

**Fact Sheet:** Fundamental Freedoms Series: The Right to Vote

**Fundamental Freedom:** Political Rights



**Snapshot:** The year 2012 sees the beginning of two years of elections in Cambodia; the Senate Elections in January 2012, the Commune Elections in 2012 and the National Elections in 2013. The right to vote in elections is enshrined in Cambodian law. In order to exercise this right, and for any election to be considered free and fair, the electorate must exercise their free will when it comes to their vote. Elections in the past however have been marred by allegations of undue influence or coercion inhibiting the free expression of the electors will.

## Introduction

With 2012 ushering in two election years for Cambodia, with the 2012 Senate and Commune Elections, and the 2013 National Elections, this fact sheet provides an overview of the right to vote, specifically examining the right to cast ones vote free of violence, or threat of violence, compulsion, inducement or manipulative interference of any kind. This fact sheet is written by the Cambodian Center for Human Rights (“CCHR”), a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

## Political Rights – domestic and international law

The Constitution of Cambodia commits Cambodia to the principles of liberal democracy and pluralism. Article 34 guarantees the right to vote for Khmer citizens of either sex and over the age of 18, while Article 35 states that all Khmer citizens shall have the right to participate actively in the political life of the nation. Article 31 states that Cambodia shall recognize and respect the Universal Declaration of Human Rights (the “UDHR”) and the covenants and conventions related to human rights, thereby incorporating the UDHR and the International Covenant on Civil and Political Rights (the “ICCPR”) into domestic law. Article 21 of the UDHR states that the *“will of the people shall be the basis of the authority of government...expressed in periodic and genuine elections which shall be by universal and equal suffrage.”* Article 25 of the ICCPR similarly provides that everyone has the right to vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage, and shall be held by secret ballot guaranteeing the free expression of the will of the electors.

## Exercising the right to vote free from undue influence or coercion

The United Nations Human Rights Committee has elaborated on what it means for a state to guarantee the free expression of the will of the electorate. In its General Comment No. 25, it notes that, *“persons entitled to vote must be free to support or oppose government without due influence or coercion of any kind which may distort or inhibit the free expression of the electors will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.”*

During the 2008 National Elections, European Union (EU) observers noted that the most widespread intimidation experienced by voters related to threats against those who had allowed opposition parties to place billboards, banners and the like on their property and warnings of negative consequences should they fail to vote for the ruling party. EU observers, Cambodian observer groups and the media also reported on indications that political parties were offering some kind of remuneration – mainly in the form of money or goods - to buy votes or to encourage voters to abstain from voting. During forums

organized by CCHR in 2010 on elections and democratic space, participants in Ratanakiri province spoke of local authority not allowing them to register to vote if they were not voting for the ruling party. One participant stated that the local authorities in his commune gave gifts to supporters of the ruling party and to those that said they would vote in favour of the ruling party. It has recently been alleged that the Sam Rainsy Party has told its Commune Council members to swear to vote only for that party and to hand in their phones prior to the Senate Elections, which are slated to take place at the end of January.

### **Protecting free expression of electoral will**

Allegations of intimidation, harassment and manipulation of voters to inhibit their free expression of electoral will, by any political party, is a violation of the freedom of expression and political rights of voters. There are laws in place in Cambodia to combat such behaviour. For example, the Law on the Election of Members of the National Assembly (“LEMNA”) and the Law on the Elections of Commune Councils (“LECC”) set out penalties for those who use coercion, force or intimidation to secure votes. Whilst there is law in place that reflects international standards, from the observations of election monitors and the experiences recounted by voters, these are not necessarily realized in practice. The National Election Committee (the “NEC”) is the main electoral administrator and the main body for complaints regarding electoral irregularities. However, many question its independence due, amongst other things, to its politically imbalanced composition and position within the Ministry of Interior, and the fact that in the past it has failed to proactively safeguard a free campaign environment and to investigate allegations of vote-buying.

### **Conclusion and Recommendations**

The 2012 Senate and Commune Elections, and the 2013 National Assembly Elections are critical moments for Cambodia’s future democracy. It is thus fundamental that relevant stakeholders consider and seek reform with regards to the issues of concern highlighted in this fact sheet in order to widen democratic space and strengthen electoral processes. To this end the following recommendations are made:

- The Royal Government of Cambodia (RGC) and all political parties should ensure that every citizen is entitled to support the party of his/her choosing, and is free from intimidation as a result of his/her political allegiance, including refraining from requiring pledges from members to vote for their own party. The RGC must ensure that all levels of government – national and sub-national – are impartial in carrying out their duties and respect the plurality of political choice of the people.
- The NEC should continue to inform local election administrators, political parties and their agents that they must not show bias towards people who are of different political affiliations to themselves and that they must not intimidate others when voting.
- The NEC should ensure it duly investigates and punishes, as appropriate, those who commit offences that breach the LEMNA, the LECC or any codes of conduct.
- To further combat vote buying, the NEC, as part of its mandate on civil education, should ensure that people understand why they should not sell their vote and educate voters about the procedure they should follow if they are made aware of an act or attempt of vote buying.

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