

BACKGROUND

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Promoting True Democratic Transition in Cambodia

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Abstract

In 2013, the ruling Cambodian People's Party again won Cambodia's national election, this time by the slimmest margin, extending Prime Minister Hun Sen's 28-year reign by another five years. But the opposition is claiming election fraud. Opposition members continue to lead protests and are refusing to take their seats in the National Assembly. The U.S. and Cambodia have been expanding ties for many years—despite reservations from international human rights groups and the State Department itself about the development of Cambodia's democracy. The 2013 elections are an opportunity for the U.S. to take stock of U.S.–Cambodian relations and press for long-overdue political reforms. Cambodia can begin to establish the full legitimacy of its government only through an objective investigation of the 2013 elections and comprehensive election reforms, including, if necessary, a re-vote that offers the opposition enough faith in the process to join the assembly. It is critical to U.S. interests that Cambodia mature into a self-sustaining, democratic nation that is prepared to combat modern-day challenges to governance and peace and security in the Pacific.

On July 28, 2013, the ruling Cambodian People's Party (CPP) again won Cambodia's national elections, this time by the slimmest margin. Prime Minister Hun Sen extended his 28-year reign for yet another five years, but his victory is incomplete. While the king, Norodom Sihamoni, officially swore in Hun Sen as prime minister on September 23, the opposition is claiming election fraud and refusing to take their seats in the National Assembly.

KEY POINTS

- The development of Cambodia's democracy as the basis for a long-term and stable U.S.–Cambodian relationship is in the national interest of the United States.
- The U.S. and other parties to the 1991 Paris Peace Accords that formally ended war in Cambodia have a continuing obligation to promote human rights and fundamental freedoms.
- International observers have raised serious questions about the process and results of the 2013 elections, which gave a thin victory to Prime Minister Hun Sen, a serial human-rights violator in power since 1985.
- The international donor community's acquiescence to low expectations for democracy in Cambodia since the U.N.-supervised elections in 1993 has enabled the Hun Sen regime to remain in power and rule without accountability to the Cambodian people.
- It is time to raise expectations for international engagement with Cambodia beginning with a U.S.-led push for an independent, internationally assisted investigation of the 2013 election.

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The CPP claimed only 68 of the 123 seats in the assembly, leaving the opposition with 55 seats. Buoyed by its performance, the opposition, led by Sam Rainsy and his Cambodia National Rescue Party (CNRP), began a series of public protests against the election results that precipitated an investigation by Cambodia's Constitutional Council. Although the official investigation ultimately resulted in rejection of opposition complaints and affirmed the validity of the election results, the opposition has persisted with its objections. The CNRP claims, with some validity, that the CPP-dominated Constitutional Council is not sufficiently objective to evaluate the election and is calling for a second, independent investigation. The United States should support the opposition's demands.

The U.S. and Cambodia have been expanding ties for many years now¹—despite reservations from international human rights groups and the State Department itself about the development of Cambodia's democracy.² The 2013 elections were and are a watershed moment, an opportunity for the U.S. to take stock of what it has accomplished in Cambodia and press for long-overdue political reforms. Cambodia can begin to establish legitimacy only through an objective investigation of the 2013 elections and comprehensive election reforms, including, if necessary, a revote that offers the opposition enough faith in the process to join the assembly. That legitimacy can then serve as a stable basis for a productive relationship with the United States.

What Happens in Cambodia Matters to the U.S.

Why should relations with this small county in Southeast Asia matter so much to the United States?

First, historically, Cambodia, despite its small size and underdeveloped economy, has often been at the center of international politics. From the Vietnam War to the moral outrage of Khmer Rouge tyranny to Vietnamese invasion and yet another war that engaged major outside powers, Cambodia's problems have often been near the center of U.S.

involvement in the region. When a place has proven time and again to invoke critical American interests, it is only prudent to be concerned with its stability and political development.

Second, a democratic Cambodia will help establish an alignment of U.S. geopolitical interests and values in the region that is in America's long-term interest. America's best bilateral relationships in the region, including its alliances, are with democracies. True democracy in Cambodia will enable greater levels of cooperation.

Third, Cambodia is part of a Southeast Asian community represented by the Association of Southeast Asian Nations (ASEAN). In an organization governed by a consensus where the smallest and largest countries have equal say, the character of Cambodia's governance affects the nature of ASEAN's own governance. In turn, the development of ASEAN's values serves as a factor in determining the depth of America's relationship with it.

Fourth, political freedom is good in and of itself. The fact that the means for achieving liberty often are not the same in all places at all times should not prevent the U.S. from promoting it. In the case of Cambodia, a nation which has been riven by conflict for most of its recent history, the U.S., in fact, has a unique obligation. The Paris Peace Accords that formally ended Cambodia's war in 1991 explicitly committed its 18 international signatories, including the United States, to "promote and encourage respect for and observance of human rights and fundamental freedoms in Cambodia."

Current Political Turmoil Points to Major Change. Cambodia's recent history is checkered by conflict and tyranny. Following the deposing of Prince Norodom Sihanouk in 1970 and its successor military regime in 1975, the totalitarian Khmer Rouge took power, killing an estimated 1.7 million people. Vietnam's invasion at the end of 1978 ended the trauma of Khmer Rouge rule. However, it began another—a decade-long war fought in Cambodia. Vietnam installed the People's Republic of Kampuchea (PRK) as the government of Cambodia. Hun Sen,

1. Thomas Lum, "U.S.-Cambodia Relations: Issues for the 113th Congress," Congressional Research Service, July 24, 2013, <https://www.fas.org/sgp/crs/row/R43113.pdf> (accessed February 24, 2014).

2. U.S. Department of State, Bureau of Democracy, Human Rights and Labor, "Country Reports on Human Rights Practices for 2012: Secretary's Preface," 2012, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (accessed February 24, 2014), and Human Rights Watch, "World Report 2013: Cambodia," 2013, <http://www.hrw.org/world-report/2013/country-chapters/cambodia?page=1> (accessed February 24, 2014).

a former member of the Khmer Rouge, having defected and fled to Vietnam, was among the leaders of the new regime, serving first as foreign minister and deputy prime minister and then as prime minister.

Vietnam withdrew from Cambodia in 1989, a peace agreement was signed in 1991, and elections were held in 1993. After years of political turmoil and unrest, the United Nations–supervised elections were welcomed in Cambodia. Participation was extremely high,³ and despite some allegations of voter fraud during the election, most in the international community concurred that elections were free and fair.⁴

The aftermath of the elections, however, was not so fair. While the 1993 elections did not result in a win for Hun Sen, he used his power over the administrative state and military to broker a deal to co-lead the country with the U.S.-backed, and winner of a plurality in the elections, royalist FUNCINPEC⁵ party. Given fresh memories of war and the tyranny of the Khmer Rouge, the international community acquiesced to the idea of dual prime ministers and division of government posts between the parties throughout government. In 1997, Hun Sen completed the power grab with a coup that removed FUNCINPEC leader and co-premier Norodom Ranariddh. The 1998 elections that endorsed Hun Sen's coup, unlike the 1993 elections, were carried out without U.N. supervision. They were not free and fair.⁶

The international community largely regarded Hun Sen's 1997 coup and subsequent election as undemocratic, and many countries initially withdrew development assistance.⁷ Since then, however, governments, the U.S. among them, have reconciled

with Hun Sen's fait accompli—despite successive flawed elections and lack of consistent, thorough political reform.

The memories of complete collapse of Cambodian society, brutality, and dislocation have set a low bar for the international community. They have also been the dominant factor in Cambodian politics, amply exploited by the ruling CCP. Despite its dominance over the media, however, the 2013 election has called into question whether continued CCP reference to these tragic times is losing its effectiveness.

The involvement of young people in elections is beginning to change the political landscape of Cambodia. Until recently, most of the Cambodian electorate had personally experienced life under the Khmer Rouge or had relatives who were killed or died of starvation under the Communist regime. For new and growing segments of the population, however, the atrocities of the Khmer Rouge are vestiges of a past they did not personally experience. Some estimates suggest that as much as one-third of the electorate is now between the ages of 18 and 30.⁸

These changes in the demographics of Cambodian politics offer the U.S. an opportunity to reassess and shift toward a policy that more effectively supports democratic reform. Such reform is desperately needed: Cambodia ranks 95th of 177 countries in the *Index of Economic Freedom*,⁹ is ranked 157th of 176 countries in the *Corruption Perceptions Index*,¹⁰ and is one of 47 countries designated as “not free” in the *Freedom in the World* index.¹¹ It is time to raise the bar of expectations for international engagement with Cambodia.

3. “The UN Sponsored Elections of 1993: Were They ‘Free and Fair’?” Northern Illinois University, http://www.seasite.niu.edu/khmer/ledgerwood/free_and_fair.htm (accessed March 20, 2014)

4. U.S. Department of State, “Cambodia Human Rights Practices, 1993,” January 31, 1994, http://dosfan.lib.uic.edu/ERC/democracy/1993_hrp_report/93hrp_report_eap/Cambodia.html (accessed March 6, 2014).

5. The acronym for **F**ront **U**ni **N**ational pour un **C**ambodge **I**ndépendent, **N**eutre, **P**acifique, **e**t **C**oopératif. The French name translates as National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia.

6. Peter M. Manikas and Eric Bjornlund, *Cambodia's 1998 Elections: The Failure of Democratic Consolidation*, *New England Journal of Public Policy*, Vol. 14, No. 1 (September 1998), p. 154, <http://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1429&context=nejpp> (accessed February 24, 2014).

7. U.S. Department of State, “Cambodia Human Rights Practices, 1993,” and Manikas and Bjornlund, *Cambodia's 1998 Elections*.

8. Parameswaran Ponnudurai, “Disenchanted Young Cambodians Flex Their Muscle in Elections,” *Radio Free Asia*, July 29, 2013, <http://www.rfa.org/english/commentaries/east-asia-beat/young-07292013230725.html> (accessed March 6, 2014).

9. Terry Miller, Anthony B. Kim, and Kim R. Holmes, “Cambodia,” *2014 Index of Economic Freedom* (Washington, DC: The Heritage Foundation and Dow Jones & Company, Inc., 2014), <http://www.heritage.org/index/country/cambodia>.

10. Transparency International, *Corruption Perceptions Index 2012*, 2012, <http://www.transparency.org/cpi2012/results/> (accessed March 13, 2014).

11. Freedom House, *Freedom in the World 2013*, 2013, <http://www.freedomhouse.org/report/freedom-world/freedom-world-2013> (accessed March 13, 2014).

Hun Sen and Justice

Not only has Hun Sen retained power in Cambodia through flawed elections, but his tenure has been rife with major human rights abuses. From extrajudicial killings to abductions to suppression of basic freedoms to government-instituted land evictions,¹ successive Hun Sen governments have ruled with impunity.²

Regarding accountability for the Khmer Rouge atrocities that predate his rise to leadership, the country has pursued a much-maligned³ form of transitional justice. A hybrid judicial system, known as Extraordinary Chambers in the Courts of Cambodia (ECCC), has only five indictments to its credit in the more than 10 years since it was established by agreement between the United Nations and Cambodia. Of the five indicted, one has been convicted, one died in custody, and one has been determined unfit to stand trial. (The Cambodian people were robbed of justice when Khmer Rouge leader Pol Pot died before formally standing trial for his crimes.⁴)

The judicial proceedings have faced multiple and severe obstacles. Judges from the international community have abandoned the court, citing instances of corruption. Hun Sen is known to oppose additional indictments beyond the initial five, leading many to wonder whether he is refusing to allow the trials to proceed because he has a stake in covering up truths that might be revealed about the former Khmer Rouge cadre, himself, or other members of his government.⁵

1. Land and Housing Working Group, Cambodia, "Land and Housing Rights in Cambodia Parallel Report 2009," U.N. Office of the High Commissioner for Human Rights, April 2009, http://www2.ohchr.org/english/bodies/cescr/docs/ngos/CHRE_Cambodia_CESCR42.pdf (accessed March 7, 2014).
2. U.S. Department of State, "Cambodia Human Rights Practices, 1993."
3. "The Khmer Rouge Tribunal: Justice and the Killing Fields," *The Economist*, November 2, 2013, <http://www.economist.com/news/asia/21588947-after-six-years-court-trying-perpetrators-one-worst-mass-crimes-history> (accessed March 7, 2014).
4. "Pol Pot Escapes Justice," *The New York Times*, April 17, 1998, <http://www.nytimes.com/1998/04/17/opinion/pol-pot-escapes-justice.html> (accessed February 24, 2014).
5. Human Rights Watch, "Cambodia: Government Obstructs Khmer Rouge Court," September 5, 2013, <http://www.hrw.org/news/2013/09/05/cambodia-government-obstructs-khmer-rouge-court> (accessed February 5, 2014).

Flawed Elections: Contributing Factors

The 2013 elections highlighted a range of broader existing problems in Cambodia's governance, including suppression of freedom of expression and press freedom and frequent instances of land-grabbing.

Press Freedom. The Cambodian constitution guarantees freedom of expression, but the 1995 press law places caveats on the constitutional guarantees that severely limit freedom of the press.¹²

Current law bars journalists from reporting on issues that might "harm ... national security" or "harm ... relations with other countries."¹³ The press law also extends special privileges to public figures, stating, "In the case of a public figure, any false allegation or imputation which the journalist publishes or reproduces with malicious intent against such public figure is libel and is prohibited."¹⁴ Accusations determined to be false and topics considered threatening to national security come with stiff fines to ensure compliance.

12. Southeast Asian Press Alliance, "Reporting Free Expression Violations in Southeast Asia," December 2005, <http://www.seapa.org/wp-content/uploads/manual-alerts-english1.pdf> (accessed March 7, 2014).
13. Asian Human Rights Commission, "Press Law," http://test.ahrchk.net/countries/cambodia/cambodian-laws/press_law/press (accessed March 7, 2014).
14. Ibid.

Opposition Leader Sam Rainsy

Sam Rainsy began his government career as co-premiers Hun Sen's and Norodom Ranariddh's minister of finance (1993–1994). When he expressed frustration with the slow pace of reforms in the government, he was dismissed. After his exit from government, Rainsy, a founding member of Ranariddh's party—FUNCINPEC—created the opposition Khmer National Party (KNP). The KNP later became the Sam Rainsy Party (SRP) and in 2012 merged with the opposition Human Rights Party (HRP) to become the CNRP.¹

After the merger, Rainsy began collaborating with former HRP leader Kem Sokha. Sokha has been a long-standing proponent of human rights in Cambodia and has faced similar accusations of defamation of the government.² The two continue to lead current opposition to the government.

Rainsy has engaged in Cambodian politics by staging peaceful protests and advocating for the rights and freedoms of the Cambodian people. His opposition to the Hun Sen government in this regard has not met with a peaceful response. In fact, Rainsy's life was threatened in 1997 when unknown assailants—alleged by some witnesses to be Hun Sen bodyguards—threw grenades into a large opposition rally, killing at least 16 people. An additional 150 were wounded, including an American, Ron Abney, who was working for the International Republican Institute. Rainsy was left unscathed due to the self-sacrifice of his bodyguard.³ To date, the crime has gone unpunished. The FBI closed the Abney case after determining that the evidence was insufficient to convict anyone.

Plots against Rainsy's life were not the only attempts the government has made to silence him and the opposition. The government has also lodged several legal cases against Rainsy. The latest allegations, issued in 2010, accused Rainsy of “wrongful damage to property, incitement to discrimination, falsifying public documents, and disinformation, in connection with removal of a demarcation post on the Cambodia–Vietnam border and subsequent online release of maps to prove his allegations of Vietnamese encroachment into Cambodian territory.”⁴ He was sentenced to 12 years in prison, at which point he chose self-exile in France rather than remaining in Cambodia. Many nongovernmental organizations (NGOs) contend that insufficient evidence was provided to prove that Rainsy was guilty of any of the offenses.⁵

When he received his royal pardon just weeks before the 2013 election, Rainsy technically should have been eligible to vote and run in the election. Nonetheless, Rainsy was denied his right to both.⁶

1. Zakariya Tin, “Opposition Parties Ink Merger,” Radio Free Asia, July 17, 2012, <http://www.rfa.org/english/news/cambodia/merger-07172012160207.html> (accessed March 7, 2013).
2. Working Group for an ASEAN Human Rights Mechanism, “Report on the Arrest of Kem Sokha and other Public Figures,” National Working Group: Cambodia, 2007, <http://www.aseanhrmech.org/nwgs/cambodia/report-on-the-arrest-of-kem-sokha.html> (accessed March 7, 2014).
3. Brad Adams and Henrik Alffram, *Tell Them I Want to Kill Them: Two Decades of Impunity in Hun Sen's Cambodia* (New York: Human Rights Watch, 2012).
4. Press release, “CCHR Re-Releases Its 2011 Legal Analysis of the Charges Against Sam Rainsy and Asserts that Not Only His Charges But Also His Recent Exclusion from the Voter List Is Politically Motivated,” Cambodian Center for Human Rights, November 15, 2012, [http://www.sithi.org/admin/upload/media/%5b2012-11-15%5dCCHR/2012_11_15_its%202011%20legal%20analysis%20of%20the%20charges%20against%20Sam%20Rainsy...\(ENG\).pdf](http://www.sithi.org/admin/upload/media/%5b2012-11-15%5dCCHR/2012_11_15_its%202011%20legal%20analysis%20of%20the%20charges%20against%20Sam%20Rainsy...(ENG).pdf) (accessed March 7, 2014).
5. Ibid.
6. Rainsy is reported to entertain anti-Vietnamese sentiments and to encourage anti-Vietnamese racism in the CNRP. Kevin Ponniah, “Cambodia's Vietnamese Community Finds Voting Is Not Necessarily a Right,” *The Guardian*, September 4, 2013, <http://www.theguardian.com/global-development/poverty-matters/2013/sep/04/cambodia-elections-vietnamese-voting> (accessed March 7, 2014).

National Election Commission/Constitutional Council

Both the National Election Commission (NEC) and the Constitutional Council are viewed by international observers as virtual extensions of the Hun Sen government.¹ The NEC is tasked with full administration of the electoral process. It is comprised of 11 government-appointed representatives from the private and public sectors; the selection process is often questioned as members are inevitably pro-CPP. The Constitutional Council, which hears complaints about election irregularities and appeals of NEC decisions, has a similarly weighted political composition.

The NEC has jurisdiction over a number of election-related duties. According to article 16 of the Law on Election of Members of the National Assembly (LEMNA) and Amendments of the LEMNA, the NEC must ensure that it is “[t]aking all necessary measures to ensure that the elections are free, fair, and just.”² This also includes an ability to “temporarily remove the right to vote or to restore the right to vote.”³ The NEC appoints all election commissions at the local level and at individual polling stations—meaning that if it so desires, it can ensure that all commissions are sufficiently pro-CPP.

The level of jurisdiction that the NEC and the Constitutional Council have over elections is expansive and has consistently resulted in improper administration of elections.⁴ In fact, both bodies came under intense scrutiny after the 1998 election, during which there were many complaints, and similar to the 2013 elections, the NEC rejected every one.⁵

1. The Electoral Reform Alliance, “Joint-Report on the Conduct of the 2013 Cambodian Elections,” November 2013, http://nationalrescueparty.org/wp-content/uploads/2013/11/FINAL-ERA-REPORT.NDI_.pdf (accessed March 20, 2014).
2. Kingdom of Cambodia, Law on Election of Members of the National Assembly (LEMNA) and Amendments of Law on Election of Members of the National Assembly, January 2013, [http://www.opendevdevelopmentcambodia.net/law/en/Law%20on%20the%20Election%20of%20the%20Members%20of%20National%20Assembly%202013%20\(English\).pdf](http://www.opendevdevelopmentcambodia.net/law/en/Law%20on%20the%20Election%20of%20the%20Members%20of%20National%20Assembly%202013%20(English).pdf) (accessed February 7, 2014).
3. Ibid.
4. Manikas and Bjornlund, “Cambodia’s 1998 Elections,” p. 154.
5. *Cambodia*, National Democratic Institute, p. 47.

Historically, the Cambodian government has used the vague nature of the national security clause to accuse journalists who write for opposition newspapers or criticize the CPP of endangering national security.¹⁵ In addition, 13 journalists have been killed in Cambodia since 1993. They are among more than 300 politically motivated killings over the past 20 years.¹⁶

Perhaps the most notable events in this regard were the murder of environmental journalist Heng Serei Oudom in 2012¹⁷ and the murder of journalist Khim Sambo and his son in 2008.¹⁸ Serei Oudom

was writing articles on the illegal logging industry when he was kidnapped and later found mutilated and dead in his car.¹⁹ Serei Oudom, like Cambodian environmental activist Chut Wutty, was killed for shedding light on the surreptitious practices of the logging industry in Cambodia.

Khim Sambo and his son were gunned down in their car in 2008. Sambo worked for a newspaper affiliated with the opposition Sam Rainsy Party and was known for being critical of the government. In addition to censoring privately run media, the Cambodian government controls state-owned media

15. Southeast Asian Press Alliance, “Reporting Free Expression Violations in Southeast Asia.”
16. Adams and Alffram, *Tell Them I Want to Kill Them*.
17. UNICEF, “Cambodia-Statistics,” http://www.unicef.org/infobycountry/cambodia_statistics.html (accessed March 7, 2014).
18. Adams and Alffram, *Tell Them I Want to Kill Them*.
19. Press release, “Director-General Condemns Killing of Cambodian Journalist Hang Serei Oudom,” United Nations Educational, Scientific, and Cultural Organization (UNESCO), September 20, 2012, http://www.unesco.org/new/en/media-services/single-view/news/director_general_condemns_killing_of_cambodian_journalist_hang_serei_oudom/#.Uxo1qV8o7Gg (accessed March 7, 2014).

outlets that primarily act as propaganda organs of the CPP and Hun Sen. Many independent journalists engage in self-censorship because the consequences of criticizing the government can be so severe.

Cambodia is designated as “not free” in Freedom House’s *Freedom of the Press Index* and dropped 26 spots in the Reporters Without Borders Press Freedom Index in 2013.²⁰ Crackdowns on press freedom and violence against journalists have increased dramatically in recent years.

With such a heavy hand on the media, the CPP has the capability to manipulate news outlets and ultimately use them to manipulate the vote.

Radio, Television, and Internet Freedom.

Leading up to the July 2013 elections, Hun Sen instituted new restrictions on radio broadcasting. Such restrictions included a ban on local radio stations retransmitting foreign broadcasting in Khmer, forbidding the publishing of public opinion poll results in the five days leading up to the election, and limiting broadcasting that supports specific political candidates or parties.²¹

The ban on foreign broadcasting limited the capabilities of the American-run radio stations Radio Free Asia and Voice of America.²² After the international community and the U.S. government expressed concern regarding the restrictions, the Cambodian government rescinded its directive on foreign broadcasting but retained other restrictions on broadcasting opinion polls and campaign coverage.

Even with the relaxation of restrictions, Cambodians had limited access to alternative program-

ming in the run-up to the July 2013 election. The CPP or CPP-linked individuals own all television stations and most radio stations and newspapers. The CPP has also been known to censor other stations with some degree of regularity.²³ While other parties have also owned media outlets, their presence is minimal and diminishing.

As a result of its control, the ruling party generally receives more TV and radio coverage than other parties.²⁴ During 2012 commune (local) elections, one study found that the

CPP received 7,412 minutes of broadcasting coverage, of which 70 minutes were positive and the remainder was neutral. The SRP, on the other hand received 5,009 minutes of coverage of which none was positive, 283 minutes were negative and the remainder was neutral. Likewise, the HRP received 5,857 minutes of coverage, of which none was positive, 88 minutes were negative and the remainder was neutral.²⁵

Despite the empirical evidence that the CPP enjoys an unfair advantage in media coverage, it has levied several claims against the opposition suggesting that they are attempting to monopolize radio programming and have brainwashed American media. The Cambodian government issued a statement against Radio Free Asia and Voice of America stating: “These two radio stations are financially supported by a certain country, and they are biased in their broadcasting and abusive of media profes-

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20. Freedom House, “Cambodia: Freedom in the World 2013,” 2013, http://www.freedomhouse.org/report/freedom-world/2013/cambodia-0#.UyHrXF_D_Gg (accessed March 13, 2014), and Reporters Without Borders, “Press Freedom Index 2013,” 2013, <http://en.rsf.org/press-freedom-index-2013,1054.html> (accessed March 13, 2014).
 21. Center for Independent Media, “CCIM’s Response to the Election-Related Restrictions on Freedom of Expression Cambodia,” July 26, 2013, <http://www.ccimcambodia.org/election/61-the-role-played-by-ccim-and-vod> (accessed December 20, 2013).
 22. Reporters Without Borders, “Local Media Still Censored in Run-up to General Elections,” July 26, 2013, <http://en.rsf.org/cambodia-local-media-still-censored-in-run-26-07-2013,44982.html> (accessed March 13, 2014); news release, “Cambodia: Respect Freedom of Expression as Elections Approach,” Freedom House, July 21, 2013, <http://www.freedomhouse.org/sites/default/files/Cambodia%20-%20Joint%20Public%20Statement%20-%20Freedom%20of%20Expression%20-%207%20-%2021-%2013.pdf> (accessed March 13, 2014); and Associated Press, “Cambodia Reverses Ban on Foreign Radio Programs,” June 30, 2013, <http://www.cbc.ca/news/world/cambodia-reverses-ban-on-foreign-radio-programs-1.1385916> (accessed March 13, 2014).
 23. Reporters Without Borders, “The Cambodian Center for Independent Media: UN Human Rights Council Universal Periodic Review, 18th Session,” 2012, http://en.rsf.org/IMG/docx/18th_upr_-_cambodia_final_2_-2.docx (accessed February 24, 2014).
 24. “Cambodia,” National Democratic Institute.
 25. “Cambodia: Joint Submission to the UN Universal Periodic Review,” Article 19, June 24, 2013, <http://www.article19.org/resources.php/resource/37121/en/cambodia:-joint-submission-to-the-un-universal-periodic-review> (accessed March 13, 2014).

sionalism, acting as the staunch political mouthpieces of the opposition party.”²⁶

Radio broadcasts and television broadcasts are integral to any election process but are particularly important in Cambodia, where only 74 percent of the populace is estimated to be literate.²⁷ This adds additional impact to the Cambodian government’s censorship of media outlets. “While there are opposition news outlets in Cambodia, the Cambodian government maintains tight control of state media and of the major commercial stations, both of which are strongly pro-CPP. Prime Minister Hun Sen’s daughter is the director of the main commercial television station, Bayon TV.”²⁸

One medium over which the Cambodian government has only limited control is the Internet, but computers in Cambodia are hard to come by, and Internet use is even lower than use of personal computers.²⁹ Nonetheless, the Cambodian government is getting savvier and has blocked blogs, is in the process of formulating an Internet law to limit spreading “false information,” and is increasing its censorship of the Internet.³⁰

In the aftermath of the election, the U.S. government issued sharp criticism of Cambodia’s censorship of the media.³¹ In particular, the U.S. rightly noted that social media and the Internet should not be the only venue by which Cambodians can access unbiased public information.

The 2013 Election: Free and Fair?

While the 2013 election was mostly free of violence,³² it is questionable whether it met the standard of “free and fair.”

An estimated 20,000 national and international observers were present throughout the elections, including U.S.-based organizations, Transparency International, and the International Republican Institute.³³ Many of them expressed concern about the process and accuracy of the outcome.

Some observers claim that as many as 10,000 voting irregularities occurred during the 2013 elections.³⁴ Major issues include an estimated 10 percent of the population who were unable to find their names on the voting registry, indelible ink easily removed from fingers after voting, and an unusually large number of temporary voting cards distributed in the weeks and months leading up to the elections.³⁵

The Committee for Free and Fair Election in Cambodia (COMFREL) noted that not only were election irregularities significantly higher than during the last assembly elections in 2008, but COMFREL was particularly concerned with the number of temporary voting cards issued. According to COMFREL’s records, 1 million people received temporary voting cards for the 2012 commune elections and an additional 700,000 people received them for the 2013 elections.³⁶ Such large numbers of people purport-

26. “The 2013 General Election for the 5th Mandate of the National Assembly of The Kingdom of Cambodia,” National Election Committee *White Paper*, September 5, 2013, http://blueladyblog.com/wp-content/uploads/2013/08/NEC_-White-Paper_-English_Final-_05092013_1145AM.pdf (accessed February 7, 2014).
27. UNICEF, “Cambodia-Statistics.”
28. “Countries at the Crossroads 2012: Cambodia,” Freedom House, 2012, <http://www.freedomhouse.org/report/countries-crossroads/2012/cambodia> (accessed March 13, 2014).
29. Overseas Development Institute, “Cambodia: Case Study, for the MDG Gap Task Force Report,” draft, May 2010, http://www.un.org/en/development/desa/policy/mdg_gap/mdg_gap2010/mdggap_cambodia_casestudy.pdf (accessed March 13, 2014).
30. “Cambodia: Joint submission,” Article 19.
31. Samean Yun, “Cambodia Overturns Ban on Foreign Radio Programs,” Radio Free Asia, June 30, 2013, <http://www.rfa.org/english/news/cambodia/broadcast-06302013140732.html> (accessed February 7, 2014).
32. “Cambodian Forces Clash with Opposition Amid Post-Election Deadlock; 1 Dead, 7 Wounded,” *The Washington Post*, September 14, 2014, http://www.washingtonpost.com/world/asia_pacific/cambodia-opposition-pressures-government-with-new-rally-amid-post-election-deadlock/2013/09/14/93da1428-1db2-11e3-80ac-96205cacb45a_story.html (accessed September 24, 2013).
33. International Republican Institute, “Cambodia Pre-Election Watch,” July 28, 2013.
34. Kuch Naren, “Election Was Not Free or Fair, Coalition of 21 NGOs Says,” *The Cambodia Daily*, September 7, 2013, <http://www.cambodiadaily.com/elections/election-was-not-free-or-fair-coalition-of-21-ngos-says-41839/> (accessed September 24, 2013).
35. Transparency International, “Final Election Observation Report on Cambodia’s 2013 National Election,” September 2013, http://www.ticambodia.org/files/TICs_Report_on_2013_National_Election.pdf (accessed January 31, 2014).
36. Colin Meyn, “Comfrel Reports Spike in Election Irregularities,” *The Cambodia Daily*, August 16, 2013, <http://www.cambodiadaily.com/elections/comfrel-reports-spike-in-election-irregularities-39918/> (accessed March 13, 2014).

edly losing their permanent voter registration are implausible and call into question whether fraud was taking place.

Transparency International Cambodia deployed over 900 observers in preparation for the elections and expressed similar concerns:

Citizens were frustrated to find that their names were not on the voters list and this led to anger and chaos at some polling stations. While many voters were turned away, there was an unusually large number of people using temporary Identification Certificates for Electoral Purpose (ICES) distributed by government officials, who were allowed to vote.³⁷

Additionally, several organizations have called on the NEC to disclose polling data and information to independent groups in order to evaluate voter lists and the issuance of ICES. But the NEC has refused to comply.³⁸

Transparency International Cambodia, COMFREL, and the National Democratic Institute, along with Human Rights Watch and other groups, have called for a transparent review of 2013 elections. In some cases, they have even called for complete reform of the NEC and several of the laws regulating elections.³⁹

The Imperative for a More Active and Vocal Cambodia Policy. President Obama on several occasions has disparaged the concept of great-power competition. If, indeed, U.S. outreach to Cambodia, despite Hun Sen's ongoing autocratic rule, is not premised on geopolitical competition with China, there is little reason to be so uncritical of Cambodia. On the other hand, if the President is denying the competition as a matter of public diplomacy or if the U.S. is simply an object of geopolitical forces in competition with China whether it chooses to be or not, embracing Cambodia is very shortsighted. America's real advantage in competition with China lies in the alignment of its geostrategic position with its values.

The democratic evolution of Cambodian governance is in the long-term interest of the United States, as a truly democratic government will naturally gravitate toward the United States and the order it seeks to maintain in the western Pacific. More important, it can help tip the balance in Southeast Asia toward a geographically broader alignment. The current crisis offers an opportunity for the U.S.—not by reaching yet another accommodation with Hun Sen, but by pushing harder for democratic reform.

How U.S. Policy Can Make a Difference

- **The U.S. should press for the establishment of a Cambodia contact group comprised of parties to the 1991 Paris Peace Agreement,** including the United States, Japan, Indonesia, Australia, the U.K., and France, to monitor and press for democratic reform. Among the purposes of the Paris agreement was to ensure “the right to self-determination of the Cambodian people through free and fair elections” and “assuring protection of human rights.”⁴⁰ The signatories have a continuing moral obligation in this regard. The contact group should be used to coordinate human rights policies and assistance programs toward Cambodia, including participation in the annual donor group meeting, the Cambodia Development Cooperation Forum.
- **The U.S. should push for an independent, internationally assisted investigation into the conduct of the 2013 election.** If irregularities are found to have undermined the validity of the election, the U.S. should encourage immediate action to abolish the results and schedule a new election. Only for the purposes of endorsing any necessary legal or constitutional change to this end should the U.S. encourage the opposition to take its seats in the assembly.

37. Chris Sanders, “Cambodia: Systematic Irregularities Raise Doubts on Election Integrity,” Transparency International, August 2, 2013, http://www.transparency.org/news/feature/cambodia_systematic_irregularities_raise_doubts_on_election_integrity (accessed September 24, 2013).

38. Transparency International, “Final Election Observation Report on Cambodia's 2013 National Election.”

39. *Ibid.*

40. United Nations Transitional Authority in Cambodia, “Agreements on a Comprehensive Political Settlement of the Cambodia Conflict,” 1991, http://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/agree_comppol_10231991.pdf (accessed March 20, 2014).

- **The U.S. should plan for continued intransigence on the part of the Hun Sen government by tightening both bilateral and multilateral assistance.** The 2014 omnibus spending bill passed by Congress and signed by the President in January 2014 wisely conditions assistance for Cambodia, including military assistance, on an investigation of the 2013 election, election reform, and the opposition's participation in the National Assembly.

In the absence of Congress's required certification that its conditions are being met, it should go further and formally reimpose the ban on assistance to the Cambodian central government that was lifted in 2007, with exceptions for humanitarian purposes, to include demining, global health, and food security assistance. This would mean termination of small amounts of security assistance not already conditioned by the 2014 law. It should also oppose the resumption of World Bank programs if the certification requirement is not met.

- **The U.S. should conduct a review of its democracy programming.** Given the lack of sufficient progress in many areas of Cambodia's democracy since 1993, the U.S. Agency for International Development should conduct a formal review of its democracy programming to identify deficiencies in current areas of focus or channels and identify new areas and mechanisms for political development.
- **Congress should review the impact of economic assistance as a whole.** As scholar Dr. Sophal Ear demonstrates in his 2012 book, *AID Dependence in Cambodia: How Foreign Assistance Undermines Democracy*, foreign assistance has weakened political accountability in Cambodia. The 2014 omnibus act contains language requiring a government assessment of the impact of assistance on the allocation of Cambodia's own

resources. Congress and the Administration should be prepared to make changes warranted by the assessment.

- **The U.S. should be more publicly critical of Hun Sen's human rights abuses.** In his visit to Cambodia in 2012, President Obama privately expressed criticism of the Hun Sen government and the continued human rights abuses occurring in Cambodia and indicated that he would not have visited were it not for Hun Sen's hosting of ASEAN heads of states meetings.

While private criticism is worthwhile, it is not clear that in the case of the 2012 visit, disclosure of that criticism made up for the positive symbolism of President Obama's visit. At all political levels, the U.S. should issue public criticism of Hun Sen's human rights abuses. Of most immediate relevance, the U.S. should be critical of the corruption and ongoing police violence surrounding the election protests in Cambodia.⁴¹ At least eight people were killed in police violence in January 2014; 23 individuals were arrested during protests (21 remain in custody and two have since been released);⁴² and countless others, as highlighted in this paper, have been killed due to Hun Sen's ability to rule with impunity.⁴³

Conclusion

From the Vietnam War through the Cold War to its prominent, co-equal role in ASEAN, Cambodia has long been an important factor in American foreign policy.

It is critical to American interests that Cambodia mature into a self-sustaining, democratic nation that is prepared to combat modern-day challenges to governance and peace and security in the Pacific. That means guaranteeing basic freedoms and rights to its people, one of the foremost being the right to change its government through free and fair elections.

41. Human Rights Watch, "Cambodia: UN Should Condemn Rights Onslaught," January 27, 2014, <http://www.hrw.org/news/2014/01/27/cambodia-un-should-condemn-rights-onslaught> (accessed March 13, 2014).

42. Associated Press, "Cambodian Court Rules Against Bail for Protesters," February 11, 2014, <http://bigstory.ap.org/article/cambodian-court-rules-against-bail-protesters> (accessed February 24, 2014).

43. Al Jazeera, "Cambodia Police Use Force to Break Up Rally," January 27, 2014, <http://www.aljazeera.com/news/asia/2014/01/cambodia-police-use-force-break-up-rally-201412784621204384.html> (accessed March 13, 2014).

Investigations conducted by the Constitutional Council and the NEC have produced insufficient results to confirm that the 2013 elections in Cambodia were in fact free and fair. The 1991 Paris Peace Agreement gives the signatories to that agreement, including the U.S., special responsibility to redress deficiencies in Cambodia's governance. Given the fitful, incomplete progress Cambodia has made on its path to democracy, most recently demonstrated in the flawed 2013 elections, it is a responsibility the U.S. is failing to uphold.

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