Following the allegations of irregularities, the NEC resolved all complaints filed by CNRP, and the supreme institution – the Constitutional Council – ordered the NEC to open Safety Packages to verify figures alleged to show irregularities. The Constitutional Council fulfilled its mandate according to procedures, and found that the election results remained unchanged despite technical mistakes. National and international observers including CAPDI and ICAPP congratulated and highly evaluated the election on 28 July 2013 as having been conducted in a free, fair and transparent manner in spite of some minor technical mistakes. Leaders in the region and the world have sent letters of congratulation and wishes to the CPP and the people of Cambodia, who had expressed their will to vote for the CPP to continue leading the Royal Government in the 5th legislature.

The CNRP has no choice but to accept the results of the election derived from the real will of the people. Even though Mr. Sam Rainsy has played all kinds of tricks to realize his dream of becoming the Prime Minister, the truth remains unchanged and his last chance is gone. The momentum generated from the uniting of the two opposition parties may not last long.