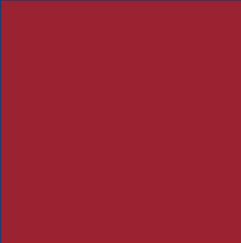


Freedom, justice and solidarity are the basic principles underlying the work of the Konrad-Adenauer-Stiftung (KAS). KAS is a political foundation, closely associated with the Christian Democratic Union of Germany (CDU). As co-founder of the CDU and the first Chancellor of the Federal Republic of Germany, Konrad Adenauer (1876-1967) united Christian social, conservative and liberal traditions. His name is synonymous with the democratic reconstruction of Germany, the firm alignment of foreign policy with the transatlantic community of values, the vision of the unified Europe and an orientation towards the social market economy. In our European and international cooperation with nearly 80 offices abroad and projects in over 120 countries, we make a unique contribution to the promotion of democracy, the rule of law and a social market economy.



ELECTORAL POLITICS IN CAMBODIA

HISTORICAL TRAJECTORIES, CURRENT CHALLENGES, AND COMPARATIVE PERSPECTIVES

Prof. Dr. Aurel Croissant

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The office in Cambodia has been established in 1994. KAS in Cambodia is mainly operating in the following fields: Administrative Reform and Decentralization, Strengthening Political Parties and Parliaments, Legal Reform, Media Development, Political Education and Social Market Economy, as well as Foreign Policy Consultancy.

Prof. Dr. Aurel Croissant

After receiving a M.A. in Political Science from Johannes Gutenberg Universität, Mainz, in 1996, Aurel Croissant started his career as Research Fellow and Lecturer at the Universities of Mainz and Heidelberg. In 2001, he received a doctoral degree (Dr. phil) in Political Science from Mainz University and was promoted to a non-tenured position as 'Wissenschaftlicher Assistent' (C1) at the Ruprecht-Karls-University, Heidelberg. In 2004, he accepted a tenure-track position as Assistant Professor for Comparative Politics at the Naval Postgraduate School in Monterey, CA. Since 2006, he has been Professor of Political Science (W3) at Heidelberg University.

His main research interests include civil-military relations, democratic governance and political institutions, democratization studies, party politics, civil society, conflict research, modern authoritarianism and the politics of East and Southeast Asia, which is documented in more than 150 scholarly publications in German, English, Indonesian, Russian and Spanish, including several monographs and edited volumes and articles in journals such as *Party Politics*, *Democratization*, *Electoral Studies*, *Armed Forces & Society*, *Pacific Review*, *Japanese Journal of Political Science*, *Journal of East Asian Studies*, *Contemporary Southeast Asia*, *Journal of the German Association for Political Science (PVS)*, *Journal of Political Science (ZPol)* and *Comparative Governance and Politics (ZfVP)*. For a comprehensive list of his publications, please refer to the publications document (pdf).

He is co-editor of the journal *Democratization* and of the book series *Democratization Special Issues Series* (Taylor and Francis), *Politik in Afrika, Asien und Lateinamerika* (Politics in Africa, Asia and Latin America, VS Verlag) and *Weltregionen im Wandel* (World Regions in Transition, Nomos). He is on the editorial board of the *Asian Journal of Political Science* and the *Journal of Contemporary Southeast Asian Affairs*, referee for numerous German and international journals, publishers and academic funding institutions, and sits on the Academic Advisory Boards of the Sustainable Governance Indicators (SGI) and the Bertelsmann Transformation-Index (BTI).

In June 2016 KAS has organized and conducted the 14th Law Talk on the topic "Fairness and Integrity of the Electoral Process in Cambodia". The workshop was held in Sihanouk Province and hosted international experts, journalists, politicians and state officials dealing with pressing issues like voter registration, voter education, complaint mechanisms, unclear legal formulations as well as inequality of media access regarding the forthcoming communal elections in 2017 and national election in 2018. Set in this context Professor Croissant presented his findings and the paper about electoral politics in Cambodia.



Prof. Dr. Aurel Croissant

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ELECTORAL POLITICS IN CAMBODIA

Historical trajectories, current challenges,
and comparative perspectives

1. Introduction

In the past twenty-five years, the Kingdom of Cambodia has experienced a threefold transformation: from civil war to post-war reconstruction, from a socialist one-party state to a multiparty electoral system, and from a centrally planned economy to a market economy. Following the 1991 Paris Peace Accords, the United Nations Transitional Authority in Cambodia (UNTAC) cleared the way for the country's transition from civil war to a post-war order (Croissant 2008). The end of the UNTAC period in 1993 was followed by significant reforms in many areas of government, politics, economy, and society. Most importantly, the one-party state of the Cambodian People's Party (CPP) was replaced by a multiparty system, which included regular elections, multiparty competition, and an emerging civil society (Peou 1997, 2006, 2007, 2015). However, most political scientists seem to agree that regular multi-party competitive elections coexist with tenuous civil and political rights and weak horizontal and vertical accountability. Furthermore, the dominant party is in control of the electoral process. Therefore, scholars disagree whether the political regime should be classified as an "unconsolidated democracy" (Un 2004), a "dominant party illiberal democracy" (Peou 2006, Un 2015), "electoral authoritarianism" (Diamond, Plattner, and Chu 2013), or a "semi democracy" (Case 2015).

One of the most important legacies of the UNTAC-initiated reform process has been the institutionalization of regular multiparty elections. Since 1993, there have been five general elections for the National Assembly, three commune-level elections, and two indirect elections for the Senate. At the same time, however, elections have frequently been mired in controversy. Local civil society organizations, opposition parties, regional election watchdogs, and Cambodian and Western academics criticize the lack of integrity of the electoral process and demand electoral reforms. As a result, electoral reform is a perennial item on the agenda in Cambodia.

As should be clear to even the most casual observer, the problems and challenges of electoral reform in Cambodia are numerous. They include, inter alia, the weakness of the current legal and judicial system; a lack of public confidence in the integrity of the electoral process; an unlevelled playing-field; and a political milieu, which prizes partisanship above neutrality and impartiality. Under these circumstances, technical reforms regarding electoral regulations may be useful

for improving the fairness of the election administration and the transparency of vote counting, but their overall impact on strengthening or deepening the quality of elections may be limited. Moreover, the electoral system is only one important aspect of Cambodia's broader electoral process and electoral politics. Many of the contested issues in Cambodian politics regarding elections and electoral politics have more to do with electoral regulations, the legitimacy of the election results, and the political outcomes of the electoral process.

2. Electoral Systems

Before we can analyze and discuss Cambodia's electoral systems, we first need to define the concept. By an electoral system I mean 'the set of rules that structure how votes are cast at elections for a representative assembly and how these votes are then converted into seats in that assembly' (Gallagher and Mitchell 2005). Given a set of votes, an electoral system determines the composition of the parliament. The electoral system is more narrowly defined than what Gallagher and Mitchell (Gallagher and Mitchell 2005), Dieter Nohlen (Nohlen 2014), and other scholars term electoral regulations, as electoral regulations relate to the wider set of rules concerning elections. Such rules are undoubtedly important in determining the significance and legitimacy of an election. However, they should not be confused with the more specific concept of the electoral system itself.

There is a consensus among students of political institutions that the choice of an electoral system is one of the "most important constitutional choices that have to be made in democracies" (Lijphart 1994, 94, Taagepera 1998). Because electoral systems determine how votes are translated into seats in parliament, electoral systems are often viewed as one of the sharpest political tools in the shed of politicians. However, elections are not a unique feature of representative democracy but also exist in many non-democratic political systems. In fact, in the modern world, elections are generally the rule and other forms of selection of political leaders are the rare exception: there are only five states that do not allow representative national elections to the legislature.¹ Moreover, multiparty elections occur in more than sixty percent of all authoritarian regimes globally, with varying degrees of contestation and political freedoms (Miller 2015, Croissant and Hellmann 2016).

Electoral systems matter in several ways. They may exert significant influence on the shape of the party system, the nature of government (coalition or single-party), the kind of choices facing voters at elections, the ability of voters to hold their representative(s) personally accountable, the behavior of parliamentarians, the degree of diversity in the composition of parliament and, of course, the quality of government, and hence the quality of life of the citizens ruled by that government (Lijphart 1999, Gerring and Thacker 2005, Gallagher and Mitchell 2005).

1 Brunei, China, Saudi Arabia, United Arab Emirates, and Qatar (Norris 2015).

Families

As Harry Eckstein (Eckstein 1963, 249) remarks, '[i]t is the easiest thing in the world to get inextricably tangled among the complexities of electoral systems'. To avoid this, I limit myself to outlining some broad categories into which electoral systems fall. For the purposes of this paper, I have assigned electoral systems to one of four broad categories, although there is often also considerable variation within these (Table 1).

Table 1 Categories and specific types of electoral systems in Asia

Broad category	Specific types	Country examples in Asia
Single-member constituency systems	Single-member plurality (SMP)	Malaysia, Pakistan, Bangladesh, Singapore (before 1988), Myanmar (since 2010)
	Alternative vote (AV)	India
	Two-round system (2RS)	Vietnam
Plurality in multi-member constituency systems	SMP and multi-member plurality (MMP)	Singapore (since 1988)
	Multi-member plurality	Laos, Thailand (before 1997)
Mixed („semi-proportional“) systems	Mixed compensatory	---
	Mixed parallel	Japan (since 1996), Thailand (since 1997), Philippines (since 1992), South Korea (since 1988), Taiwan (since 2008), East Timor (2001); Mongolia (since 2008), Nepal (since 2008)
Proportional representation (PR) systems	Closed-list systems	Cambodia, East-Timor (since 2007)
	Preferential list systems (open list/flexible list)	Indonesia, Sri Lanka

Source: (Croissant 2015) (Croissant, Bruns, and John 2002).

The first category consists of those systems in which all seats are allocated within single-member constituencies (also known as single-member districts and hence often abbreviated as SMDs). As Table 1 shows, SMDs are especially popular among former British colonies, such as Malaysia, Pakistan, and Bangladesh.

The second category consists of multi-member constituency systems using plurality rule, for example the block vote in Thailand (before 1997). In the 1980s, Singapore transitioned from 'pure' SMDs to this second type of system through the introduction of group representation constituencies (in addition to SMDs). That is, seats are allocated within these four to six member constituencies according to plurality rule among various "teams" of candidates.

The third broad category includes 'mixed' systems, in which some MPs are elected by plurality or majority (usually from SMDs) and others are elected by proportional representation (PR). This type of system was introduced in a large number of Asian countries over the last three decades—perhaps because they appear to combine the benefits of PR lists with those of plurality/majority (or other) representation. Unlike in mixed-compensatory systems (for example, New Zealand), the PR component of the mixed-parallel system does not compensate for any disproportionality within plurality/majority districts. Voters may receive either one ballot paper, which is used to cast a vote both for a candidate and for the candidate's party, as is done in South Korea, or two ballot papers, one for the plurality/majority seats and one for the PR seats, as is done for example in Japan (since 1996) and Thailand (since 1997, although with considerable variation over time).

The fourth category comprises PR systems, in which seats are awarded in proportion to the party list votes obtained. There is a lot of variation among PR systems in terms of district magnitude, seat allocation formulae, and levels of seat allocation, and these differences matter in terms of the degree of (dis)proportionality and the political consequences of the electoral system. List systems are based on the idea of parties presenting lists of candidates within each multimember constituency. They are conventionally divided into two subtypes: those using closed lists (for example, Cambodia and in East Timor), in which the voter cannot express a choice for individual candidates on the list, and those based on preferential lists, where voters can do so (for example, in Indonesia and Sri Lanka).

Dimensions

Before we move on to the country study of Cambodia, we also need to outline more fully the main dimensions and technical features in which electoral systems differ. These are (Gallagher and Mitchell 2005): (i) district magnitude; (ii) number of votes; (iii) ballot structure; (iv) the choice of candidates within party; (v) levels of seat allocation; and (vi) seat allocation formulae.

- i. *District magnitude (M)*. The number of seats per constituency considerably affects an electoral system and thus a country's politics. Measuring average district magnitude is straightforward in countries where all constituencies are

the same size: single-member constituency systems like Malaysia and India ($M=1$), or one national district with 65 seats to allocate, like in East Timor ($M=65$). In other countries district magnitude varies, but we can easily work out an average value. For example, in Cambodia (2013), the 123 members of parliament (MPs) are selected from 24 constituencies, so average district magnitude equals 5.1 (under the 2015 election law it is 5.2). However, does it make a difference as to how this mean is calculated? In Cambodia, as it happens, constituencies return between 1 and 18 MPs, but suppose its 123 (2018: 125) MPs were instead returned from 12 ten-seat constituencies and five one-seat constituencies? Taagepera and Shugart (Taagepera and Shugart 1989, 264-266) demonstrate that small parties can expect to fare better if there are at least a few very large constituencies (which is case in Cambodia).

- ii. Number of votes cast. Having just one vote is very much the norm, however, in most 'mixed' systems, everyone has two votes. For example, when voters in the Philippines, Thailand (1997-2005), or Taiwan (since 2008) go to the polling station on election day, they receive two ballots: one for voting for a candidate to represent their local single member constituencies, the other for voting for a political party or party-list in the contest for seats awarded at the national level. In contrast, in South Korea, voters have only one vote for the candidate in their SMC and the party-list, whereas in Thailand (under the electoral system in use from 2007-2011), voters had one-to-three votes for the candidate in their district (depending on the number of seats available) plus one vote for the regional party-list.
- iii. Ballot structure. Douglas Rae (1971) was the first to make a distinction between ballot papers in which voters must cast a vote for one and only one party, which he termed 'categorical' or 'nominal', and those under which voters can rank-order the parties or candidates, which he called 'ordinal'. The first category is indicative of ballot papers in most countries. In these cases, voters express support for a singular candidate of a party (under single-member plurality, i.e. Malaysia, but also Singapore), for a party list (East Timor), or for one candidate (Cambodia) on a party's list. Virtually all PR-list systems are categorial. The second category includes ballot papers in countries where voters can rank-order candidates (AV system in India). However, under mixed systems, the ballot structure is 'dividual', that is, voters can 'divide' votes among different parties (Gallagher and Mitchell 2005). This is the case in Japan (since 1996), Taiwan (since 2008), and in Thailand under different post-1997 electoral systems.
- iv. Choice of candidate within parties. Under SMD systems, parties do not run more than one candidate for election. PR-list systems, however, differ on this dimension. Preferential-list systems enable the voter to indicate a preference for a candidate on a party's list, and these 'preference' votes can determine which candidates fill the seats that the party receives. Other PR-list systems, in contrast, employ 'closed lists', in which the voter can choose among parties but not among candidates within parties, as the order of candidates is decided

by the party. Therefore, the party decides which candidates receive seats. As it happens, Cambodia uses such a system to elect its national parliament.²

- v. Levels of seat allocation. There is, by definition, only one level of seat allocation in single-member constituency systems, yet in many PR systems there is also just one level, as is the case in Cambodia. Nonetheless, mixed ('semi-proportional') systems have more than one level: in most cases, seats are awarded on the SMC level and, and secondly, on the regional or national level. There are various reasons for having more than one level or 'tier' of seat allocation: with just one tier, one can either have a single-member constituency system, which scores well on the local representation dimension but poorly on proportionality, or a PR system with just one constituency covering the whole country (e.g. East Timor), which gives excellent proportionality but no direct representation for localities. With only one level of seat allocation, we are therefore forced to compromise. Under mixed-member systems, in contrast, different tiers deliver a high degree of overall proportionality, while at the same time guaranteeing local constituencies for the election of MPs. Mixed systems have thus been described as 'the best of both worlds' (Shugart and Wattenberg 2003, 595). While the specifics differ greatly, the same kind of rationality, i.e. supplying both proportionality and local representation, underlies the choice of multi-tiered seat allocation at the regional level (i.e., Thailand since 2007). Of course, in practice, there are also less noble reasons for having multiple tiers. Tiers can provide additional benefits to larger parties, being that high thresholds pose an obstacle in qualifying for seats. But the opposite can also be true: in Thailand in 2007, the introduction of eight regional constituencies – under which the list seats were awarded in proportion to the list votes – clearly aimed at weakening the largest party, mainly by way of gerrymandering of regional constituencies (Chambers and Croissant 2010, Croissant and Chambers 2010).
- vi. Seat allocation formulae. There are two main categories of formulae, known as highest average and largest remainders: (a) highest average formulae and (b) largest remainders methods.

(a). Highest average formulae operate by allocating seats sequentially. Seat allocation in this regard is a process of awarding seats to the party that represents the highest 'average'—the 'average' denoting the number of votes it won divided by a number reflecting the number of seats it has already been awarded. Thus, while the first seat obviously goes to the largest party, due to this seat allocation, the party's average is reduced when it comes to competing

² As Gallagher and Mitchell explain, it is possible to see two different concepts of representation underlying the choice to be made between preferential list and closed list systems. According to the first concept, the purpose of elections is to enable the direct representation of the people, and because preferential list systems allow the people to choose their own representatives, they are more appropriate. According to the other, representation takes place through the political parties and the purpose of elections is to enable the parties to secure their proper share of representation and consequently, closed lists are more appropriate than open ones.

for the second seat. Exactly how these formulae work in practice depends on the sequence of numbers used as divisors. The most common is the D'Hondt sequence (known in the USA as the Jefferson method). The other main variant is the Sainte-Laguë formula (divisor or highest remainder, known in the USA as the Webster method). This is rarely used in its pure form (New Zealand is a notable example). More commonly, the 'modified Sainte-Laguë' is used, for example in Germany (national legislature, since 2009), where it is usually called the 'Sainte-Laguë/Schepers' formula.

(b). Largest remainders (LR) methods proceed by calculating a quota, which is based on the numbers of votes cast and the number of seats to be awarded. Each party is then awarded as many seats as it has full quotas, and if this leaves some seats unallocated, the remaining seats go to the parties with the most votes left over. As with the highest average methods, the range of possibilities in determining a suitable quota is limitless, but in practice, only a few are used. Most common is the Hare quota, sometimes known as the 'natural' quota or, in Germany, as the Hare-Niemeyer quota. LR-Hare is generally unbiased towards larger or smaller parties, and typically produces the same outcome as the Sainte-Laguë formula. In contrast, d'Hondt is among the methods most favorable to larger parties.

Table 2 provides an overview of the six dimensions of electoral systems for those Southeast Asian countries that provide for national election to the first or only legislative chamber.

Table 2 Southeast Asian electoral systems

Dimensions / criteria	PR System			Mixed System			
	Indonesia	Cambodia	East Timor	Philippines	Thailand	Malaysia	Singapore
Total seats	560	123 / 125	65	299 (234/58)	480 (400/80)	222	99
# appointed seats	0	0	0	0	0	0	12
Ballot structure	categorial	categorial	categorial	dividual	dividual	categorial	categorial
# of districts	33	24	1	234/1	157/10	222	27
Average district magnitude	16.96	5.12	65	1.27	2.85	1	3.22
Choice of candiature	Open list	closed list	closed list	SMC/closed list	closed list	SMC	SMC and team
Number of votes	1	1	1	2	2-4/a	1	1
Tier	1	1	1	1	2	1	1
Seat allocation formulae	LR-Hare	D'Hondt	D'Hondt	Plurality/LR-Hare	Plurality/LR-Hare	Plurality	Plurality
Formal threshold	3.5% (nation-wide)	no	3% (nation-wide)	2% (nation-wide)	no	no	no
Legislative term	5	5	5	3	4	5	5
Average Lsq	3.95	10.14	5.53	3.46/7.46	5.74	17,44	23.29
MALapportionment	0,1323	0,0516	0	0.0144	0.0455	0,1725	0,0815

Note: The figures for average district magnitude here do not take any account of the legal thresholds that might be imposed, and are not necessarily the same as the 'effective magnitude'. Source: (Croissant 2015); for MAL: (Ostwald 2013) and author's calculation.

3. Electoral System in Cambodia

Elections are nothing new in Cambodia, but genuinely competitive ones have been a rarity (Gallup 2002, Croissant, Bruns, and John 2002, Croissant 2015, Hartmann 2001). Following the 1991 Paris Peace Accords, UNTAC cleared the way for the country's first national elections. Elections for the National Assembly were held in 1993 under the auspices of international observers. Although the royalist National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC) defeated the post-socialist Cambodian People's Party (CPP), the rivals agreed to create a coalition government with two prime ministers, Prince Norodom Ranariddh (FUNCINPEC) and Hun Sen (CPP) in a "no-winners, no losers" solution devised by King Norodom Sihanouk (Peou 1997).

Although the parliamentary elections in 1998 were preceded by widespread political intimidation and violence, the country's second election resulted in another CPP and FUNCINPEC coalition government. The Sam Rainsy Party (SRP) emerged as a new opposition force. With Hun Sen as sole prime minister following the elections, the CPP developed into the country's strongest political force, a trend that continued through the first communal election of 2002 and the following round of parliamentary elections in 2003 (McCargo 2005). The 2008 parliamentary election, the 2012 Senate election, and the commune elections of that same year all resulted in landslide wins for the CPP (Croissant 2015; Hughes 2015). While many observers doubted that the 2013 National Assembly elections would result in any significant changes (McCargo 2014), the Cambodia National Rescue Party (CNRP) – founded in 2012 by SRP and the Human Rights Party as a third party – emerged as a strong competitor of the ruling party and captured 55 out of 123 seats in parliament. The CNRP, claiming widespread irregularities in the election process, subsequently boycotted parliament for nearly a year, taking its seats only after wresting concessions from the ruling party to adopt key reforms regarding the country's electoral regulations. In March 2015, Cambodia's parliament unanimously approved two new election laws, the Law on the Election of Members of the National Assembly (LEMNA 2015) and the Law on the National Election Committee (NEC Law 2015). The legislation resulted from a compromise between the CPP and the CNRP. Yet the new laws have been controversial. Human rights groups criticize them as posing a threat to freedom of speech and freedom of association and assembly; and for criminalizing civil society activists; shortening the campaign and procession periods; allowing security force members to act in a partisan and potentially intimidating manner; allowing the disqualification of parties on trivial or misrepresented accusations; preventing parties from using political boycotts to protest election fraud and other irregularities; and allowing political control of NEC operations by political parties.

Origins of the current electoral system

The current electoral arrangements of the Cambodian National Assembly were

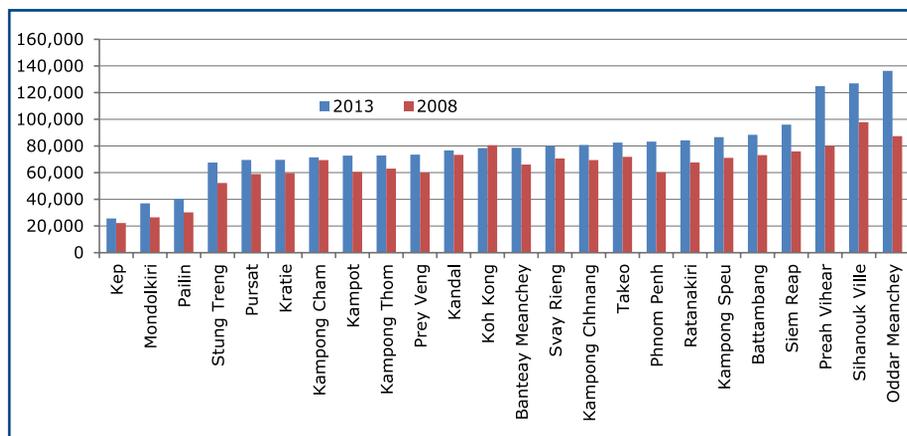
established in their essentials by the United Nations, which introduced a proportional representation system with mostly multi-member districts in the early 1990s. The Senate was established in 1998. Under the 2005 Senate Election Law, the chamber is indirectly elected by members of the commune councils. The local councils are elected under a PR system every five years. So far, there have been three rounds of local elections (2002, 2007, and 2012) (Croissant 2015).

For the National Assembly elections, each province or municipality constitutes an electoral district. Under the 1993 UNTAC Election Law, the number of legislative seats allocated to each district was proportional to its estimated population. The seats in every province were to be assigned to individual candidates according to closed lists, which were submitted by each political party to the election authorities. The manner in which candidates were nominated was left up to the parties. The UN election law selected the 'greatest remainder' formula (LR-Hare). According to this system, the initial seat allocation gave each party a whole number of seats based on its proportion of the vote. If there were additional seats to be filled, the party whose fractional remainder was the largest received the first unassigned seat in the district (Gallup 2002). These arrangements were mostly retained in the LEMNA legislation passed in 1997, but with one important exception: the switch from the 'greatest remainder' to the 'highest average' (d'Hondt) formula. Electoral formulae for the senate and for the more than 1,600 commune councils resemble to a large extent the one used for national assembly elections: they are elected through a PR system in which only nationally registered political parties can compete. Cambodia's current electoral rules are therefore a result of the peculiarities of the early stages of the transition process.

How the electoral system works

The most important feature of the electoral arrangements for the National Assembly is the choice of the province as the electoral constituency. Cambodia's 24 provinces display a very wide variation in population. This is because the electoral constituencies reflect the provincial boundaries and the distribution of the population as they were in 1991/93 and as such, take no account of the last 25 years of economic and social modernization and its resulting demographic upheavals. The constituencies therefore also display a very wide variation in electorate size: the numbers of registered voters in June 2013 ranged from 25,665 in Kep to 1,200,000 in Kampong Cham, the largest district. As seen in Figure 1, since the electoral district boundaries and the number of seats per constituency remained unchanged from 2008 to 2013, the gap between 'small' constituencies (in terms of voters-to-seat ratios) increased and reached an all-time high in 2013. The new election law will increase the number of seats from 123 to 125 in the 2018 National Assembly elections, but such a modest increase will do little to equalize voters-to-seat ratios across districts.

Figure 1 Voters per seat (2008-2013)



Source: (COMFREL 2008, 2013).

Moreover, rural provinces are significantly over-represented, while the most populous (urban) provinces are under-represented. Finally, most of the Cambodian electoral districts are rather small: the median district elects just four MPs, and 13 of the 24 districts elect five or fewer. Accordingly, the average district magnitude is 5.12.

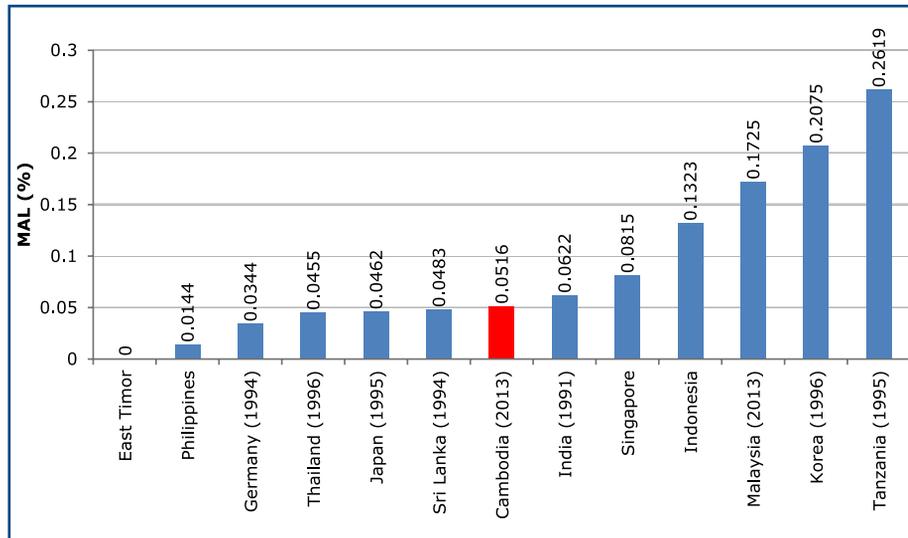
The minimum of one seat for each province and the small size of the National Assembly (123 members), produces a high degree of malapportionment. Awarding some areas of a country more seats in relation to its population than others (Katz 1998) is an important factor in many Asian countries, including Cambodia. The standard measure for malapportionment is the MAL index (Samuels and Snyder 2001).³ Malapportionment can be employed by the party in power for blatantly partisan reasons—for example, by allocating more seats to the areas where it performs strongest—but that is not always why it occurs. Small, peripheral, and predominantly rural regions of a country, where population density is lowest and contact between voters and MPs may be relatively difficult to bring about, are in fact areas most likely to receive generous representation.

³ $MAL = (1/2) \sum |s_i - v_i|$

ELECTORAL POLITICS IN CAMBODIA

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Figure 2 Malapportionment in Cambodia and other selected countries



Source: (Samuels and Snyder 2001, Ostwald 2013) and author's calculation.

With an average malapportionment of 5.16%, Cambodia ranks 43th among the 82 countries for which Samuels and Snyder (Samuels and Snyder 2001) and Ostwald (Ostwald 2013) provide data. Among the eleven cases in Asia for which data is available, the Kingdom of Cambodia obtains a median position: there are five electoral systems with lower malapportionment and five with higher (Figure 2).

Cambodian voters are called upon to make only one choice in their vote for the National Assembly. The ballot consists of a selection of party lists, there are no alternative votes or personal votes, and the voter cannot make any alterations to the order in which candidates are placed on the list: the lists are 'closed'. Cambodian voters therefore choose a party rather than a candidate; although the quality of the candidates can, of course, influence the choice of the party. However, it remains the case that it is party officials, rather than voters, who decide which individual candidates will be elected if the party wins a given number of seats in the districts. This gives the party officials in charge of drawing up the lists a great deal of influence over the composition of parliament.

In Cambodia, the d'Hondt system is used to allocate seats in each electoral district (no threshold applies, although this is irrelevant in practice in the SMCs). This seat allocation formula tends to over-represent larger parties, and in the relatively small constituencies of Cambodia's electoral system, this effect can be very strong. Moreover, there are no arrangements for seat remainders to be allocated. As reflected in Table 3, the current seat allocation formula strongly favors large parties over smaller ones. However, it is not necessarily true that the system benefits only the ruling party and generally disadvantages opposition parties. Rather, in 2013, the CNRP also benefited from the d'Hondt formula. Yet

returning to the LR-Hare system would have strengthened smaller parties, such as at the now defunct royalist FUNCIPPEC.

Table 3 Distribution of seats according to different electoral formulae

2008	Hare-Niemeyer (LR-Hare)	d'Hondt	Sainte-Laguë/Schepers (mod)	Sainte-Laguë/Schepers (pure)
NRP	5	2	3	3
KDP				
LDP				
CPP	76	90	80	80
KAPP				
KRP				
SJP				
FUN	6	2	5	5
SRP	29	26	28	28
HDDMP				
HRP	7	3	7	7
Total seats	123	123	123	123
2013	Hare-Niemeyer (LR-Hare)	d'Hondt	Sainte-Laguë/Schepers (mod)	Sainte-Laguë/Schepers (pure)
CNP				
FUN	5		3	3
RDP				
CPP	66	68	66	66
KAPP				
CNRP	52	55	54	54
LDP				
Total seats	123	123	123	123

Source: Author's calculation.

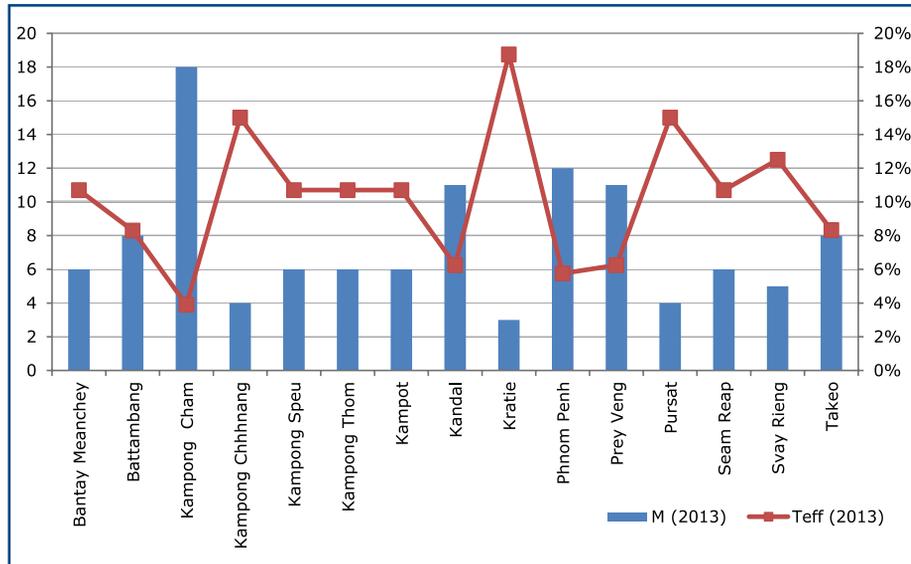
Proportionality is generally regarded as a 'good thing'—in moderation. Most electoral systems have, in practice however, some way of limiting it. The most explicit entry barrier is the use of thresholds. For example, in Indonesia, there are 33 multi-member constituencies corresponding to its provinces (comprising 3 to 10 seats each), but in order to win parliamentary representation, parties must surpass the threshold of 3.5 per cent of the total (national) votes. In East Timor,

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there is one nation-wide constituency and parties and coalitions obtaining less than 3 per cent of the total vote are not entitled to a seat. This discrimination against small parties and their supporters is usually justified in terms of preventing excessive fragmentation and thereby making it easier to form stable governments, a particular concern in post-authoritarian countries given their usually weakly structured party systems.

Figure 3 District magnitude (M) and effective threshold (Teff) in fifteen districts with two or more seats (2013)



Source: author's calculation.

The PR system in Cambodia does not use a formal threshold that prevents the smallest parties from getting their 'fair' share of the seats. However, as has often been pointed out in the electoral systems literature, in practice, there is always an 'effective threshold'. That is, even in PR systems that do not have a formal threshold requirement, it is next to impossible for parties below a certain size to win a seat (see Figure 3). This effective threshold is best estimated by the formula $(75 / (m + 1))$, where m refers to the district magnitude (Taagepera 1998, 394). In other words, in a constituency with 10 seats, for example, the effective threshold equals $75 / (10 + 1)$, i.e. $75 / 11$ or 6.8—meaning that a party with fewer than 6.8 per cent of the votes in such a constituency is unlikely to win a seat. Thus, the effective threshold imposed by small district magnitude is usually even more deadly to small parties than a legal threshold in a PR system. Figure 3 exhibits that the effective threshold is quite high in the districts with two or more seats, reaching from 3.9% in Kampong Cham to 18.75% in Kratie. In other words: the effective threshold

in SMDs and multimember districts varies, but in every district, it is significantly higher than the formal threshold of other PR systems in Southeast Asia.

4. Political consequences of the electoral system

Electoral systems are chosen by political actors and, once in existence, have political consequences for those actors.

Party system

The electoral system has had a significant impact on the development of Cambodia's political party system. On the one hand, it has been very successful in preventing fragmentation at the statewide level. In terms of the number of parties present in the National Assembly, Cambodia is very much an asymmetric two-party system, with an average twelve parties present in parliament, a level of fragmentation similar to Malaysia and Thailand during the period of "Thaksin politics" from 2001 to 2006 (Croissant and Chambers 2010). The Upper House, on the other hand, is clearly a one-party dominated chamber, resembling a strong similarity to states such as Laos or Singapore. Overall, the difference between Cambodia's party system and those of other PR systems (Indonesia, East Timor) is striking when one examines the 'effective number of political parties' (ENP) (Laakso and Taagepera 1979). Here the impact of the electoral system can be seen clearly. The difference between the effective number of electoral parties (votes) and the effective number of parliamentary parties (seats) was very high in the second to fourth election, and has declined to a much lower level in 2013, as smaller parties penalized by the electoral system have disappeared (FUNCINPEC) or converged into other formations (SRP and HRP).

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Table 4 Effective Number of Parties (ENP), by votes and by seats			Effective Number of Parties (ENP)		Disproportionality (Lsq)
			ENPvotes	ENPseats	
Cambodia	National Assembly	1993	2,8	2,3	9,2
		1998	3,4	2,4	10,3
		2003	3,1	2,2	11,2
		2008	2,5	1,7	12,8
		2013	2,2	1,9	7,2
		Average	2,8	2,1	10,4
	Senate	2006	n/a	1,5	n/a
		2012	1,5	1,4	n/a
East Timor	National Assembly	2001-2011	4,1	2,62	5.5
Indonesia	DPR	1999-2014	8,07	6,53	4.8
Laos	National Assembly	1989-2011	n/a	1.07	n/a
Malaysia	Lower House	1959-2013	2,8	1,72	17.4
Singapore	National Parliament	1968-2011	2,07	1,13	23.3
Thailand	House of Representative	1992-2011	4,47	3,8	3.46/7.45*
Philippines	House of Representative	1987-2013	5	4,4	6.8
	Senate	1987-2013	5,3	5	n/a

* 1992-1996, 2001-2011. Source: Croissant (2015)

The rather brutal treatment of small parties by the D'Hondt system applied to small districts is reflected in the relatively high levels of disproportionality shown in Table 4. Although the index of disproportionality (Least Squares Index, or "Gallagher Index", Lsq) has fallen in the most recent election, suggesting some degree of adaptation by party elites, electoral rules encourage the concentration of votes around the two largest parties. In fact, the unification of the opposition Sam Rainsy Party (SRP) and Human Rights Party (HRP) into the Cambodia National

Rescue Party (CNRP) was a major step towards de-fragmenting the opposition in Cambodia. As of June 2016, Cambodia has stabilized as an asymmetric two-party-system with the ruling CPP and the CNRP in power, leaving only limited chances for other political parties to win seats in elections. This development is even more striking when local government elections are taken into account (see Table 4). It is especially at the local level where the CPP enjoys a quasi-hegemonic position. The control of the commune councils, which are responsible for selecting the village chiefs, forms the backbone of the ruling party’s electoral strength at the national level (Sedara and Öjendal 2009). And as Table 4 demonstrates, the ruling party’s political control of rural Cambodia is overwhelming.

Table 5 Commune council elections, 2002-2012

			2002	2007	2012
CPP		Seats (%)	68.4	70.4	72.3
		Votes (%)	60.8	60.8	61.8
FUN NRP	FUNCINPEC	Seats (%)	19.6	6.1	1.7
		Votes (%)	21.8	13.4	6.7
SRP HRP	CNRP	Seats (%)	11.9	23.4	25.7
		Votes (%)	16.9	25.2	30.7
Others		Seats (%)	0	0	0
		Votes (%)	0.2	0.5	0.7

Source: (Croissant 2015).

Political parties

The most relevant feature of the electoral system concerning party organization is the nature of the party lists. Under the current rules, voters cannot express a preference for any particular candidate, nor influence the order in which candidates are elected. This provides party leaders with significant room to manoeuvre, and undermines the voter’s freedom of choice. This was a deliberate decision on the part of the institutional engineers of the transition: over twenty-years of civil war and parenthesis of democratic life left Cambodia without functioning political parties, and most of the political formations that did emerge to contest the 1993 elections were essentially civil war parties. On the one hand, opposition parties were weakly structured and prone to internal division, as aspiring leaders fought amongst themselves. The CPP as the ruling party of the State of Cambodia, on the other hand, was institutionalized earlier than the opposition and developed a higher level of institutionalization relative to the opposition parties. However, as a socialist cadre party, its organizational structures reflected the principle of democratic centralism, and even though the party was factionalized, it lacked any credentials of intraparty democracy. Overall, Cambodian political parties on both

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sides of the aisle demonstrated a highly personalist and clientelist character (Peou 2015). The choice of closed lists helped to strengthen the position of party leaders relative to their candidates, and prevented candidates from effectively developing personalized electoral clienteles (as had been the case in Indonesia, whose PR system permitted the preference vote) (Mietzner 2013).

Over time, fears about weak, internally divided parties were replaced by concerns that parties had become too cohesive and centralized (Peou 2015), as the CPP majority of the 2000s faithfully rubber-stamped government decisions. The effective central control of the party by leader Hun Sen and his deputy Sok An through most of this period was reinforced by the closed list system, as troublesome deputies were pushed into unelectable positions on the list or even excluded altogether. Obviously, the CPP has been much more successful in institutionalizing itself than the opposition parties. Nevertheless, the relatively high level of stability of the Cambodian party system stands in stark contrast to other party systems in Southeast Asia, such as in the Philippines and Thailand, where the electoral system is much more candidate-centered (Croissant and Völkel 2012, Peou 2015, Hicken and Kuhonta 2015, Croissant and Schächter 2008, 2010).

Although the impact of electoral systems on party systems is hedged in by the various factors mentioned above, there are two reasons why proportional representation can offer better conditions for creating a system of stable programmatic parties than a plurality system. First of all, plurality systems in single-member or small electoral districts are candidate-centered electoral systems (Cain, Ferejohn, and Fiorina 1987). They stimulate competition between individual candidates, not parties. Parliamentary representatives are generally more inclined to gaining a reputation as representatives of local interests and promoting the particular interests of their respective constituencies than to adhering to well-defined party programs. Their main task therefore consists in securing and distributing private (particular) goods (Taagepera and Shugart 1989, Carey 2000a, Carey 2000b) and candidates commonly oppose the enforcement of strict party discipline (Cox and Morgenstern 2001). Proportional representation, on the other hand, is a party-centered electoral system. The candidates' prospects of electoral success depend on the parties' organizational strength, their ability to run good campaigns, and their program's attractiveness. Proportional representation enables party elites to enforce compliance with their program much more easily than plurality systems because they often decide who is to be on the party list.

Secondly, proportional representation is more likely than a plurality system to shift away from personalistic developments towards more programmatic, stable, and institutionalized political parties. Both the CPP and the CNRP are catch-all parties with strong leaders. Although the parties are formed top-down, they are nonetheless socially rooted within society and do not need to mobilize voters along social cleavages or explicitly articulated platform issues. Politics is instead focused on the leadership dimension. Interest in party program development is very low, and policies have a limited significant impact on voter preferences in

elections. Rather, voters' choices are based on candidate perception. In Cambodia since 2013, this has been manifested in one choice: being pro or against Hun Sen (Grömping 2013, McCargo 2014).

Parliament

The electoral law's impact on parliament is more difficult to gauge. One area in which it appears to be important is in the cohesion of the parliamentary groups, for reasons discussed above. In line with comparative findings, the closed-list system in Cambodia has given party bosses a great deal of power over parliamentarians, encouraging a relatively high degree of roll-call discipline and few defections from parliamentary groups. For most of the post-1993 period, parliament has therefore been regarded as relatively docile, and most criticism has focused around its inability to act as an adequate check on the executive (Karbaum 2008, Case 2011, Un 2011). This indicates that the choice of closed lists has perhaps been too successful, arguably obtaining party cohesion and stable government at the expense of effective parliamentary scrutiny.

In terms of the representativeness of the parliamentary institutions, the impact of the electoral rules is less clear. Representativeness can be discussed with regard to the socioeconomic profile of elected bodies, their ethno-religious composition (for instance, are ethnic minorities such as Vietnamese and Cham are well-represented) and, especially, in terms of the representation of women in parliament. Although women's political representation has improved in recent years, women are still grossly under-represented in the national parliament, the senate, and, especially, the locally elected councils. While the argument that women are under-represented because there are not enough qualified women in Cambodian society is not convincing, there are perhaps cultural, social, and political reasons for the over-representation of men. Cambodia's legislation and policies are fairly progressive, but there is a big gap between policy and practice, with women comprising only 20 percent of the National Assembly, 15 percent of the Senate and 18 percent of the Commune Councils (Table 5).

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Table 6 Women parliamentarians in National Assembly, Senate, and Commune Councils

National Assembly	1993	1998	2003	2008	2013
Candidates	5	11.2	11.2	14.9	19
Elected PMs	5.8	11.4	19.5	16	20
Senate	2006	2012			
Candidates	n.a.	n.a.			
Elected Senators	14.8	15.0			
Commune Council	2002	2007	2012		
Candidates	16	8	n/a		
Elected councilors	21	14.6	17.8		

Note: Public electoral statistics on women in Cambodian politics are incomplete and provide often contradictory numbers. Sources: Dahlerup (2010), COMFREL 2008, 2013.

Comparative studies find that the choice of a nation’s electoral system has a significant impact on the gender composition of parliaments over time, but previous work has overstated the difference an electoral system can make. As Reynolds argues, district magnitude has multiple effects on elections that are also relevant to women’s representation. Any SMD system ‘creates an incentive for party bosses to stand lowest-common-denominator candidates in geographical districts; these rarely turn out to be women or minorities’ (Reynolds 1999, 555). In PR systems with low district magnitude, some ticket balancing is possible, but women’s representation also tends to be lower than in PR systems with high district magnitude. In highly proportional systems with high district magnitude, “small parties are able to gain representation and parties have an incentive to broaden their overall electoral appeal by making their candidate lists as diverse as possible” (Reynolds 1999, 55). The impact of district magnitude on the incentive structure of party leaders to engage in ticket balancing is one mechanism through which the electoral system can influence the representativeness of parliaments in term of their gender (or ethno-religious) balance. Another mechanism is gender quotas, either legal quota provisions or party quotas. According to a recent report by Dahlerup (Dahlerup et al. 2013) there are currently 59 countries worldwide that have legal gender quota provisions. Furthermore, there are 34 countries with reserved seats system for women in the lower or upper house of parliament or at the sub-national level. In more than 30 other countries, major political parties have voluntarily set quota provisions in their statutes.

Table 7 Women's Political Representation in the Lower or only Houses of Parliament

Country	Year	% of Women Elected	Quota	Electoral System
Asian countries				
Bangladesh	2004	18,5	reserved seats	SMC
Cambodia	2013	20,33		PR closed list
East Timor	2012	38,46	Party list quotas	PR closed list
Indien	2009	10,8	reserved seats	Alternative vote
Indonesia	2009	18,57	Party list quotas	PR open list
Japan	2012	7,92		Mixed parallel
Laos	2011	25	Reserved seats (indirect)	Multi-member plurality
Malaysia	2008	10,4		SMC
Mongolia	2012	14,82	Party list quotas	Mixed parallel
Myanmar	2015	14,95		SMC
Nepal	2008	33	reserved seats	Mixed parallel
Pakistan	2008	22,2	reserved seats	Pakistan
Philippines	2010	22,89	reserved seats	Mixed parallel
Singapore	2011	24,24		SMP / multi-member plurality
South Korea	2012	14,86	Candidate quotas	Mixed parallel
Sri Lanka	2010	5,3	o	PR open list
Taiwan	2009	29,2	Reserved seats & Party list quotas	Mixed parallel
Thailand	2011	15,08		Mixed parallel
Vietnam	2011	24,4	Reserved seats (indirect)	Majority vote in two rounds
Regional and global averages				
Americas	2010	22,7		
Europe	2010	21,9		
Sub-Saharan Africa	2010	19,1		
Asia	2010	18,4		
Pacific	2010	12,6		
Arab Countries	2010	11,1		
World Average	2010	19,3		

Source: Dahlerup (Dahlerup 2010, Sachs 2012, True et al. 2012, Ninh 2016).

The Kingdom of Cambodia does not use legal gender quota provisions or a reserved seats system in order to improve women's political representation. Neither have political parties in Cambodia adopted voluntary party quotas in a systemic and reliable manner (Dahlerup 2010, COMFREL 2013). Being that current electoral rules have remained constant, the electoral system cannot account for Cambodia's improving equality in terms of its female parliamentary representation, which has moved from a low level in the 1990s to a medium level of 20 per cent in 2013 (slightly higher than world average; see Table 6). Whatever the reason, Cambodia has managed to get far more women into parliament than, for example, Japan, South Korea, and Mongolia, even though the party list component of the mixed-parallel system in those countries is supposed to foster greater female parliamentary representation.

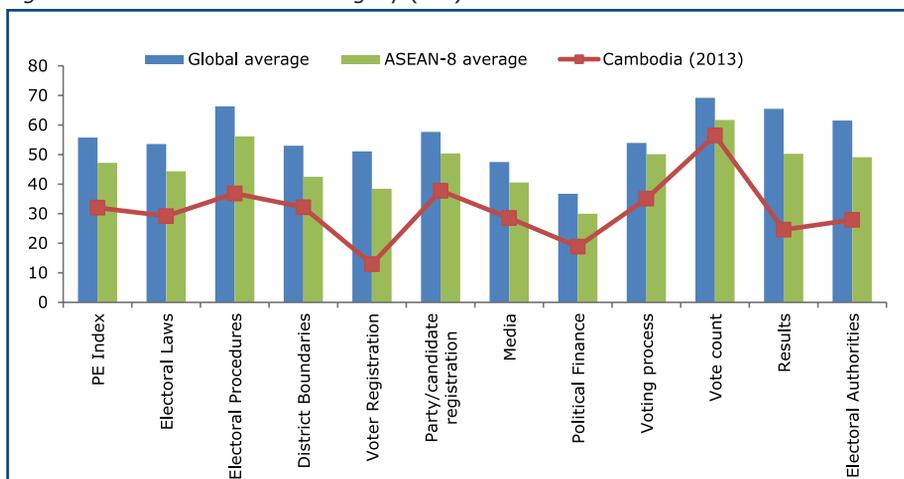
5. Electoral regulations and electoral integrity

Since 1993, elections in Cambodia have assumed an empowering role in defining the country's political outlook. Unlike in Vietnam, Laos, Singapore, and – until recently – Myanmar, elections in Cambodia are competitive and provide voters with the opportunity to express their support for or displeasure with the ruling party's policies and performance. Opposition parties are finding some political space within the political system and can use elections to seriously contest for power. While the electoral system is characterized by malapportionment, disproportionality, and a lack of regulations, which would contribute to better representation of women, such deficits are not exceptionally strong and do not threaten the meaning of competitive elections as the primary means of gaining power in Cambodia.

However, there are many observers who argue that the most serious conflicts in Cambodian politics relating to elections and electoral politics has less to do with the method by which votes are cast and how these votes are converted into seats in an assembly than the regulations that govern the appropriate conduct of elections and the implementation of these rules.

Criticisms concerning the electoral process in Cambodia and calls for reform are far from new. In the past, many national and international observers have found that the election process is marred by irregularities and weaknesses, in turn raising doubts about the integrity of the electoral process and the credibility and accuracy of the election results. Furthermore, a number of reports and studies suggest that electoral integrity may have worsened over the last decade. Recent research by the Electoral Integrity Project and the results of its Perceived Electoral Integrity (PEI) Index support these concerns.

Figure 4 Perceived Electoral Integrity (PEI) Index



Source: The Perceptions of Electoral Integrity (PEI_4.0) datasets, <https://sites.google.com/site/electoralintegrityproject4/projects/expert-survey-2>

The PEI Index, standardized along a 100 point score, collects views from over 2,000 experts and covers 139 countries holding 180 elections from 1 July 2012 to 31 December 2015. According to the PEI expert survey, in 2015, the Cambodian election ranked among the worst in Southeast Asia (and globally), with a score of only 32.2. The integrity of the electoral process is particularly low in the arenas of voter registration, the compilation of election results, political party financing, and the independence of electoral authorities (see Figure 4).⁴ In the 2013 Cambodian election, voter registration (Cambodia: 13; global mean: 51), as well as the aggregation and announcement of results (Cambodia: 25; global mean: 65), were flagged as exceptionally poor. In addition, the PEI Index identifies the limited independence of the National Election Committee (NEC) (electoral authorities: 28/61) and the lack of party finance regulation and equal access of political parties to necessary financial resources (Cambodia: 19; global mean: 37) as two other primary areas of concern. Interestingly, these and other constraints on electoral integrity are similar to what independent local and international non-governmental organizations (NGOs) and election watchdogs identified as key areas of concern during the 2013 elections.

Election administration

The model for election administration incorporated by the National Assembly in

⁴ Malaysia (2013): 35.49; Philippines (2014): 48.31; Thailand (2014): 50.97; Singapore (2015): 52.77, Myanmar (2015): 54.07; Indonesia (2014): 56.71.

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the December 1997 election law is an impartial NEC, which has comprehensive authority to conduct all aspects of the elections. The NEC is responsible for managing the election of members of the National Assembly, Senate, provincial and district/Khan councils, and Commune Councils, as well as for the compilation and publishing of the voter list. Nonetheless, the council is housed under the Ministry of Interior (MOI), and does not have an autonomous budget allocation or its own independent constitutional status, as others in some countries in the region do, although a constitutional status neither is necessary (Germany) nor sufficient (Thailand) for a truly independent, non-partisan, transparent, and accountable election management body.

Under the 1997 NEC Law, the committee structure represented a curious mix of two principles: inclusiveness, as the law exhorted and as exemplified by the requirement to include various distinguished citizens and NGO members; and political balance, as reflected by the nomination of party representatives. However, the 2015 law emphasizes the principle of political balance at the cost of inclusiveness (and impartiality): the nine committee members will be exclusively recruited by the political parties that hold seats in the National Assembly. Four members shall be recruited by the ruling party, another four by opposition parties, and the last shall be recruited by consensus among all the parties seated in the National Assembly (LEMNA 2015, Art. 6). While the NEC as a permanent institution is responsible for voter registration, as well as organizing and managing the election of members of National Assembly and that of the Commune/Sangkat Councils, it lacks the permanent organizational structure to do so. Without the assistance of other administrative units, it is forced to delegate electoral responsibilities, such as voter list revision, voter registration, and the registration of voters for the Commune/Sangkat Councils.

A look at the various reports and evaluations of the NEC's work since 1998 suggests that local and international observers have become increasingly critical of the committee's performance (Gallup 2002, 51, Peou 2006) (UN 2003). Election irregularities and controversies left the impression that the election administrative process has not improved. However, the NEC and its staff operate in a broader political milieu, which prizes partisanship and obedience to authority above professionalism and independence. Election administration also remained a major issue of contention. Moreover, critics worry that due to the overwhelmingly strong grip of the CPP on Commune Councils, commune chiefs and other local authorities are in a unique position to exert pressure on the electorate (Hughes 2006, 2015). In addition, there seems to be consensus among most observers that the NEC's complaint resolution procedures are inadequate. However, this is not simply a problem of "flawed" regulations or inaptness of the election management authorities. The electoral mechanisms may have been reasonably fair the past two decades, but the political parties either did not play by the rules or refused to accept unfavorable results.

Voter registration

One of the main concerns regarding the integrity of the electoral process are problems with the voter list and the registration process. Since 1993, Cambodia has maintained a fixed annual voter registration and verification system under which citizens have six weeks each year to register to vote or to verify their registration status. This creates all sorts of problems, which could be avoided by a shift to continuous, non-resident voting and transfer or to a new registration less than eight months prior to the election (which is the vacancy period under the current system). The current registration process is unreasonably complicated and places too large of a burden on the voters, particularly in a country with a large migrant and seasonal workers population. Moreover, several reports have shown that there may be significant problems in terms of completeness of voter lists. This relates back to two distinct but complementary problems. Firstly, there are concerns that a significant number of eligible voters are excluded because their names are not on the lists. Secondly, there could be a significant number of names on the list that are invalid, unknown, or duplicate, presenting the possibility of voting by those who are in fact ineligible to do so. This obviously opens the door to 'ghost voting', or ballot box stuffing.

In fact, various audits of the voter registry conducted by NGOs and election watchdogs, but also by the NEC itself, indicate that between 3 and 11 percent of eligible voters are not included on the voter lists. Of course, it remains unclear if and where such exclusions are concentrated in districts and if these had an impact on the outcome (seat allocation) of the 2013 election. Nonetheless, according to some reports, 60 percent of the polling stations witnessed incidents in which voters with valid IDs were unable to find their names on the voter list and could not vote in that location. In some districts, voters could not vote because someone had already done so for them (COMFREL 2013).

Unlevel playing field

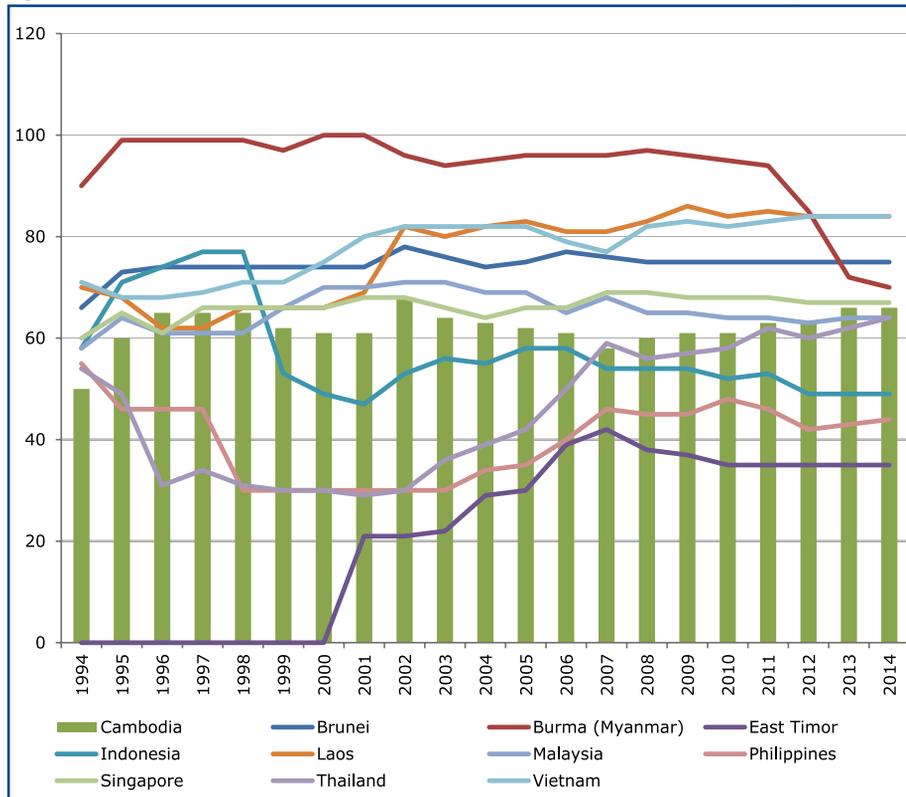
Another electoral integrity problem is the misuse of state resources, especially in terms of access to and use of coercive power, a flawed media environment, and, more generally, an unlevel playing field.

First of all, the media landscape has been systematically skewed in favor of the ruling party and has become a platform for what Sarah Birch (Birch 2011) calls the 'black arts' of manipulative campaigning. That is, the broadcast media environment in Cambodia is tilted heavily in favor of the CPP (Grömping 2013) (COMFREL 2013). Cambodia has consistently scored poorly on measures of media freedom: Reporters Without Borders ranked Cambodia 143 out of 179 countries worldwide in its 2013 report on press freedom and Freedom House has labeled Cambodia's media "not free" as the country fails to meet the criteria for "legal, political, or economic freedom of the press" (House 2015).

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Figure 5 Freedom of the Press in Cambodia and other Southeast Asian countries, 1994-2014



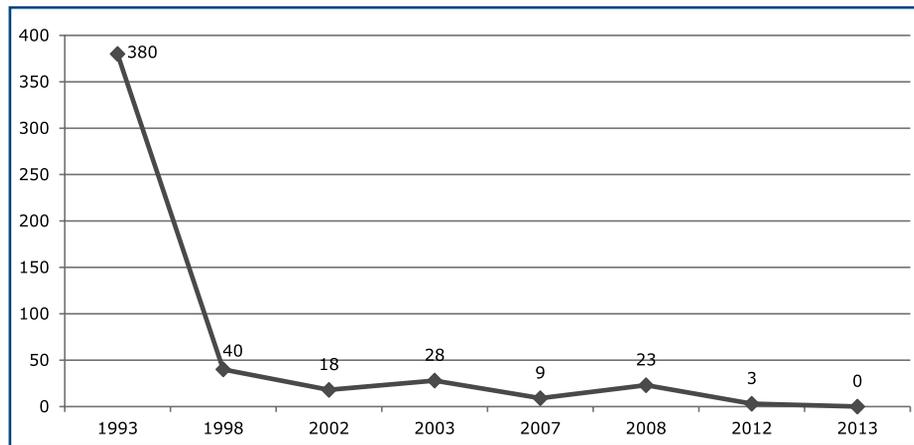
Note: Scores range from 0 to 100. A Freedom of the Press score of 0-30 indicates "free" press, a score from 31-60 "partly free" and a score of 61-100 'not free'. Included are print and broadcast media. Source: Freedom House 2015.

Constrained freedom of the press (Figure 5) and limited media freedom create an uneven election playing field, one that favors the ruling CPP and disadvantages other contesting political parties. Newspaper coverage is more balanced than broadcast media but it is broadcast media (and, increasingly, social media) through which political parties have the best opportunities to spread their messages, as they are the most widely used by voters. Of course, social media and other internet services have become more important in recent years and are particularly important for opposition parties. In addition to political parties, numerous non-governmental organizations, including election observers and human rights organizations, have also increased their online presence and use social media to disseminate information. In this regard, the passing of the new Telecommunication Law (2014) and the ongoing debate about a 'Cybercrime Law' provide additional reasons for concern. Media experts warn that the 'sweeping, broad and overreaching' regulations 'could

easily be used to inhibit/infringe basic freedoms and/or to target activists/NGO's' (Gerry and Morre 2015, 639).

Furthermore, according to a 2013 Human Rights Watch report, the army, police, and gendarmerie were involved in partisan activities, including giving campaign speeches and "creat[ing] an intimidating atmosphere for voters in many parts of the country" ahead of the elections (Human Rights Watch 2013). On a positive note, however, there has been a significant decline in violations of physical integrity of voters and candidates in the past elections (see Figure 6).

Figure 5 Politically motivated killings during the campaign period, 1993-2013



Despite this good news, it is not clear whether this improvement reflects the decreasing relevance of violence as a political strategy and the embedding of democracy or the structural embedding of what Gallup (Gallup 2002) described as 'intimidation by incumbency' (Hughes 2006, 320).

6. Conclusions and recommendations

Even after more than two decades of post-conflict reconstruction, Cambodia's political system remains in flux. Democracy is not yet firmly consolidated. Cambodian politics is trapped in untamed confrontation, and the transformation from antagonism to agonism – that is, the transformation of enemies into adversaries (Mouffe 2008) – has yet to occur. Yet perhaps the most disturbing phenomenon with regard to elections is the notable rejection of democratic norms.

Cambodia's current electoral system provides a serviceable non-violent mechanism to decide who governs. Measured against common criteria in political science, it is a fairly good system. Unlike in Vietnam, Laos, and Singapore, elections in Cambodia are competitive, and provide voters with an opportunity to express their satisfaction or dissatisfaction with the ruling party. Opposition parties are

finding some political space within the political system and can use elections to contest seriously for power. While the electoral system exhibits a certain degree of malapportionment, disproportionality, and gender inequality in parliament, these shortcomings are not exceptionally strong. In fact, measured by these criteria, and also in terms of the political consequences for political parties and the party system, the electoral system in Cambodia does not compare badly with other more developed democracies in Asia, such as South Korea, Japan, or Indonesia.

Yet while the electoral system may function reasonably well, political parties either did not abide to the rules or refused to accept unfavorable results. Given the political environment, the stabilizing and democratizing functions of elections have yet to be demonstrated conclusively. However, as many interested in the role of elections in Cambodia agree, electoral integrity is the area in most need of reform. While problems regarding fairness and integrity of the electoral process in Cambodia are mostly related to electoral regulations, any attempt to recommend certain reform measures must also be aware of the political nature of electoral reforms and the political contexts in which such reforms would have to take place. As mentioned in the beginning of this paper, electoral systems are chosen by political actors and, once in existence, have political consequences for those actors. Hence, there is a politics of electoral reform. On the one hand, we should reject the simplistic view that electoral systems necessarily reflect the interests of the politicians in power, as politicians' motivations are complex, and they are sometimes either unable to pursue reforms they want and/or occasionally are forced to accept reforms they oppose (Renwick 2011). On the other hand, it seems obvious that electoral reforms in a context such as Cambodia's – characterized by untamed politics, lack of belief in democratic values, and a strong legacy of utilizing elections for the purpose of maintaining and expanding political power – a purely technocratic, 'apolitical' view of the process may not be terribly helpful. However, the 'good news' is that there is ample evidence from electoral reforms that voters and reform activists can have real power over electoral reform, even in less-than-fully democratic political systems (Renwick 2011). And electoral reforms of a more 'formal' nature – changes in Cambodian laws, regulations, and structures – can surely help increase the integrity of the electoral process, thus making Cambodian elections more broadly accepted and consequently less volatile and crisis-prone.

Based on the analysis in this paper, the following seven areas of reform can therefore be identified:

A first and perhaps most essential reform would be to reinforce the independence, non-partisanship, and professionalism of the NEC. Of course, the two major parties have just agreed to reform of the NEC recruitment and selection procedure. However, as aforementioned, the new procedure seems to overemphasize the principle of political balancing, in turn violating the principles of inclusiveness and transparency. In addition, a reformed NEC should be responsible for all aspects of the electoral process, including the full responsibility for voter registration, which should be transferred to the NEC and respective electoral bodies. The recruitment

procedure of election officials at the provincial and commune levels should be also reformed, and include a transparent screening procedure and representatives from all political parties as well as civil society.

Second, voter registration is in urgent need of reform. As many local and international organizations rightly argue, requiring voters to check their registration information yearly during an extremely limited period of time is unnecessary. Moreover, as various audits of the voter registry by the NEC and non-state organizations indicate, the current process is onerous and leads to inaccuracies in the voter lists.

Third, the media environment should be fundamentally reformed in order to allow for equal access to television and radio broadcasting, as well as licenses. In this regard, one reform option is the creation of an Independent Board of Directors for Media responsible for overseeing and supervising media coverage and broadcasting in state and private media, particularly during election periods.

Fourth, limiting malapportionment and reforming the seat allocation formulae in order to improve electoral proportionality can be another area of reform. This could be achieved by redrawing district boundaries, increasing the number of National Assembly seats to be allocated to political parties (in order to adjust for demographic changes), and switching from d'Hondt to another allocation formula that produces more proportional results and does not discriminate against smaller parties. Hare-Niemeyer and Sainte-Laguë are the best options.

Fifth, dispute resolution mechanisms should be reformed. Either an electoral dispute resolution mechanism replacing the NEC should be established, or the NEC should become responsible for any election-related disputes, with subsequent sanctions for all violations drafted in a transparent way and implemented in a non-partisan, predictable, and reliable manner.

Sixth, one of the most alarming developments of the recent legal electoral reforms has been the passing of some controversial articles in the new 2015 election law. As far as I understand, Article 72 of the LEMNA 2015 limits the electoral campaign period to 14 days. Such a short campaign period puts undue limits on the ability of voters to gain information and become familiar with the positions of the parties. Furthermore, this exceedingly short time period, though still longer than in Malaysia (9 days!), leaves opposition parties inadequate access to television, radio, and the mainstream press, and as such, with little time to reach out to voters. Finally, as a result of socioeconomic and demographic changes, the Cambodian electorate has become more volatile, and political parties therefore face new challenges in terms of voter mobilization. A party like the CPP, which enjoys a strong presence in national media and can interact with voters on a day-to-day base because it dominates the national government and subnational administrative structures can depend less on campaigning during the 14 days period. Hence, trimming the election campaign period to 14 days further contributes to an unlevel playing field.

Furthermore, the new legislation on the election of members establishes fines and bans on NGOs that criticize political parties in the 21-day period set

for campaigning. The new election laws thereby significantly restrict freedom of expression, especially during election campaigns. Vaguely worded provisions imposing penalties on civil society organizations that participate in political activities during election campaigns, such as polling and vote counting, seriously curtail the role of civil society in election monitoring and other election related activities. In particular, Articles 84 and 137 of the LEMNA impose upon all local and international NGOs and associations the duty to exercise neutrality and impartiality relating to the conduct of electoral affairs. In addition, Article 83 of the LEMNA permit security forces to take part in electoral campaign activities in support of a political party or a candidate outside of working hours (Wildberger 2015). From a comparative perspective, such strict regulations seem unusual and unnecessary, and certainly have the potential to further decrease the integrity of the electoral process. Hence, the new election law may further harm the legitimacy of elections in Cambodia and should therefore be revised again.

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