

# Cambodia

## Self-Rule

### *Institutional Depth and Policy Scope*

Cambodia, officially the Kingdom of Cambodia, is located in the southern portion of the Indochina Peninsula and has a total area of 181,035 sq km and a population of about 15.3 million people (2019 Cambodian National Institute of Statistics). The government of Cambodia is a unitary parliamentary constitutional monarchy. Cambodia is divided into 24 *khaet* (provinces), 1 *reach thani* (capital), which has equal authority to the *khaet*, 159 *srok* (districts), 9 *khan* (districts in the *reach thani*), 1621 *khum/sangkat* (communes, rural are called *khum* while urban ones are called *sangkat*), and 47 *krong* (24 capitals of *khaets* and 23 cities). Prior to 2013 there were 23 *khaet* until the government split the Tbong Khmum *khaet* from the Kampong Cham *khaet*. Due to the 150,000 persons threshold we only code the *khaets* and the *reach thani*.

Since independence from the French in 1953, Cambodia has had six different constitutions (1953, 1972, 1975, 1979, 1989, and 1993) and a great deal of political instability. From 1953 until 1969 Cambodia was the Kingdom of Cambodia. The 1953 Constitution established the Popular Assemblies, which were legislatures of *khaet* and *reach thani*. These Assemblies were elected through direct elections and functioned as local administrations (Art. 84). The Assemblies had authority over budget, taxation, and the administration of public affairs in their region (Arts. 89-91). From 1953 until 1969 the *khaet* and *reach thani* score 2 on

Institutional Depth due to the existence of subnational, non-deconcentrated, general purpose administrations.

From 1967 until 1975 Cambodia was engulfed in civil war between the government of Cambodia and Vietnamese-backed Communist rebels. In 1970 the King of Cambodia was removed from power in a military coup, and the Khmer Republic was established and its constitution enacted in 1972. The 1972 Constitution references *khaet* and *reach thani* as Territorial Administrative Divisions, but their roles were not clarified and no powers were delineated (C1972, Art. 114). From 1970 (the founding of the Khmer Republic) to 1974 we code the *khaet* and *reach thani* 1 for Institutional Depth.

The Khmer Republic was short lived, as the Communist forces, now aligned with pro-royalty forces, were able to overrun the Republic in 1975. Led by Pol Pot, the Communists set up the Khmer Rouge regime and renamed the country Cambodia Democratic Kampuchea. In the Khmer Rouge 1975 constitution there is no mention of subnational administration, and the previous divisions along *khaet* boundaries were dissolved and replaced by geographic zones (Tyner 2008; Vickery 1984). From 1975 to 1978 we code the *khaet* and *reach thani* 0 for institutional depth to reflect the abolition of existing administrative divisions under the Khmer Rouge regime.

In 1978 Vietnam invaded Cambodia and removed Pol Pot's regime, setting up the People's Republic of Kampuchea, which governed Cambodia until October 1991. The 1979 Constitution specified that the *khaet* and *reach thani* were to govern their local areas through directly-elected People's Revolutionary Councils (Chapter 7). This is reiterated in the 1989 Constitution (Chapter 7). However, from 1979 through 1991 during Vietnamese occupation, the

constitution's mandate for local governance. Following the end of Vietnamese occupation the United Nations peacekeeping mission United Nations Transitional Authority in Cambodia (UNTAC) managed the country's executive governance from 1991 to 1993. During this period from 1979 until 1993, the administrative divisions continued to serve as the basis for centrally-appointed officials at the level of the *khaet* and *reach thani* (Turner 2002: 355).

In 1993 the constitution established Cambodia as a constitutional monarchy and the United Nations returned authority to the king. Regional authority was granted to *khaet* and *reach thani* governors, who were appointed by the king, and functioned as extensions of the central government (Asian Developmental Bank 2011: 11). This was the case until the passing of 2008 Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans which created indirectly elected *khaet* and *reach thani* level councils. The members of these councils are elected by the *khum* level council members. Beginning with this law, the local *khaet* and *reach thani* councils have the authority to establish "structures, systems and resources including committees, units and personnel of the council" (Art. 36). From 1979 through 2007 the *khaet* and *reach thani* score 1 on Institutional Depth since appointed governors functioned as extensions of the central government, first of the occupying Vietnam forces, then UNTAC and then the King. Beginning in 2008 through 2018 the *khaet* and *reach thani* score 2 on institutional depth due to the introduction of indirectly elected regional councils that possess greater policy authority.

The 1953 Constitution charged the local Popular Assemblies with administrating public affairs in their domain (Art. 90). No clarification or enabling legislation was offered. Then these powers were removed in the 1972 Constitution as no subnational governments were

mentioned. The 1975 Constitution also made no mention of subnational government administration. From 1953 until 1978 we code the *khaet* and *reach thani* 0 in Policy Scope due to having no legal defined competences.

From 1979 to 1993, the *khaet* and *reach thani* regained local legislative bodies. Introduced in the 1979 constitution, the People's Revolutionary Councils were officially given power over public security, the local economy, culture, and welfare (C1975, Art. 75). In the 1989 Constitution these Councils were renamed "People's Committees" and given the same responsibilities (Art. 72-78). However, during Vietnamese occupation the Vietnamese ignored the constitution and appointed governors for the *khaet* and *reach thani* (Turner 2002: 355). Due to Vietnamese and UN occupations, from 1979 to 1992 the *khaet* and *reach thani* score 0 on Policy Scope.

Cambodia's modern decentralization process was largely the result of involvement by international donor organizations after 1992 (Dosch 2007). In 1996 the United Nations Development Program began the Social Economic Improvement Local Agency (SEILA) program in Cambodia to help make the delivery of international aid to local areas in Cambodia easier. SEILA ignored the center and built an aid structure focused on subnational management instead (Turner 2002). However, legal changes to the distribution of authority did not occur until 2000.

Subnational authority began returning to the *khaet* and *reach thani* in form of education policy beginning in 2001. The Education Strategic Plan (ESP) 2001–2005, makes reference to the importance of decentralization on education policy (Sect. 1.1-1.2). In addition, the Education Sector Support Program (ESSP) 2001–2005 issued by the government in December of 2000 clearly designated authority over education policy to the regions. This was again reiterated in

the Education Strategic Plan (ESP) 2006–2010 issued by the government in December of 2005 (Sect. 2.3). From 1993 until 2000 the *khaet* and *reach thani* score 0 on Policy Scope due to having no legally defined policy power, but from 2001 to 2007 they score 1 due to having the ability to determine local educational policy.

In June of 2005, the Cambodian government issued the Strategic Framework for Decentralization and Deconcentration Reforms. This Framework established the goal of creating indirectly elected local councils at the *khaet* level and outlined that these new councils would be empowered with the ability to control *khaet*-level planning, budgeting, social service policy, and development. With the passage of the Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans in 2008 this framework was implemented, and Article 39 stipulates *khaet* and *reach thani* councils have control over local welfare policy. With control over education and welfare policy the *khaet* and *reach thani* score 2 on Policy Scope from 2008 through 2018.

### ***Fiscal Autonomy***

The 1953 Constitution outlined that *khaet* and *reach thani* had the ability to create taxes within their jurisdiction within the framework of laws passed by the National Assembly (Art. 89).

However, subnational taxation authority was never legally defined. From 1970 through 2010 no legal grounds regarding taxation autonomy were established for the regional authorities. While the 1998 Provincial Budget Law discusses subnational taxation it only granted local *khaet* and the *reach thani* the ability to collect local taxes on vacant land, stamps, business licenses,

animal slaughter, vehicles and transportation, power, water, and ferries. All bases and rates are set by the central government (Art. D). With no provision for subnational governments to set the bases or rates of taxes the *khaet* and the *reach thani* score 0 on Fiscal Autonomy from 1953 through 2018.

### ***Borrowing Autonomy***

No law or constitution prior to 1998 mentions the ability of *khaet* or the *reach thani* to borrow money. However, the 1998 Provincial Budget Law specifically forbade subnational borrowing by the *khaet* (Art. D). Therefore, the *khaet* and *reach thani* score 0 on Borrowing Autonomy from 1953 through 2018.

### ***Representation***

The 1953 Constitution created legislatures for the *khaet* and the *reach thani* known as Popular Assemblies. These assemblies acted as the legislative branch, and each elected a Chairman, who acted as the head of the Popular Assemblies. During this time no subnational executive branch existed. From 1953 to 1969 the *khaet* and *reach thani* score 2 on Assembly and 0 on Executive. The Popular Assemblies were eliminated in the 1972 Constitution, and no similar form of local representative government was established in their place. There is no legal mention of subnational government from 1970 to 1978, and the *khaet* and *reach thani* score 0 on Assembly and 0 on Executive.

In 1979, People's Revolutionary Councils were established (C1979, Ch. 7). These councils were renamed People's Committees in the 1989 Constitution (Ch. 7). Both were directly elected by the local population (C1979, Art. 72; C1989, Art. 72). From 1979 through 1991 the *khaet* and *reach thani* had governors who were appointed by the occupying Vietnamese authorities (Tucker 2002). From 1979 to 1992, with the creation of the People's Revolutionary Councils, later People's Committees, and centrally appointed governors, the regional governments score 2 on Assembly and 0 on Executive.

Following UN withdrawal, the People's Committees were eliminated and the King appointed regional governors through royal decree (C1993, Art. 21). The 2008 Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans created indirectly elected regional councils to act as legislative branches for the *reach thani* and the *khaet*. The members of these councils are elected to five year terms and are selected by the commune level council members (Law on Elections of Capital Council, Provincial Council, Municipal Council, District Council and Khan Council, Art 27). Each council has a chairperson, who is selected from among the elected councilors representing the largest party on the council (Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans, Art. 17). The Ministry of the Interior can veto any decision of the council that is deemed to violate the constitution, and if the council does not change the vetoed law all members of that council can be removed through decree (Art. 24). In such cases, the Ministry must call for a by-election to replace the disbanded council (Art. 25) and takes over management of the council's work until a new council is elected and takes office (Art. 27). While the Ministry of the Interior only involves itself when national laws are broken (Asian Developmental Bank 2011: 10), the

central state's party dominates at the commune level such that this resembles *de facto* influence of the central state on provincial assemblies (Eng and Ear 2016, 218). Governors are still appointed by the King but with decreased powers (Ibid: 12). The *khaet* and the *reach thani*, with centrally-appointed governors and no legislative bodies, score 0 on Assembly and 0 on Executive from 1993 through 2007. Following the introduction of the regional councils, the *khaet* and *reach thani* score 1 on Assembly and 0 on Executive from 2008 to 2018.

## **Shared-Rule**

### ***Law Making***

The 1953 Constitution vested national law making authority in the unicameral National Assembly, which consisted of members elected through popular vote (Art. 65). There was a Council of Kingdom that served in a primarily advisory capacity, drawn from representatives designated by the *khaet* assemblies (Vandeluxe 2016, 141-142). From 1953 to 1971 all subnational units score 0 on both Bilateral and Multilateral law making.

The 1972 Constitution created a bicameral parliament consisting of the National Assembly and the Senate (Art. 46), endowing the new Senate with more formal and established power than its Council of Kingdom predecessor (Vandeluxe 2016, 141-143). The National Assembly consisted of 80 members elected in 61 districts based upon the district's population.<sup>1</sup>

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<sup>1</sup> The 1972 election produced 126 members.

The Senate consisted of 28-40 members, of whom three-fifths were indirectly elected by the regional assemblies, one-fifth represented the civil service, and one-fifth represented the Armed Forces Councils (Art. 48).<sup>2</sup> The Senate had extensive law making ability, except the ability to introduce financial laws, which had to originate in the National Assembly (Art. 70). From 1972 to 1974 the regions are a unit of representation in the Senate (L1), selected by regional governments (L2), have majority representation in the Senate (L3), and the Senate has extensive legislative authority (L4), so *khaet* and *reach thani* score 2.0 on law making.

In 1975 the Kampuchean People's Assembly became the governing legislative body and was vested with national law making authority (C1975, Art. 7). This Assembly consisted of 150 members representing the peasants, 50 representing the working people, and 50 representing the revolutionary army (Art. 5). The members were elected through direct elections every five years based upon group membership. Beginning in 1979 there was a National Assembly which claimed sole law making authority, but authority essentially belonged to the Vietnamese occupying forces in Cambodia until the occupation was ended in October of 1991.<sup>3</sup> In between October of 1991 and the passing of the 1993 Constitution law making authority rested with the UNTAC. From 1975 to 1993 all subnational units score 0 on Law Making.

The 1993 Constitution vested national law making authority in the 120 members of the unicameral National Assembly (C 1993, Art. 126). Members are elected within multi-member

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<sup>2</sup> During this period there were never more than 32 occupied seats in the Senate (IPU 1972).

<sup>3</sup> Here we follow existing convention of most measures of political science, e.g. PolityIV, which code Cambodia as occupied by a foreign state or entity beginning in 1979 until the end of 1991.

districts based on the population within provincial boundaries (Amended Electoral Law 1992, Ch. 6, Sect. 33.2; Amended Law on Election of Members of the National Assembly 1997, Art. 9). In 1999 the constitution was amended to create an upper chamber, the Senate. The Senate was entirely composed of appointed members from 1999 to 2005, but subsequent Senates elected from 2006 to 2018 are composed of 57 (most recently 58) members who are indirectly elected by the councilors of the *khum/sangkat*,<sup>4</sup> 2 members who are indirectly elected by the members of the National Assembly, and 2 royal appointees (Amended C1993, Art. 100; Law on the Election of Members of the Senate 2005).

However, while the local councilors select senators on behalf of their constituents, this does not constitute regional governments designating representatives in the legislature (L2) since the local councilors do not vote for a specific Senator to represent their constituents directly but instead select senators “at-large.” Finally, while the Senate does possess the right to initiate legislation and to require amendment or revision to laws put forth by the Assembly, law making authority largely rests with the Assembly, in which a 50%+1 majority unilaterally passes national laws. Therefore, the *khaet* and *reach thani* score 0 on all components of Law Making from 1994 to 2018.

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<sup>4</sup> These *khum/sangkat* level councilors are themselves directly elected by their *khum/sangkat* level electorate and are the local government administration at the *khum/sangkat* level.

### ***Executive Control***

From 1953 to 1969 the Popular Assemblies had to be consulted on the budget, administrative accounts, loans and foreign policy. The advice of the Popular Assemblies had to be given within one month of it being asked for (C1953, Art. 88). However, these consultations were ad hoc and not legally binding. In addition, these consultations were removed beginning with the 1972 Constitution and were not replaced by any other form of routinized meetings, consultative or binding. All *khaet* and the *reach thani* score 0 on bilateral and multilateral Executive Control from 1953 through 2018.

### ***Fiscal Control***

No constitution or law in Cambodia has established routine consultations between the regional governments and the central government regarding tax revenues, all of which are determined by the Ministry of Economy and Finance. All *khaet* and the *reach thani* score 0 on bilateral and multilateral Fiscal Control from 1953 through 2018.

### ***Borrowing Control***

Article 88 of the 1953 Constitution grants the Popular Assemblies the right to be consulted regarding borrowing. The regional authorities had one month to offer their opinion when it was requested, but this does not constitute routine consultation, and their opinions were not legally binding. This form of consultation was removed beginning in 1972 and was not replaced with an alternative. All *khaet* and the *reach thani* score 0 on bilateral and multilateral Borrowing

Control from 1953 through 2018.

### ***Constitutional Reform***

In the 1953 constitution the power to initiate amendments to the constitution rested with the King, Prime Minister, or President of the unicameral National Assembly, with the support of  $\frac{1}{4}$  of the Assembly's members (C1953, Art. 117). Amendments required a positive  $\frac{2}{3}$  vote of the Assembly's members (C1953, Art. 118). The 1972 Constitution states that authority to pass revisions or amendments to the constitution requires the support of a three-fourths majority of both houses of parliament (C 1972, Art. 115), but the  $\frac{3}{5}$  of Senate seats devoted to regional representatives does not afford the regional representatives the ability to raise the decision hurdle for amendment proceedings. However, either chamber of Parliament could initiate a vote on an amendment with one-half of the members' backing, affording the regional representatives in the Senate the authority to propose constitutional reform. In both the 1979 and 1989 Constitutions amendment authority rested with the unicameral National Assembly and required a two-thirds majority vote (C 1979; 1989, Art. 93). The 1993 constitution provided for identical amendment procedures as the 1953 constitution (C1993, Art. 151-152), and there were no provisions for Senate initiation of or approval required for constitutional amendments after the 1999 amendment (Chapter 15). All *khaet* and the *reach thani* score 0 on Constitutional Reform for all years except from 1972 to 1974 when they score 1.

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**Self-rule in Cambodia**

			Institutional depth	Policy scope	Fiscal autonomy	Borrowing autonomy	Representation		Self-rule
							Assembly	Executive	
Khaet		1953-1969	2	0	0	0	2	0	4
		1970-1974	1	0	0	0	0	0	1
		1975-1978	0	0	0	0	0	0	0
		1979-1992	1	0	0	0	2	0	3
		1993-2000	1	0	0	0	0	0	1
		2001-2007	1	1	0	0	0	0	2
		2008-2018	2	2	0	0	1	0	5
Reach thani		1953-1969	2	0	0	0	2	0	4
		1970-1974	1	0	0	0	0	0	1
		1975-1978	0	0	0	0	0	0	0
		1979-1992	1	0	0	0	2	0	3
		1993-2000	1	0	0	0	0	0	1
		2001-2007	1	1	0	0	0	0	2
		2008-2018	2	2	0	0	1	0	5

