

CAMBODIA'S LOOMING POLITICAL AND SOCIAL CRISIS

HEARING BEFORE THE SUBCOMMITTEE ON ASIA AND THE PACIFIC OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

—————
JULY 9, 2013
—————

Serial No. 113-37
—————

Printed for the use of the Committee on Foreign Affairs



Available via the World Wide Web: <http://www.foreignaffairs.house.gov/> or
<http://www.gpo.gov/fdsys/>

—————
U.S. GOVERNMENT PRINTING OFFICE

81-869PDF

WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON FOREIGN AFFAIRS

EDWARD R. ROYCE, California, *Chairman*

CHRISTOPHER H. SMITH, New Jersey	ELIOT L. ENGEL, New York
ILEANA ROS-LEHTINEN, Florida	ENI F.H. FALEOMAVAEGA, American Samoa
DANA ROHRABACHER, California	BRAD SHERMAN, California
STEVE CHABOT, Ohio	GREGORY W. MEEKS, New York
JOE WILSON, South Carolina	ALBIO SIRES, New Jersey
MICHAEL T. McCAUL, Texas	GERALD E. CONNOLLY, Virginia
TED POE, Texas	THEODORE E. DEUTCH, Florida
MATT SALMON, Arizona	BRIAN HIGGINS, New York
TOM MARINO, Pennsylvania	KAREN BASS, California
JEFF DUNCAN, South Carolina	WILLIAM KEATING, Massachusetts
ADAM KINZINGER, Illinois	DAVID CICILLINE, Rhode Island
MO BROOKS, Alabama	ALAN GRAYSON, Florida
TOM COTTON, Arkansas	JUAN VARGAS, California
PAUL COOK, California	BRADLEY S. SCHNEIDER, Illinois
GEORGE HOLDING, North Carolina	JOSEPH P. KENNEDY III, Massachusetts
RANDY K. WEBER SR., Texas	AMI BERA, California
SCOTT PERRY, Pennsylvania	ALAN S. LOWENTHAL, California
STEVE STOCKMAN, Texas	GRACE MENG, New York
RON DeSANTIS, Florida	LOIS FRANKEL, Florida
TREY RADEL, Florida	TULSI GABBARD, Hawaii
DOUG COLLINS, Georgia	JOAQUIN CASTRO, Texas
MARK MEADOWS, North Carolina	
TED S. YOHO, Florida	
LUKE MESSER, Indiana	

AMY PORTER, *Chief of Staff* THOMAS SHEEHY, *Staff Director*
JASON STEINBAUM, *Democratic Staff Director*

SUBCOMMITTEE ON ASIA AND THE PACIFIC

STEVE CHABOT, Ohio, *Chairman*

DANA ROHRABACHER, California	ENI F.H. FALEOMAVAEGA, American Samoa
MATT SALMON, Arizona	AMI BERA, California
MO BROOKS, Alabama	TULSI GABBARD, Hawaii
GEORGE HOLDING, North Carolina	BRAD SHERMAN, California
SCOTT PERRY, Pennsylvania	GERALD E. CONNOLLY, Virginia
DOUG COLLINS, Georgia	WILLIAM KEATING, Massachusetts
LUKE MESSER, Indiana	

CONTENTS

	Page
WITNESSES	
Mr. John Sifton, director, Asia Advocacy, Human Rights Watch	6
Ms. Evi Schueller, legal consultant, Cambodian League for the Promotion of Defense of Human Rights	15
Mr. Patrick Merloe, director, Election Programs, National Democratic Insti- tute	26
Mr. Daniel Mitchell, chief executive officer and managing director, SRP Inter- national Group	38
LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING	
Mr. John Sifton: Prepared statement	9
Ms. Evi Schueller: Prepared statement	17
Mr. Patrick Merloe: Prepared statement	28
Mr. Daniel Mitchell: Prepared statement	40
APPENDIX	
Hearing notice	62
Hearing minutes	63
The Honorable Steve Chabot, a Representative in Congress from the State of Ohio, and chairman, Subcommittee on Asia and the Pacific: Material submitted for the record	64

CAMBODIA'S LOOMING POLITICAL AND SOCIAL CRISIS

TUESDAY, JULY 9, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA AND THE PACIFIC,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 2 o'clock p.m., in room 2172 Rayburn House Office Building, Hon. Steve Chabot (chairman of the subcommittee) presiding.

Mr. CHABOT. Good afternoon, the committee will come to order. I understand the ranking member will be here in just a moment, but rather than keep everyone waiting I will go ahead and give my opening statement. We welcome our colleagues, as well as our distinguished witnesses, to the Subcommittee on Asia and the Pacific hearing this afternoon.

There is no doubt that today the Cambodian people are better off than they were in the late '70s under the Khmer Rouge when as many as 2 million Cambodians were murdered. But while the region has significantly changed since the days of the Cold War, Cambodia has taken very few steps to open its political system and move toward a more transparent and responsive regime. The past 30 years have shown that Cambodia's dictator, Prime Minister Hun Sen, has not and will not tolerate real political debate. The upcoming national elections have only underscored the deterioration of the human rights landscape in Cambodia over the course of the past few years.

On October 23, 1991, 19 countries joined together to sign the Paris Peace Agreements which offered a political settlement aimed at ending the tragic conflict and continuing bloodshed in Cambodia. It also laid out the process for building a just and democratic Cambodia anchored in human rights and the rule of law. The United Nations maintained a mission in the country until 1993 to supervise the ceasefire, prepare Cambodia for its new constitution, and help ensure that its first general elections were free and fair.

It was this agreement that planted the seeds for an environment in which the respect for human rights could be protected and could grow. Twenty years have passed since Cambodia held its first national elections, but the vision for the Cambodian people that the international community put in writing is not yet a reality. Cambodia remains consumed by a corrupt political system that is becoming more authoritarian with each passing day. Hun Sen and the ruling Cambodian People's Party do not foster democratic dis-

course or respect the fundamental freedoms that will allow the Cambodian people to live more prosperous and fulfilling lives.

Despite the large amount of foreign aid the U.S. and international community has provided to the Cambodian Government and its people for the purposes of promoting human rights, civil and political liberties, improving educational standards, combating health risks and increasing food security, Hun Sen is taking every action to make it nearly impossible for this aid to be effectively used in a political and social structure that is mired in corruption.

On July 28, Cambodia will hold its fifth election behind a false veil of democracy during which Hun Sen will win his fourth term as prime minister through the incitement of political violence, corruption and nepotism. This victory will only ensure a political, social, and economic future for the Cambodian people that is both uncertain and dire. The list of intimidating and repressive actions taken by the CPP is long. Last month they expelled 27 elected opposition legislators from the National Assembly and attempted to prohibit radio stations from broadcasting all Khmer-language foreign news. It also refuses to allow opposition leader Sam Rainsy from running in the upcoming election, has made death threats to human rights activists and organizations, and inhibits other opposition party members from running effective campaigns. In addition to severely restricting freedom of speech and association, Hun Sen has warned the Cambodian people that if they do not reelect him, civil war will return.

I commend the international community for its decision to not send election monitors to Cambodia and legitimize Hun Sen's illegitimate victory, but declaring the election not free or fair is not enough. U.S. policy toward Cambodia needs to change and the Obama administration needs to take a much tougher approach to Asia's longest ruling dictator. I intend to introduce legislation which complements a bill Senators Graham and Rubio introduced last month, urging the State Department and USAID to not support the national elections if the U.N. recommendations made in July 2012 by the U.N. Special Rapporteur on the situation of human rights in Cambodia are ignored, and political opposition parties and leaders are excluded from the election.

So far neither has happened. The legislation also calls for the U.S. to withhold foreign assistance to the Cambodian Government if the elections are not judged credible and competitive. Cutting off direct aid to the Cambodian Government, specifically foreign military financing and international military education and training funding, is a tangible action the U.S. can take to show its condemnation of the upcoming fallacious and undemocratic election. I also urge Secretary Kerry to issue a condemnation of the elections. A Department press release is not enough and will only highlight the Administration's indifference toward Hun Sen's actions and the human rights of the Cambodian people.

Today, the real question is how much leverage does the U.S. still have in Cambodia and with Hun Sen, and how can the U.S. leverage its assistance to better address the growing human rights abuses in Cambodia at a time of incredible political instability? We have seen Cambodia's political and economic ties with China significantly grow, which has impacted the effectiveness of U.S. assist-

ance to advance the rule of law, democracy and human rights. Chinese loans, infrastructure development, investment, and aid has grown alongside Cambodia's resistance to address these abuses, which calls into serious question the Administration's decision to increase military financing to Cambodia and our overall aid strategy.

I look forward to hearing from our witnesses this afternoon regarding all the issues that I mentioned. I now yield to my good friend from the American Samoa, the ranking member, Mr. Faleomavaega, for his opening remarks.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, and I also would like to offer my personal welcome to our distinguished witnesses here this afternoon.

Mr. Chairman, lately our country seems to be on a mission to stir up discord here, there and everywhere in parts of the world where we could use our allies and partners. It is my hope that in the case of Cambodia we will proceed more cautiously. When I served as chairman in this subcommittee I held two hearings about Cambodia because I believe the United States needs to make right what we have done wrong in Southeast Asia. History shows that the United States failed Cambodia miserably, yet the title of today's hearing presupposes that Cambodia is to blame for not being democratic enough for our liking. In their testimony, however, I am hopeful that our panel of esteemed human rights witnesses will advocate more for and on behalf of Cambodia in calling upon the United States, for example, to forgive Cambodia's debt.

During the Lon Nol period from 1970 to 1975, Cambodia incurred a debt of about \$276 million through the provision of the agricultural commodities from the U.S. Department of Agriculture. As of December 2011, with accrued interest applied to successor governments in Cambodia, the amount of debt now is over \$460 million with about \$437 million in arrears. Yet, Marshal Lon Nol seized power in 1970 in a military coup against Prince Sihanouk with the encouragement—with the encouragement—of the United States in order to create a buffer state for the United States forces then engaged in the war in Vietnam.

Lon Nol's government, the Khmer Rouge Republic, was chaotic, dictatorial and corrupt and dependent upon large quantities of U.S. financial assistance, including the loans which created the current debt. Marshal Lon Nol's regime was overthrown on April 1, 1975 when he fled into exile, and the United States abandoned, Mr. Chairman, abandoned Cambodia and its people. The Khmer Rouge Republic was followed by the coming to power of the Khmer Rouge led by Pol Pot, also known as Brother Number One. The Khmer Rouge was one of the most brutal regimes of the 20th century, responsible for the deaths of an estimated 1.7 million people out of a population of only about 7.5 million. Its heartless motto was, and I quote, "To keep you is no benefit, to destroy you is no loss."

As chairman of the Asia and the Pacific Subcommittee I visited Cambodia twice. No one came away from that experience without wanting to lend a helping hand. To this day I cannot erase from my mind the images of Tuol Sleng or the killing fields where babies were torn out of wombs or beaten against trees until their skulls cracked open, where men, women and children, families like yours

and mine were tortured, suffocated, skinned alive and buried alive. I am sickened by the reminders of genocide, of shoes and shirts soaked in blood that are still scattered in the killing fields of Cambodia.

According to his Excellency Cham Prasidh, Cambodia's Minister of Commerce, whom I have had the privilege of meeting, who lost both parents to the Khmer Rouge, only 69 intellectuals survived the genocide. From ashes, Cambodia has been forced to rebuild and has looked to anyone for help. In my discussion with Minister Prasidh, I was particularly struck by his words when he said to me, Eni, when you are drowning you do not care about the color of the hand that is saving you.

Sadly, history suggests that the U.S. played a role or a part in Pol Pot's rise and these days now China, not the United States, is one of the largest sources of foreign assistance to Cambodia, lending a hand of some \$800 million in aid and loans in 2006 to 2007. The United States provided a little over \$100 million in the same period. While China continues to assist, even announcing that it will spend \$9.6 billion building a brand new seaport in Koh Kong Province and a 400 kilometer railroad connecting it to a steel mill in Preah Vihear Province, and here we are pointing fingers at Cambodia.

When will we realize that Cambodia is important to U.S. security interests? When will we approach the U.S.-Cambodia relations a little more responsibly? If we are serious about human rights in a country that we failed—we failed—Mr. Chairman, so miserably, we should consider these remarks from a member of the American Chamber of Commerce who recently said, and I quote, "One way of addressing the human rights issues is to promote the investment of responsible capital."

I agree this is the way forward. I commend Chevron, Dairy Queen, ConocoPhillips, Prudential, Caterpillar, and other United States firms for the role they are playing to better Cambodia's economic lifestyle. I also commend the Bush administration for lifting a 10-year ban on direct bilateral aid to Cambodia in February 2007. And I thank U.S. State Department Special Representative for telling reporters in Phnom Penh this year, in January, the pivot to Asia is not only security focused, it is an economic focus. Because in order for us to be successful in the long term we have to be economically involved in this region.

I would suggest, Mr. Chairman, that we get economically involved by forgiving and recycling Cambodia's debt. The United States has a history of forgiving debts by countries in which there was past U.S. military involvement including some \$4.1 billion—billion—of Iraq's debt in 2004, \$24 million forgiveness of Bosnia-Herzegovina's debt in 1999, \$538 million of former Yugoslavia's debt in 2002. The United States also has a long history in Asia of using incurred debt to fund U.S. assistance programs. We forgave Jordan some \$500 million of their debt. So it is my sincere hope, Mr. Chairman, that our human rights activists will speak more for recycling or forgiving Cambodia's debt, as I believe this course of action will lead to the outcome for a better results in the economic needs of the people of Cambodia.

I welcome our witnesses, especially Mr. Dan Mitchell who traveled all the way from Cambodia as a member of the American Chamber of Commerce so that he could share with us his perspective about how important it is at having an economic relationship with Cambodia. It seems to me that we talk about human rights, these people have got to be fed. Human rights violations according to the Chinese outlook about human rights, I remember President Zemin when we visited him in Beijing and said, oh, it is very fine you talk about human rights. You know what human rights is to us? If I don't put food on the table of that family I have violated their human rights. That just in terms of somewhat of a different interpretation what human rights means to some people in other parts of the world.

I am sorry, Mr. Chairman, I have taken too much of your precious time, but I do thank you for the extra minute that you have given me. Thank you, and I look forward to hearing from our witnesses.

Mr. CHABOT. Thank you very much, Mr. Faleomavaega. We will now recognize the gentleman from North Carolina, Mr. Holding, for the purpose of making an opening statement.

Mr. HOLDING. Thank you Mr. Chairman, I have a brief statement. With the national "elections" in Cambodia slated for the end of the month, this hearing is timely to examine our involvement in the country in terms of both foreign and military assistance, and to examine the multitude of human rights concerns that have been widely reported on. And as you pointed out, Mr. Chairman, much of Cambodia's budget is funded by foreign assistance from a few nations, obviously including the United States, and what have we seen in return for all of this international investment? We see a government that has been tightening their control over the country, a rule of law that is now nonexistent, a human rights record that has been widely and justifiably criticized, and elections put on merely to placate the international community.

So I hope that the witnesses can outline today how we can more effectively leverage the dollars we provide and if we should be increasing our military assistance to Cambodia like the State Department has requested in Fiscal Year 2014, or if we should be conditioning our aid until we see progress in terms of freer elections, movement to address human rights concerns, and an increased emphasis placed on improving the rule of law. So I thank you, Mr. Chairman, and I yield back.

Mr. CHABOT. Thank you very much. The gentleman's time is expired.

I would now like to introduce our very distinguished panel here this afternoon. I will begin with John Sifton who is the Asia Advocacy director at Human Rights Watch where he works primarily on South and Southeast Asia. He previously served as the director of One World Research, a public interest research and investigation firm. Prior to that he spent 6 years as a researcher in the Asia Division at Human Rights Watch. Mr. Sifton has also worked for the International Rescue Committee on Afghanistan and Pakistan issues, and at a refugee advocacy organization in Albania and Kosovo. He holds a law degree from New York University and a

bachelor's degree from St. John's College in Annapolis. We welcome you this afternoon.

Our next witness will be Evi Schueller who has been a legal consultant for the Cambodian League for the Promotion and Defense of Human Rights in Phnom Penh, Cambodia, for over 2 years. Her primary focus is on rule of law issues and on the related harmful impact of improper land concessions on land rights. Before working for LICADHO she was counsel to the Assistant Attorney General Civil Division for the United States Department of Justice and a litigation associate with Morrison & Foerster LLP in San Francisco. We welcome you here this afternoon, Ms. Schueller.

Our next witness will be Patrick Merloe who is a senior associate and director of Electoral Programs at the National Democratic Institute for International Affairs and has over 30 years of experience in promoting citizen empowerment, governmental accountability, and public policy advocacy. He oversees the Institute's programs concerning nonpartisan citizen election monitoring and advocacy for electoral integrity, political party electoral integrity activities, constitutional law reform efforts and international election observation. Mr. Merloe has worked in more than 65 countries for NDI, focusing on conflict-sensitive states and countries that are vulnerable to authoritarian tendencies. He is a frequent public speaker and has worked with the United Nations and other governmental organizations dealing with human rights and rule of law issues. Mr. Merloe has a J.D. from the University of Pennsylvania, and completed his undergraduate education at Temple University. We welcome you here, Mr. Merloe.

Our final witness here this afternoon is Daniel Mitchell. He is the CEO and managing director of SRP International Group, an investment and advisory firm focused on developing opportunities in Asian emerging markets. Prior to joining SRP International, Mr. Mitchell was head of Strategic Planning and Mergers & Acquisitions for Ford Motor Company's Automotive Components Division, and a manager in charge of Strategic Planning for Mitsubishi Motors. He sits on the American Cambodian Business Council's Board of Governors and is the founding member of the AMCHAM Corporate Social Responsibility Committee. Mr. Mitchell holds an MBA from Miami University of Ohio, which is very close to my district, but is actually in Speaker Boehner's district. My staff director, brother, and my son graduated from that institution. I almost went there myself. I had a full football scholarship offered but went somewhere else. Still a great university.

Again, I want to thank the panel for being here this afternoon. We will begin with Mr. Sifton. The same rules will apply to all; we have a 5-minute rule. There is a lighting system. The yellow light will give you a warning that there is 1 minute to wrap up. When the red light comes on, we would appreciate it if you wrap up your testimony. Mr. Sifton, you will be our first witness this afternoon.

**STATEMENT OF MR. JOHN SIFTON, DIRECTOR, ASIA
ADVOCACY, HUMAN RIGHTS WATCH**

Mr. SIFTON. Thank you for inviting me to testify today. Many of us in the human rights community really appreciate your attention

to Cambodia which is an all too often overlooked country, seen by many to lack geostrategic significance.

Mr. Chairman, as you suggested yourself just now, Cambodia at this moment is standing on a precipice of sorts. Over 20 years after the Paris Peace Agreements, over 30 years since the mass crimes against humanity and genocide that occurred, the country's civil and political situation remains highly problematic. Human rights, democracy, the rule of law—things that were promised in the 1991 Paris Agreements remain troublingly elusive. The problem here isn't inertia or habit, it is the result of a set of particular political facts, a particular person, in fact, and a particular party—Cambodia's ruler Hun Sen and his party, the Cambodian People's Party.

Hun Sen and the CPP control almost every aspect of governance and civil life in Cambodia including the military and police forces. All of Cambodia's top military and police commanders sit on the CPP's central committee. Hun Sen, in power since 1985, has consolidated his CPP based rule so that he controls almost every lever of power in Cambodia, and no decision of any significance is made without his or his party's consent. One of the results of this situation is that Cambodia's supposed democratic governance is not, in fact, democratic.

Now given that Cambodia is set to hold elections less than 20 days from now, I thought it would be useful to provide a quick review of the last four elections to explain the context and the reality of this upcoming one, and that is what I have done in the written version of my testimony which is submitted for the record. I would note here that in the first election after the Paris Agreements in 1993, Hun Sen and his party actually lost and yet, unwilling to accept the results of the elections, he threatened to go to war with the opponents to ensure his continued leadership.

I also note the major violence in the run-up to the country's second elections in 1998, including a March 30th, 1997 grenade attack on opposition leader Sam Rainsy across the street from the National Assembly, an attack in which the FBI concluded that Hun Sen's bodyguard unit was actually implicated. And I note that in July 1997, Hun Sen carried out a coup against his co-prime minister and installed a pliant politician in his place. Do you remember this Newsweek cover from 1997? Perhaps you don't. But this is the vision of Hun Sen that we had at that time, 15 years ago.

His forces in the wake of that coup carried out a wave of violence and summary executions that led to congressional hearings like this one here in the United States, international condemnation and a disruption of aid to Cambodia. That was 15 years ago. A lot of blood was spilled, people were killed and images of bodies floating down the Mekong River were carried by media services around the world. In 2003 and again in 2008, Hun Sen and the CPP again dominated the electoral process. Then as now, they controlled the appointments, the membership of the national election committee as well as the courts. That was how it was then and that is how it is today.

At this time, the leader of the opposition, Sam Rainsy, is not even able to campaign. He has been living in exile, convicted in absentia in a politically motivated case, and he is not even on the

ballot as a candidate. And notably, the small slate of standing opposition candidates were, as you said, kicked out of the Parliament last month for spurious and politically motivated reasons. Although Sam Rainsy recently announced that he plans to return to Cambodia in 10 days' time to campaign for his party's candidates, he is likely to be arrested and jailed upon return.

The United States has already told Hun Sen and his colleagues that an election with a leader of the opposition banned from the contest and small the opposition dispersed, the legitimacy of such an election is in question. If Sam Rainsy is actually put in prison when he returns, the question is essentially answered. The election will not be a legitimate democratic exercise. What will occur on July 28th and what is occurring beforehand is an illegitimate theatrical enterprise aimed at appeasing the international community.

So the main question for the United States now is not what the Administration can do or demand in the next 19 days, but what the United States will say and do after the election. What will the United States do to address this and will they again condone what amounts to fake democracy? That is the question before us now.

I will end by essentially saying that Human Rights Watch believes that it is time for a stronger U.S. policy on Cambodia. There is a great deal that can be done to improve the situation there. The United States can use its empowerment of groups in Cambodia through USAID funding who serve as a check on Hun Sen's power. They can stand more visibly with dissidents and activists who seek to expose government abuses. And the United States can disassociate itself from Hun Sen. Cutting aid to military assistance, IMET, FMF, is a given at this point in our view. There are several other ideas that I would like to run through in the question period, but we are hopeful that Secretary Kerry, as you said, will speak himself after the election and condemn the exercise, and not just leave it to State Department spokespersons. Thank you.

[The prepared statement of Mr. Sifton follows:]



**United States Congress
House Committee on Foreign Affairs
Subcommittee on Asia and the Pacific**

**Hearing of July 9, 2013:
Cambodia's Deepening Political and Social Crisis**

**Testimony of John Sifton
Asia Advocacy Director
Human Rights Watch**

Thank you for inviting me to testify today. Human rights groups, domestic and international, appreciate your committee's attention to Cambodia, an often-overlooked country, seen without geopolitical significance.

Cambodia at this moment in history stands on a precipice. Over 20 years after peace agreements signed in Paris to end Cambodia's civil war, over 30 years since mass crimes against humanity and genocide occurred, the country's civil and political situation remains highly problematic. While basic economic and health indicators have risen over these past decades, this has been in spite of, not because of, the Cambodian government, which is deeply corrupt and continues to prioritize budgeting for security forces over basic human services. Human rights, democracy, and the rule of law—promised to Cambodians in 1991 by the Paris agreements and signed by the United States and 17 other nations—remain elusive in Cambodia.

The problem is not one of habit or inertia. Rather, it is the result of particular political facts—a particular person and a particular party: Cambodia's ruler, Hun Sen, and his party, the Cambodian People's Party.

Mr. Chairman, you explained the issue succinctly in a hearing earlier this year, when questioning Assistant Secretary of State Joe Yun, when you said: "Hun Sen's party, the Cambodia People's Party, CPP, controls almost every aspect of governance and civil life in Cambodia, including the military and police forces." As you also noted: "Every single top military commander also sits on the CPP's central committee."

That is exactly right. Hun Sen, who has been in power since January 1985, has been allowed to consolidate his CPP-based rule so that he controls almost all levers of power. No decision of any significance is made without his or the party's assent.

And one of the results of this situation is that Cambodia's supposed democratic governance is not, in fact, democratic.

Given that Cambodia is set to hold elections less than 20 days from today, it is useful to provide a quick review of the last four elections, to explain the context and the reality of the upcoming one.

In 1993, in the first election after the Paris Peace Agreements, Hun Sen and his party actually lost. At this point in time, it should be noted, Hun Sen had already been Prime Minister for eight years, and the CPP had ruled for 14 years. Unwilling to accept the results of the U.N. administered elections, Hun Sen threatened to go to war with opponents to ensure his continued leadership. The international community, fearful of a resumption in hostilities less than two years after the Paris agreements and desperate to claim success in the post-conflict process, capitulated. At the barrel of a gun, Hun Sen became a "co-prime minister" of Cambodia and the CPP held on to control of the military and police.

In the run-up to the country's second elections in 1998, on March 30, 1997, opposition leader Sam Rainsy was the target of a grenade attack in a public park across the street from the National Assembly. Sixteen people were killed and 150 injured. Among the injured was a US citizen, so the FBI was involved in an investigation of the attack, and it should be noted that the FBI concluded that Hun Sen's bodyguard unit was implicated in it, a direct implication that Hun Sen himself had directed the attack.

The attacks by Hun Sen did not make the opposition falter, however. And having failed to cow his political opponents into submission, in July 1997 Hun Sen carried out a bloody coup against his co-prime minister, installing a pliant politician in his place and ensuring control of the electoral machinery for the 1998 elections. Senior leaders in the CPP opposed military action, but Hun Sen ignored them. His forces carried out a brutal wave of violence and summary executions that led to congressional hearings here in the United States, international condemnation, and a disruption of aid to Cambodia.

At the time, the situation was so dire—and Hun Sen's willingness to use force to remain in power so clear—that a senior State Department official visiting Cambodia on the eve of the elections asked one of my colleagues, rhetorically, why anyone even wanted the election to proceed, given that it would likely result in more violence and, even if the opposition won the vote, Hun Sen and the CPP would not relinquish power.

And that's exactly what happened. A lot of blood was spilled, people were killed, and images of bodies floating down the Mekong River were carried by media services around the world.

The election proceeded and, not surprisingly, Hun Sen and the CPP "won". When one member of the national election commission asked for the ballots from a large province to be produced for a recount, he was threatened with death and went into hiding. The opposition led massive street protests that paralyzed Phnom Penh and delayed formation of a new government for months. But in the end the United States and other countries pressured the opposition to vote in a new government with itself as a junior partner.

In 2003, and again in 2008, Hun Sen and the CPP again dominated the electoral process. Then as now, the CPP controlled appointments and membership of the National Election Commission, making it a deeply biased body. It controlled the courts that would ostensibly adjudicate election disputes.

This is how it was then – and this is how it is today. The CPP controls almost all state and private television and radio stations, ensuring a constant stream of pro-government propaganda and an equal stream of vitriol about the opposition. The CPP publicly tells communities that they will be rewarded if they vote for the party and penalized if they vote for the opposition through the withholding of state resources for things like schools, health clinics, and roads. Senior military and police officials openly campaign for the CPP in defiance of Cambodian law. With the country's long history of political violence, one can imagine what a poor villager in a remote area thinks when a general shows up and tells him or her who to vote for.

Neither the 2003 nor the 2008 election were considered by observers to be free and fair or to have met international standards. The CPP increased its dominance in both elections, soaring past the two-thirds majority needed in the National Assembly to amend the constitution.

Our latest assessment and that of other independent observers is that the same structural problems related to the election commission, courts, media, and use of state resources pervade the electoral process. The only good news to report is that the CPP has engaged in much less violence than in previous years. This appears to be because it believes that its control over the situation is so complete that violence is not necessary.

Indeed, unlike in the last election, the leader of the opposition, Sam Rainsy, is not able to campaign since he is living in exile, convicted in absentia in a politically motivated case. And he is not on the ballot as a candidate. Moreover, the small slate of standing opposition candidates currently in parliament were kicked out of Cambodia's parliament last month for spurious and politically motivated reasons, rendering the opposition's powerlessness complete.

The United States has told Hun Sen and his colleagues that an election with the leader of the opposition in exile, and with its small opposition bloc in parliament dispersed, calls into question the legitimacy of the election – and indeed it does.

A simple test for any observer who has had the good fortune of living in a democratic country is this: would you accept an election as “free and fair” or “credible,” or whatever euphemism is used, given the facts above?

Human Rights Watch does not accept the premise that an election like this is “good enough” for Cambodians.

What will occur on July 28, and what is occurring beforehand, is a deeply illegitimate enterprise, aimed at appeasing an international community that is all too often willing to play along with Hun Sen's theatrics for whatever diverse or trivial reasons.

The main question for the United States now is not what the administration can do or demand in the next 19 days before the election, but what the United States will say and do after the election.

Will the United States again condone this charade?

Again, Hun Sen has been in power since 1985—over 10,000 days as Cambodia's head of government. He is among the top five longest ruling world leaders, and Asia's longest serving strongman. He has endured since 1985 seven US ambassadors and five US presidents. He has said he wants to be in power for many more years.

* * * * *

Human Rights Watch believes it is time for a stronger U.S. policy on Cambodia.

Human Rights Watch believes the United States can still do a great deal to improve the situation there.

The United States can increase its empowerment to groups in Cambodia who serve as a check on Hun Sen's unaccountable power.

The United States can stand more visibly with dissidents and activists who seek to expose government abuses.

And the United States can disassociate itself from Hun Sen, who regularly showcases his supposed friendship with the US government as a way of belittling and intimidating political opponents. It should be noted that Hun Sen uses photographs of himself with President Obama, taken during the President's trip to Phnom Penh last November, in campaign materials and other promotional material for the CPP.

Another smart policy initiative is for the United States to cut its support to the Cambodian military, which serves no important strategic purpose of the United States and merely gives the Cambodian military – which is utterly a creature of the CPP – further undeserved legitimacy.

But most important of all is for the US to take the lead in working with the European Union, Japan, and even ASEAN governments to make it clear that the days of the strongman are over, that one-man and one-party rule are not acceptable in the 21st century, that massive corruption that takes resources from the poor to benefit the regime will be met with a strong policy response by bilateral and multilateral donors, and that the lack of rule of law and human rights will continue to retard meaningful progress in Cambodia.

This will only happen with consistent and high level engagement by senior US officials—US officials who keep the pressure on Hun Sen and the CPP and avoid sending the kind of mixed messages we've seen so often over the past 20 years.

The Obama administration missed an important opportunity in November last year, during the East Asia Summit, held in Cambodia. As we said at the time, President Obama should have made a strong public statement while in Phnom Penh about human rights and democracy. That he and his team missed that opportunity was disappointing not only to us but to many human rights and civil society groups in Cambodia.

After July 28, however, the Obama administration can start to make amends by speaking out loudly about the democratic deficit in Cambodia, and encouraging other world leaders to do so too. We are hopeful that Secretary Kerry too, with his long experience in

Cambodia and personal relationship with Hun Sen, will speak clearly and unequivocally about the need for change in Cambodia.

There is an increasing realization in the U.S. government that it's time to stop letting Hun Sen get a pass; that it's time for the United States to change its policies and begin an approach more like what we have discussed here today.

Human Rights Watch hopes that this hearing, and this committee's continued interest in Cambodia's future, can serve as an incentive for the U.S. government to do so.

Thank you.

Mr. CHABOT. Thank you very much, Mr. Sifton.
Ms. Schueller, you are recognized for 5 minutes.

**STATEMENT OF MS. EVI SCHUELLER, LEGAL CONSULTANT,
CAMBODIAN LEAGUE FOR THE PROMOTION OF DEFENSE OF
HUMAN RIGHTS**

Ms. SCHUELLER. Thank you.

Mr. Chairperson and members of the subcommittee, thank you for inviting the Cambodian League for the Promotion and Defense of Human Rights, LICADHO, to participate in this important hearing. My testimony will summarize key points from LICADHO's written statement.

The past couple of years have seen a deterioration of the human rights landscape in Cambodia. Much of this trend can be linked to the significant acceleration and the issuance of long term, large scale land leases through 2012. As of May 2013, over 2.2 million hectares have been granted to private firms in the form of such leases, the vast majority of which have been issued in disregard of safeguards expressly provided for in the Cambodian land laws. Since 2003, over 400,000 Cambodians have been affected by land disputes.

Human rights defenders, particularly those working in land rights, have been targeted for harassment, threats, unjustified criminal charges and violence. State forces including the military continue to provide assistance and protection to private companies involved in land disputes with villagers, as well as taking part in forceful and occasionally lethally violent evictions. The following is a non-exhaustive list of recent violence perpetrated by members of the military.

On December 12th, 2011, a commanding military officer acting as a security guard for a private company shot at a group of villagers injuring three. The villagers had been demonstrating against the clearing of farmland by the company. On January 18, 2012, military personnel acting as security guards for TTY Company opened fire on a group of civilians who had gathered to prevent clearing of their farmland by the company's excavators. Four villagers were injured by bullets. Four men were eventually convicted and sent and sentenced to a paltry 2 to 3 years with each sentence also significantly suspended.

On April 26, 2012, well known environmental activist Chut Wutty was shot dead in a remote corner of the Cardamom Mountains while investigating illegal logging. Military police officer In Rattana was also killed by gunfire and two other members of the military were present. Government officials put forward an array of bizarre and contradictory explanations for the death before finally pinning the shooting on Rattana, based on an implausible scenario which was never substantiated with credible evidence. And on May 16, 2012, a large military operation saw hundreds of soldiers, military police and police, aided by a helicopter, storm a remote village in Kratie Province. Authorities claim the operation was organized to arrest three ringleaders in an alleged succession plot. Villagers, meanwhile, say that the attack was motivated by an ongoing land dispute with Casotim, a firm that claims villagers are infringing on its large land concession. The operation resulted in

the shooting death of a 14-year-old girl, Heng Chantha. There has been no indication of any investigation into the shooting, nor have there been any arrests.

Events over the past month have also significantly undermined Cambodia's upcoming national election and are threatening its legitimacy. LICADHO has investigated numerous attempts to intimidate or obstruct members and supporters of opposition parties at the commune and village levels. In the first 5 months of 2013, a total of 18 cases of politically motivated intimidation were documented.

In June of this year, the National Assembly's Permanent Committee, which is comprised entirely of ruling Cambodian People's Party members, stripped all opposition party members of their parliamentary status as noted. This left the legislative body with an unconstitutionally small membership of just 94. Regardless, the body has continued to pass politically motivated legislation and to begin consideration and debate of the country's 2014 budget. The removed Parliamentarians have also been stripped of their parliamentary salaries and immunity.

In late June, the government also issued two separate orders seeking to drastically censor the media. The more expensive of the two orders was revoked on June 29th, following loud public outrage. We are extremely grateful to the United States and its Ambassador to Cambodia, William E. Todd, for taking an immediate and firm public position against the ban, an act which no doubt played a large role in the ban's reversal. The earlier order, however, issued on June 21, also bans all media from broadcasting foreign reports regarding opinion polls, surveys and election results. This ban remains in place and will take effect on July 23, 5 days before election day.

In light of these and other abuses as described in our written statement, we respectfully suggest that the United States review its military aid and cooperation with the Cambodian military to take into consideration the deteriorating conditions of human rights in Cambodia. Thank you.

[The prepared statement of Ms. Schueller follows:]



Written Statement presented by Ms. Eva Schueller, Legal Consultant for the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), to the United States House of Representatives, Committee on Foreign Affairs.

Hearing entitled, "Cambodia's Looming Political and Social Crisis," before the Subcommittee on Asia and the Pacific, on Tuesday, July 9, 2013, at 2:00 p.m.

Introduction & Executive Summary

The Cambodian League for the Promotion & Defense of Human Rights (LICADHO) is a Cambodian NGO operating since 1992. Employing more than 140 staff, with offices in Phnom Penh and 12 provinces out of 24, LICADHO investigates and documents rights violations; provides legal, medical and other assistance to victims and affected communities; conducts human rights campaigns and events with unions, grassroots groups and communities; and advocates for tangible improvements in rule of law in Cambodia.

The past couple of years have seen a marked deterioration of the human rights landscape in Cambodia. The issuance of long-term, large-scale land leases has accelerated significantly, while the safeguards expressly provided for in Cambodian land laws have continued to be almost entirely ignored. Human rights defenders have been targeted for harassment, threats, unjustified criminal charges and violence, particularly when their activism has related to land rights.

The nation's corrupt and politically-influenced justice system has prosecuted more and more high-profile government opponents, while State personnel and well-connected individuals have continued to enjoy almost unfettered impunity.

Military Abuses in Relation to Land Grabbing

State forces, including military soldiers, continue to provide assistance and protection to private companies involved in land disputes with villagers, as well as taking part in forceful - and occasionally lethally violent - evictions. The following is a non-exhaustive list of recent violence perpetrated by members of the military.

On December 12, 2011, a commanding military officer from Battambang's Phnom Preuk district shot at a group of villagers,

Online: licadho-cambodia.org • www.facebook.com/licadho • www.twitter.com/licadho

Provincial Offices: Battambang: (053) 952 828 • Banteay Meanchey: (054) 958 861 • Koh Kong (035) 936 116 • Kampong Cham (042) 941 464 • Kampong Chhnang (026) 988 637
Kampong Speu: (025) 987 220 • Kampong Thom: (062) 961 292 • Kampot (033) 932 863 • Pursat (052) 951 496 • Siem Reap: (063) 964 066 • Sihanoukville (034) 933 716 • Svay Rieng (044) 945 833



injuring three. The villagers had been demonstrating against the clearing of farmland by Soun Mean Sambath company, which was granted a 4,095 hectare Economic Land Concession (ELC) in the area in April 2011, resulting in the ongoing land conflict with residents. The military officer was acting as a security guard for the company.

On January 18, 2012, military personnel acting as security guards for TTY Co. Ltd opened fire on a group of civilians who had gathered to prevent clearing of their farmland by the company's excavators in Kratie's Snuol district. Four villagers were injured by bullets. None of the authorities present during the shooting proceeded to arrest the perpetrators at the time. Four men - three security guards and TTY's general manager - were quietly tried in late December 2012, and convicted of illegal use of firearms and intentional acts of violence with aggravating circumstances. Their sentences ranged from two to three years, though in each case the sentence was suspended for between six months and a year.

On April 26, 2012, well-known environmental activist Chut Wutty was shot dead in a remote corner of the Cardamom Mountains while investigating illegal logging. Military police officer In Rattana was also killed by gunfire, and two other members of the military were present. Government officials put forward an array of bizarre and contradictory explanations for Wutty's death, before finally pinning the shooting on Rattana, based on an implausible scenario which was never substantiated with evidence, and closing the case.

On May 16, 2012, a large military operation saw hundreds of soldiers, military police and police, aided by a helicopter, storm a village in Kampong Domrey commune, Kratie province. Authorities claim the operation was organized solely to arrest three ringleaders in an alleged "secession" plot. Villagers, meanwhile, say that the attack was motivated by an ongoing land dispute with Casotim, a firm that claims villagers are infringing on its large land concession. The operation resulted in the shooting dead of a 14-year-old girl, Heng Chantha. There has been no indication of any investigation into this shooting, nor have there been any arrests. The government has dismissed the killing, calling it an accident.

►►► **Recommendations:**

We respectfully suggest that the United States urge the Royal Cambodian Armed Forces (RCAF) to issue a written order calling for all military personnel not to take part in civilian land conflicts. We also suggest that the United States review its



military aid and cooperation with the Cambodian military to take into consideration the deteriorating conditions of human rights in Cambodia.

Elections

Events over the past month have significantly undermined Cambodia's July 2013 National Assembly Election and are threatening its legitimacy.

Key opposition party leader from the Cambodia National Rescue Party (CNRP), Sam Rainsy, remains in exile, and the CNRP deputy leader, Kem Sokha, has been under a character assassination campaign which has included a criminal complaint for defamation and multiple lawsuits. The Committee for Free and Fair Elections in Cambodia (Comfrel), an association which includes LICADHO as a member, said in March 2013 that Cambodia's fifth National Assembly elections in July are likely to be the least fair in the 20 years since the United Nations organized the historic 1993 poll. Comfrel concluded that Cambodia's democracy is "increasingly fragile" and "showed trends toward authoritarianism."

Pluralism has degraded significantly since Cambodia's UN-sponsored elections in 1993. The CPP currently holds 1,592 of 1,633 commune chief positions nationwide, and 90 of 123 National Assembly seats. The number of National Assembly seats won by the CPP has consistently risen with each election, from 58 seats in 1993, to 64 in 1998, 73 in 2003, and 90 in 2008. Voter turnout and voter registration numbers have fallen with each election.

These numbers should not be taken merely as a sign of increasing CPP support. Voting irregularity is rampant, and increasing with each year. An independent audit of 4,900 voters conducted in 2013 found that 10.4% of registered voters simply did not exist, and that at least 9% of past voters were unfairly removed from voting lists. The audit was conducted by the National Democratic Institute (NDI) and the Neutral and Impartial Committee for Free and Fair Elections in Cambodia (Nicfec), and covered voters in all 24 provinces. For the 2008 elections, only 7.7% of names on the election rolls were found to not match real people. The audit also found that birth dates for voters only matched election rolls 63% of the time, compared to 78% in 2008. This alone could lead to hundreds of thousands of voters being turned away when they go to vote in July.

LICADHO has also investigated numerous attempts to intimidate or obstruct members and supporters of opposition parties at the commune and village levels. In the first five months of 2013, a



total of 18 cases of politically-motivated intimidation were documented. In recent weeks, LICADHO noted a sharp increase in destruction of opposition party sign boards, especially in Svay Rieng, Prey Veng, Kandal, and Takeo provinces. Such acts have often been preceded by verbal threats from political activists and/or local officials affiliated with the ruling party.

In February for instance, authorities in a village in Kampong Chhnang province threatened more than 500 villagers that their names would be removed from voter lists if they attended a public forum with Kem Sokha. A number of villagers were pressured into thumbprinting documents which they did not understand. In March, a CPP deputy village chief and an accomplice attacked a CNRP activist with a knife and a wooden stick after the victim started to discuss politics in a village of Svay Rieng province. The activist escaped unharmed. And when a CNRP member put up a party signboard in another village in Svay Rieng province in April, a machete-wielding CPP supporter destroyed the signboard and threatened the activist.

As the election nears, more election-related machinations have come to light. In June of this year, the National Assembly's Permanent Committee, which is comprised entirely of ruling Cambodian People's Party members, stripped all 27 opposition party Members of Parliament (MPs) of their parliamentary status, as well as two additional non-ruling party affiliated MPs. As per Cambodia's Constitution, because this expulsion took place within 6 months of a national election, the seats left empty by the purged legislators were effectively terminated and will remain so under until after the election.

Cambodia's Constitution, however, also states that the National Assembly (NA) - the country's key legislative organ - must consist of at least 120 members. With all opposition party members unseated without possibility of replacement, the NA now consists of just 94 members. Regardless, the body has continued to pass politically-motivated legislation and to begin consideration and debate of the country's 2014 budget. The removed parliamentarians have also been stripped of their parliamentary salaries and immunity, leaving them far more vulnerable to politically-motivated lawsuits or trumped-up criminal charges during election campaign.

In late June the government also issued two separate orders seeking to drastically censor the media in the run up to the elections. The more expansive of the two orders issued by the Ministry of Information prohibited FM radio stations from broadcasting all Khmer-language foreign news programs and from reporting on foreigners playing any role in the campaign. It was



initially designed to last through election day, but was revoked on June 29 following loud public outrage over the information black-out. We are extremely grateful to the United States and its Ambassador to Cambodia, William E. Todd, for taking an immediate and firm public position against the ban - an act which no doubt played a large role in the ban's reversal.

An earlier order, issued on June 21, also bans all media from broadcasting foreign media reports regarding opinion polls, surveys and election results. This ban remains in place, and will take effect on July 23, five days before election day.

Local Khmer media are not as free to report on sensitive issues as their foreign counterparts, in part due to their vulnerability to domestic judicial threats. This can result in self-censorship. Ownership of local media is also dominated by the ruling party and television networks are entirely controlled by the ruling party. As a result, foreign-produced Khmer-language radio, such as Voice of America and Radio Free Asia, remain the predominant sources of reliable information for the majority of the Cambodian population.

Perhaps most alarmingly, the past week has seen 13 individuals working for outspoken local human rights NGOs receive death threats expressly referring to their activism. Twelve of the threats were delivered over the phone from a man identifying himself as a Colonel, which is a ranking in both Cambodia's military and police forces.

►►► **Recommendation:**

We suggest that the United States consider these recent attacks on Cambodia's fragile democracy and review its aid package as noted above.

Land Rights and Tenure

As of May 2013, over 2.2 million hectares have been granted to private firms in the form of long-term leases, mostly through the country's Economic Land Concession (ELC) scheme. In just the half of the country where LICADHO has offices, land grabbing has affected over an estimated 400,000 Cambodians since 2003, helping to create a growing underclass of landless villagers with no means for self-sustenance. The vast majority of, if not all, ELCs have been issued in violation of either Cambodia's 2001 Land Law, its Subdecree on ELCs, or both. The laws' requirements regarding size, prior Environmental and Social Impact reports, prior consultations and consent of affected communities, transparency, and fair and adequate compensation have been routinely ignored.



Efforts to enforce the requirements in civil lawsuits have been met with years of court inaction or retaliatory criminal charges.

In late 2012, the UN Special Rapporteur on the situation of human rights in Cambodia Surya P. Subedi assessed the impact of land concessions in a detailed report, and concluded that "[t]here are well documented serious and widespread human rights violations associated with land concessions." He went on to state that "the overwhelming conclusion drawn from petitions, letters, studies, peaceful protests, violent demonstrations, legal complaints, land-dispute statistics and my own direct observations is that land concessions are only benefiting a minority." The Special Rapporteur questioned the impact of concessions on Cambodia's long term economic and political stability.

The government has asserted that Cambodia's land problems have been addressed by the Prime Minister's May 2012 directive suspending new ELCs and mandating a review of existing ELCs. Both aspects of the directive, however, have been problematic. According to the Cambodian government, any ELC that was in some undefined stage of private "negotiations" prior to the directive could continue through to issuance. Given the wholesale lack of transparency surrounding the ELC process, this vague exception allowed for at least 16 new ELCs to be granted after the purported ban, totaling well over 80,000 hectares.

Similarly, LICADHO is unaware of any systematic review taking place, as required under the directive, and none of the problematic concessions repeatedly detailed in reports have been cancelled. On the contrary, in July 2012, the government published a list of ELCs that revealed that two large problematic concessions that had been revoked in 2011 had actually since been reinstated.

More importantly, the May 7 directive does nothing to address past violent forced evictions and rights violations such as crackdowns on demonstrations and arbitrary criminal prosecutions. Nor does it offer any compensation or legal remedies to assist the hundreds of families who continue to suffer as a result of losing their homes and/or their farmland to previously awarded concessions. The directive also does not address ongoing abuses such as exploitative labor conditions, environmental degradation and threats to water supplies, and the refusal to allow residents free access to community forests. Most egregiously, multiple reports have recently confirmed the extensive use of child labor on certain concessions.

In response to increasing outcry over land conflicts, and as a pre-election strategy, the Prime Minister announced a new land



titling scheme in June 2012, as a follow up to the earlier directive on ELCs. The scheme involves over 2,000 student volunteers dressed in military uniforms, who have since crisscrossed the country to measure land and issue titles. While a push to expedite the issuance of land titles is laudable in theory, the program completely bypassed established state institutions set up explicitly to perform such duties. The program is also being implemented in a secretive manner, with no provisions for independent monitoring, with civil society organizations explicitly told to stay away. There have been numerous credible reports of landholders, especially in indigenous communities, being intimidated or tricked into accepting terms dictated by the volunteer students. Such individual titles undermine extensive efforts to protect indigenous communities through communal land titling. There are also credible reports of landholders being told their new titles would be revoked if the ruling party loses the elections, or being told their official title would only be delivered after a successful election. Exclusions from adjudication have also been documented, especially in Phnom Penh.

Most notably, the Prime Minister has publicly asserted that his land titling program would disappear if his party was not re-elected, and that titles issued as part of the program would be revoked. This highlights one of the most glaring flaws of the ad hoc titling program: it is privately funded by the Prime Minister and his party allies, and is not a government program in the traditional sense of the word.

►►► **Recommendations:**

We respectfully suggest that the United States urge the Cambodian government to conduct a transparent and publicly disclosed land demarcation/classification process as soon as possible, and to bring the land titling program back within a relevant state institution, where it belongs. There is still no national registry of state public versus private land. The confusion over classifications perpetuates conflict and confusion.

We also ask that the United States renew its calls for a genuine end to forced evictions, and for fair and adequate compensation as guaranteed by Cambodian and international law to those who have already been forcibly displaced.

Lack of Rule of Law and Human Rights Defenders

Recent years have seen multiple high profile examples of a complete failure to adhere to rule of law throughout Cambodia's justice system. In reality, the role of the justice system, in



LICADHO's opinion, is still by large to perpetuate impunity for State personnel and their associates; persecute political opponents and other critics of the government; and protect the economic interests of the rich and powerful. Given the lack of progress made in judicial reform over the past 15 years, there is no reason to believe that the Cambodian government's repeated promises of reform are sincere.

Corruption and political interference in the police and judiciary are still the major obstacles to rule of law in Cambodia. The gravest of crimes - including murder, torture, rape, and trafficking of woman and children - continue to go unpunished if the perpetrators have money or influential connections. In particular, State personnel - including government officials, police and military officers - and their families enjoy a high level of impunity to commit crimes and abuses, both in the course of their duties and in their private time. The higher-ranking an official, the more protection from prosecution he or she enjoys.

The climate for human rights defenders in particular has soured dramatically since 2009, creating the country's worst human rights environment in more than a decade. The year 2012 was particularly bad. In April, environmental NGO leader Chhut Wutty was killed in the middle of the forest while investigating forestry crimes with journalists. Wutty's murder was followed by a 20-year prison sentence against independent radio station owner Mam Sonando in October in a blatantly political case dictated by the Prime Minister over national television. Sonando's release at the appellate level highlighted the political and baseless nature of the original conviction, as the court suddenly switched the charges to a lesser crime that had never been discussed prior to the verdict announcement. Numerous high-profile NGO staff were also harassed by the courts. And at least 17 leaders from Phnom Penh communities facing eviction spent time in prison on spurious charges related to their activism. At least ten human rights defenders remain in prison.

Members of Phnom Penh's Boeung Kak Lake community, who are involved in a long-running land dispute with a company run by a ruling party Senator, continue to be physically and judicially harassed by authorities. Leading Boeung Kak activist Yorm Bopha was arrested in September 2012 and convicted in December on charges of causing "intentional violence." She received a sentence of three years. There is no evidence - including from government witnesses - that Bopha physically harmed anyone. She was, however, a key leader in the movement calling for the release of the Boeung Kak 15, a group of activists from the Phnom Penh community that were imprisoned on false charges earlier in 2012. The Prime Minister has openly weighed in on the case,



claiming Bopha was a simple perpetrator and not a political prisoner, but it is clear that authorities targeted her for her activism. Bopha was named an Amnesty International Prisoner of Conscience in late 2012. Her appeal was unsuccessful, though the last year of her sentence was suspended. She remains in prison pending a review by the Supreme Court.

The case of Chhouk Bandith, a former municipal governor who in February 2012 brazenly shot at a crowd of striking garment workers, injuring three, in Svay Rieng province, is another example of ongoing impunity for well-connected officials. The charge against Bandith, a woefully inadequate allegation that he unintentionally caused injury, was actually dropped in December 2012, but reinstated by the Court of Appeal in March 2013. Bandith failed to appear for his trial in mid-June 2013, and was convicted and sentenced to a mere 1.5 years in prison. He has not yet been arrested.

Finally, the recent re-arrest of Born Samnang and Sok Sam Oeun - scapegoats in the 2004 murder of union leader Chea Vichea - was a shocking setback. The pair, widely acknowledged to have been framed, had been freed in December 2008 by the Supreme Court, in a decision which ordered further investigation into the killing amid extensive evidence of their innocence. The Court of Appeal reheard the case in November 2012, but prosecutors offered no new evidence. Nonetheless, the appeal judges found Born Samnang and Sok Sam Oeun guilty again and ordered them back to prison to serve the remainder of their 20-year sentences.

►►► **Recommendations:**

We respectfully suggest that the United States urge the Cambodian government to take effective action to improve the independence and impartiality of its legal system and to conduct serious investigations into unresolved grave human rights violations, including the assassinations of politicians, journalists and trade unionists, and bring the persons responsible to justice. Specifically, we suggest calling for the immediate release of Born Samnang and Sok Sam Oeun as a first step towards combatting impunity.

Mr. CHABOT. Thank you very much.
Mr. Merloe, you are recognized for 5 minutes.

STATEMENT OF MR. PATRICK MERLOE, DIRECTOR, ELECTION PROGRAMS, NATIONAL DEMOCRATIC INSTITUTE

Mr. MERLOE. Thank you Mr. Chairman and members of the committee.

Thank you for the opportunity to address the conditions in Cambodia leading up to the crucial July 28th elections. I will briefly summarize my written submission to the committee and ask that it be included in the record.

Mr. CHABOT. Without objection, so ordered. Please pull the microphone a little bit closer too, just to make sure everybody in the room can hear you.

Mr. MERLOE. Thank you. Since the beginning of Cambodia's 1992 transition, NDI has been involved in a series of programs that covers a range of issues with activists, political parties, and institutions in Cambodia to help create democratic governance and respect for human dignity. Though there has been progress in some areas, Cambodia's government is mired in a corrupt, semi-authoritarian political system, while Hun Sen and the ruling CPP have stunted Cambodia's democratic development even though they receive large amounts of international aid.

The international community in our view therefore needs to intensify support of Cambodians who are seeking and striving for democracy and human rights, while making it clear that a Cambodian government that lacks democratic legitimacy is a threat to nation's stability and cannot be treated as a reliable partner. Otherwise, the spirit as well as the provisions of the 1991 Paris Peace Agreements will ring hollow.

Mr. Chairman, Cambodia's electoral process again is not measuring well against international standards. Cambodia's National Election Committee, the NEC, is not an independent and impartial body. Recommendations put forward last year by the U.N. Special Rapporteur on Cambodia, as you noted, are important for ensuring democratic elections but have largely remained unaddressed, which casts a shadow across the upcoming polls. While violence is less of a factor and concern than it has been in past Cambodian elections, the threat of violence is still a factor.

That Prime Minister Hun Sen threatens civil war and the return to a Khmer Rouge-like era if citizens vote for members of the opposition is an illustration of this. He has repeatedly attacked CNRP vice president Kem Sokha, even accusing him of pedophilia and statutory rape, while among other things, Sokha faces charges of defamation for calling the CPP's campaign dirty, an ironic and illuminating fact. The CNRP president, Sam Rainsy, as you have noted, is forced into self-imposed exile in the face of a politically motivated prison sentence. Nonetheless, he has recently pledged to return to Cambodia.

In June, as was noted by my colleague, an all-CPP parliamentary committee voted to remove all opposition members from the National Assembly. That is the antithesis of an inclusive political process and reflects on the electoral environment. All television stations are affiliated with the CPP, while the opposition's media out-

reach is limited to a small number of independent radio stations, and these too are under threat.

Mr. Chairman, serious flaws in Cambodia's voter registry create real potentials for both illegal voting and disenfranchisement of a large number of qualified voters. In February, NDI and two Cambodian civil society organizations known as NICFEC, and the Centre for Advanced Studies, conducted an impartial, systematic audit of the voter registry. The voter registry audit found that the registration rate has decreased by 5 percent since 2008, which contrasts starkly with the NEC's claim that 101.7 percent of the eligible population is on the voter roll, a dubious statistic.

While approximately 81 percent of the people on the roll are valid, about 18 percent of the names are invalid. That creates the potentials for ghost voting, that is, using the invalid names to cover for manipulated, illegal voting or for underage illegal voting and other impersonation. In contrast, NDI found that 10.8 percent of the eligible citizens who think that they are on the registry are not. That creates the potential for significant disenfranchisement. And in addition, the voter registration audit found that numerous polling stations in which more than half of the voters have been deleted from 2012; the over-deletion itself creates the possibility for significant disenfranchisement that could undermine electoral integrity. Rather than using this information from the voter registration audit and other independent sources, the government has reacted hostilely.

Mr. Chairman, in the face of sustained resistance to reform by the ruling party, supporting Cambodians who are seeking democracy and human rights and a better material life is all the more important. The current political situation calls for the redoubling of such efforts going forward. Thank you Mr. Chairman.

[The prepared statement of Mr. Merloe follows.]

**Statement by Patrick Merloe,
Senior Associate and Director of Electoral Programs
National Democratic Institute for International Affairs (NDI)**

before the

**U.S. House of Representatives Committee on Foreign Affairs
Subcommittee on Asia and the Pacific**

July 9, 2013

Hearing on “Cambodia’s Looming Political and Social Crisis”

Mr. Chairman and members of the Subcommittee:

Thank you for the opportunity to appear before you today to testify on the state of affairs in Cambodia. It has now been 20 years since the United Nations-led transition and the country’s UN-administered elections. Yet, despite progress in some areas, Cambodia remains mired in a corrupt, quasi-authoritarian political system that has persisted even though the country receives massive amounts of aid to improve its governance.

While many other developing countries have dramatically improved the responsiveness of their democracies over the past two decades, largely as a consequence of citizens demanding greater transparency and accountability, Prime Minister Hun Sen and the ruling Cambodian People’s Party (CPP) have instead limited, rather than encouraged, democratic discourse. The international community therefore needs to enhance even further its support of Cambodians who are striving for democracy and human rights, while making it clear that a Cambodian government that lacks democratic legitimacy is a threat to the nation’s stability and cannot be treated as a reliable partner.

Cambodia has experienced significant decline over the past several years with regard to freedom, human rights, and political space. Now, more than ever, a robust civil society, an informed electorate, and a level playing field for political parties are essential to protecting the rights of all Cambodians. It is therefore critical that the U.S. government continue to support Cambodian democrats and civil society advocates in fulfilling the aspirations of the Cambodian people for an accountable, transparent and democratic leadership that respects fundamental freedoms and delivers a better life for citizens.

One important step in improving Cambodia’s governance is addressing the problems surrounding the country’s elections. There is much more to developing democracy and respecting human rights than organizing genuine elections; nonetheless, authentic elections are a prerequisite for democracy and require the free exercise by citizens of a broad range of human rights. The character of an election process reveals much about whether a government accepts that its authority derives from the free expression of the will of its people, a precept enshrined in the Universal Declaration of Human Rights.

While violence is less of a concern than it has been in past Cambodian elections, it is still a factor, and significant challenges remain to the delivery of credible and fair elections for the country's citizens. Opposition leaders face retaliation for their participation in the political process. For example, Kem Sokha, vice president of the Cambodian National Rescue Party (CNRP), has been threatened with prosecution by the government, and a politically-motivated conviction with an 11-year prison sentence has led CNRP President Sam Rainsy to self-imposed exile. More broadly, the intimidating rhetoric of and actions by the CPP, severe restrictions on freedom of speech and association, and the failure of the partisan National Election Committee (NEC) to address systemic problems in the election process threaten the quality and legitimacy of the elections scheduled to take place on July 28.

The political environment in Cambodia has grown increasingly tense in recent months, with the CPP taking measures to reduce the space for political discourse. In early June, a parliamentary committee made up entirely of CPP members voted to remove all opposition members from the National Assembly, an action the U.S. State Department said "deprives the Cambodian people of their voice and hurts the democratic process in Cambodia." Their removal paved the way for the rapid passage of a politically-motivated bill aimed at discrediting the opposition and removed the opposition MPs' immunity, exposing them to subsequent lawsuits and criminal charges.

Prime Minister Hun Sen has taken to the airwaves to threaten civil war and a return to a "Khmer Rouge-like" era if citizens vote for members of the opposition. He has also repeatedly attacked and made unsubstantiated allegations against opposition leader Kem Sokha, including accusations of pedophilia and rape. Dozens of protests against Sokha, allegedly organized or facilitated by the CPP, have been broadcast across the country on television and radio.¹ State funding and offices have been used to transcribe and translate numerous speeches by opposition members, reportedly doctored, with the aim of placing the opposition in a negative light.² There are now four criminal charges filed against Sokha, including one for defamation for calling CPP's campaign "dirty." There have been reports of the ruling party mobilizing state resources in its campaign, with civil servants, police and military officials leaving their offices to actively campaign across the country.³

In this restrictive environment, and despite obstruction by local authorities, CNRP party leaders have been actively campaigning, traveling the countryside to introduce the party and its platform through small meetings and events. Given that all television stations are affiliated with the ruling party, the opposition's media outreach is limited to a small number of independent radio stations. These too are under threat: the Ministry of Information recently issued a ban on broadcasting from Radio Free Asia, Voice of America, and Radio France International for the entire campaign period. Further, the ban prohibits coverage of election activities and reports on problems with the elections during the final week of the campaign. The ban was praised by the National Election Committee as "necessary to prevent an imbalance in the media." The NEC director further said there should be no coverage of "negative points of the government." Although the

¹ <http://www.cambodiadaily.com/archive/thousands-rally-against-comments-made-by-kem-sokha-30039/>

² <http://www.cambodiadaily.com/elections/hun-sen-says-civil-war-would-be-oppositions-fault-30249/>

³ <http://www.cambodiadaily.com/elections/civil-servants-become-cpp-election-campaigners-31356/>

Ministry of Information claims to have rescinded the ban on foreign broadcasts, restrictions on coverage during election week have not been lifted.

The National Election Committee is not an independent or neutral body. Despite recommendations over the years by numerous domestic and international organizations and elections experts to create an independent body, that simply has not happened. The commissioners, the majority known to be affiliated with the ruling party, are appointed in an opaque manner, and appointments of lower election bodies are done with limited transparency, creating a lack of credibility in their work.

Mr. Chairman, the broad concerns regarding Cambodia's political situation and infringements on the rights of Cambodian citizens are covered by others at this hearing. I would like to focus my remaining comments on one critical area concerning the right to vote, that is the flaws in the nation's voters list uncovered by NDI's voter registry audit (VRA); flaws which could lead to significant disenfranchisement on election day.

In February 2013, NDI and two Cambodian civil society organizations, the Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC) and the Centre for Advanced Studies (CAS), conducted a VRA of Cambodia's 2012 voters list. A VRA is an impartial, systematic, scientific, and independent evaluation of the quality of the voters list and is a proven method used by independent organizations worldwide. NDI has organized VRAs in Cambodia, in advance of the 2008 national elections, as well as in many other countries around the world.

The VRA consists of two tests: a test of names on the voter registry, and a test of citizens' registration results. For the first test, names were randomly selected from the voter registry, and attempts were made to contact those voters to check the validity and accuracy of the information on the list. In the second test, eligible citizens were chosen randomly from the population and surveyed on their registration information to ascertain if they were on the voter registry.

NICFEC volunteer observers deployed to 414 communes across Cambodia in February 2013 to interview 4,893 respondents. All communes, polling stations and respondents were selected using statistically representative random sampling. The VRA employed rigorous data quality control mechanisms involving NDI and CAS audits, as well as targeted redeployment of interviewers and re-checking by NICFEC operators to verify data.

The results of the VRA are discouraging. Overall, the VRA found a decline in the quality of Cambodia's voters list since 2008 with regard to comprehensiveness, accuracy and validity. The registration rate for Cambodian voters has decreased since 2008, with 82.9 percent of eligible citizens on the list, compared to 87.9 percent prior to the 2008 general election. This contrasts starkly with the NEC's statistic that the number of names on the voter registry represents an impossible 101.7 percent of the eligible voting population. In certain provinces, the NEC has a registration rate as high as 109 percent. Using the National Institute for Statistics' population figures, the rate jumps to over 130 percent in some provinces.

Nearly 11 percent of citizens surveyed who believed they were registered for this year's elections could not be found on the list. Further, almost 8 percent of eligible citizens who reported voting

in the 2008 National Assembly or 2012 commune council elections were no longer on the voters list.

Mr. Chairman, NDI believes the disenfranchisement of such a high percentage of eligible voters is a cause for serious concern. The VRA found that 92.8 percent of eligible citizens, including 68.8 percent of citizens surveyed who were not found on the voters list, plan to vote on election day. This would result in thousands of people showing up at the polls and being unable to vote, creating the possibility of confusion and conflict.

Other discrepancies abound. While 80.7 percent of names on the registry are valid and up-to-date, only 63.6 percent of the names on the voter registry could be verified as people currently living where they are registered. Also, 17.1 percent of respondents were found to reside most of the time in other locations. More than one in 10 names on the list could not be found. NDI is concerned that the presence of such a high number of potential “ghost” voters on the list presents an opportunity for fraud on election day, by using those invalid names to cover fabricated votes or illegal under-aged voting. Parties interested in using invalid names would simply need to obtain a Statement of Identity for Electoral Purposes, an identification document from the commune councils, 97 percent of which are controlled by the CPP. In 2008, there were widespread reports of these forms, previously called 1018s, being used by underage citizens and non-citizens under false names.

As part of NDI’s election data analysis, the Institute found other anomalous changes in the voter registry. Analyzing publicly-available data from the NEC, NDI found numerous polling stations in which more than half the voters had been deleted from the list in 2012. This would indicate that more than half of the people in the area either died or permanently relocated in one year. If there were significant over-deletions in those areas, disenfranchisement could affect electoral integrity. NDI also found provinces in which the voter registry went up by almost 15 percent in one year, inconsistent with the birth rates and migration patterns in that province.

NDI and other organizations have made numerous recommendations to the NEC regarding the voter registry and voter registration process. Most critical in advance of the July election is providing opportunities for citizens to check their registration status at the village level and register to vote if they are not found on the registry. This is necessary to correct the significant disenfranchisement found in the audit. For the longer term, there need to be systemic changes to address the voter registration system’s key problem: the absence of a unique citizen/voter identifier that would allow proper maintenance of voter registries in a context marked by incomplete civil records and increased population mobility. A full list of these recommendations, as well as summarized findings from the VRA, has been attached to this testimony.

NDI, NICFEC, and CAS presented the results of the VRA and recommendations to the NEC on March 20, 2013, and publicly released a summary report the following day. Feedback from the NEC has been largely negative. The NEC rejected the results, alleging that “unclear points” in the VRA cast doubt on its accuracy, and refused to implement any of the report’s recommendations. The NEC also rejected the findings of an audit conducted by another local

NGO, the Committee for Free and Fair Elections in Cambodia, which found that 1.25 million eligible voters could lose their right to participate in this year's elections.

The NEC's responses demonstrate a misunderstanding of the VRA methodology, and the NEC has gone to great lengths to discredit and misrepresent the study. More troublingly, the NEC has demonstrated little interest in ensuring the right to vote for Cambodians. Rather than using the information from two separate independent studies to attempt to enfranchise a significant number of citizens who will not be able to vote on election day, the government has chosen to respond to the audits as a threat to its hold on power. Given the current political environment in Cambodia and efforts by the CPP to maintain control over the country's politics and media, however, this is not surprising.

Mr. Chairman, concerns with the voter registry are only some of many problems surrounding Cambodia's upcoming elections. Yet they provide a clear example of the current electoral situation in Cambodia, as they highlight not only challenges voters face as they attempt to exercise their right to vote, and they also illustrate the government's continued refusal to take the steps necessary to ensure that their elections meet international standards.

In a report to the UN Human Rights Council last year, UN Special Rapporteur for Human Rights in Cambodia Surya Subedi (the Special Rapporteur) warned, "There are major flaws in the administration of elections in Cambodia and urgent and longer-term reforms are needed to give Cambodians confidence in the electoral process and in the workings of the National Election Committee." In that report, the Special Rapporteur issued a series of important and timely recommendations for developing electoral integrity and building public trust in an inclusive and fair political process, but those recommendations, like others offered by international and citizen election observers remain mainly unaddressed. The European Union also issued a statement encouraging the government to hold a "transparent and credible election." The government has responded to these and other statements with vitriol, refusing to consider the suggested reforms and accusing the authors of interference in internal affairs.

Mr. Chairman, the government's growing hostility to constructive democratic discourse has also affected NDI's work in the country. Since the 2008 national elections, NDI has been able to carry out its democracy programs in Cambodia with only minor, generally local, interference. However, the approach of the national elections has made it increasingly difficult for NDI to conduct activities in Cambodia. In addition to the VRA, NDI and its local partners have organized a number of programs around this year's elections. These include multiparty candidate debates, which will be broadcast on television and radio, as well as a sample-based observation of polling places. These programs have been complicated by recent developments; for example, numerous aspects of the debate program have been changed or altered, from the content of the debate questions, to the number and party affiliation of participants, to securing a television broadcast partnership, thereby limiting their usefulness in helping Cambodian voters to make informed electoral choices.

Each of these programs, as well as NDI's other activities in the country, is designed to support and strengthen the democratic process in Cambodia by creating a space for dialogue and debate to inform citizens and expose them to the various political options available to them. At the

same time, these programs provide opportunities for citizen oversight with the aim to engender reform of the country's troubled electoral system. In the face of sustained indifference toward reform by the ruling party, fostering and encouraging interaction between officials and citizens on pressing policy issues is critical to any hope of progress. The current political situation calls for a redoubling of these efforts.

More than 20 years ago, the Paris Peace Accords established the rule of law, respect for human rights and democracy as the essential elements for governance in Cambodia, and the international community has much to gain by continuing to support Cambodian citizens who are striving to achieve the spirit and requirements of those accords.

Thank you, Mr. Chairman and members of the Subcommittee.

APPENDIX:**NDI REPORT ON THE VOTER REGISTRY AUDIT EXECUTIVE SUMMARY
(May 2013)**

Exercising the fundamental right to vote in most countries depends largely on the existence of an accurate and complete voter registry. The maintenance and upkeep of such a voter registry can be particularly challenging in countries with insufficient records, transient populations or weak infrastructure. Moreover, voter registries are susceptible to manipulation for electoral advantage. Inaccurate voter registries have led to numerous post-election conflicts in elections held around the world and have disenfranchised many eligible voters. In Cambodia, some political parties and civil society groups have expressed concerns about the accuracy of the voter registry and a lack of confidence in the registration process. Verification of the accuracy of a voter registry through a voter registry audit (VRA) can help to detect and deter electoral fraud, correct administrative errors, and promote broad public confidence in the process on election day and beyond.

The Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC), the Center for Advanced Studies (CAS), and the National Democratic Institute for International Affairs (NDI) conducted a VRA of Cambodia's voters registry that will be used for the July 2013 national elections. This VRA complements two previous audits conducted in 2007 and 2008 by NICFEC, CAS and the Committee for Free and Fair Elections in Cambodia (COMFREL), with assistance from NDI.

A voter registry audit is a systematic, scientific, and independent assessment of the quality of the voter registry. It does not focus on voter registration as a process or on every eligible voter in Cambodia, but uses statistical methodology to produce a contextual report on the overall quality of the voter registry. A VRA is a method that is used by independent election observers around the world and has been proven to be reliable and accurate internationally. In some cases, audits have exposed fundamental flaws in an already suspect process. Generally, VRAs have been welcomed as a helpful tool for successfully identifying and leading to corrections of irregularities in voter registries and, more importantly, promoting confidence in election administration and the legitimacy of the results.

The VRA included two types of field tests: list-to-people test and people-to-list test. The list-to-people test seeks to ensure that every name on the voter registry belongs to an actual person who is eligible to vote. This is done by attempting to identify and then locate a representative sample of people whose names are selected at random from the voter registry. The VRA also verified a sample of names recently deleted from the list to assess whether the deletion records were valid.

In a people-to-list test, the objective is to determine what proportion of people eligible to vote is listed on the voter registry. These two field tests are also used to evaluate the accuracy of voters' personal data, including name, date of birth and address, in the registry.

In February 2013, NICFEC deployed trained volunteers to 414 communes across Cambodia to interview 4,893 respondents. All communes, polling stations and respondents were selected using statistically representative random sampling. The VRA employed rigorous data quality control mechanisms involving NDI and CAS internal auditors, the targeted redeployment of interviewers, and the re-checking by NICFEC staff to verify data. The VRA assumes a margin of error of $\pm 2.5\%$ and the level of confidence was 95%.

The VRA provided a number of salient findings about the quality of the current voter registry, including:

- 82.9% of eligible citizens are registered voters. This represents a decline from the 2008 VRA, which showed an 87.9% registration rate. It represents a discrepancy with the National Election Committee's (NEC) statistic that placed the number of registered voters is at 101.7% of the eligible population.⁴ (People-to-list test.)
- 10.8% of eligible citizens who thought they were registered were not found on the voter registry. Furthermore, 7.8% of eligible citizens were not on the voter registry even though they said they voted in the 2008 and/or 2012 elections. (People-to-list test.)
- 80.7% of names on the registry are valid and up-to-date, with 63.6% of names belonging to eligible voters living in that community and 17.1% of names belonging to eligible voters who lived temporarily in another location. The remaining 18.3% of names on the list were invalid, with 0.5% confirmed deceased, 7.4% permanently relocated, and 10.4% unknown to people in that community.⁵ (List-to-people test.)
- 9.4% of the people in the deletion list were incorrectly removed. This represents no progress since 2008, despite extra measures taken by the NEC and commune councils to prevent false deletions. (Deletion list-to-people test.)
- The accuracy of voters' personal data (name, date of birth and address) in the registry declined compared with 2008, with only 63% of dates of birth and 86.4% of names matching information in the voters' ID documents. In 2008, 78.97% of dates of birth and 87.88% of names matched. (Both tests.)
- 96.5% of respondents on the voter registry indicated they plan to vote in the July elections. However, 74% of respondents who were not found on the voter registry said they intend to vote.

These discrepancies revealed by the VRA may have implications on public confidence in the upcoming elections. It is possible that a large number of eligible citizens will arrive at the polls on election day only to discover that their names are not on the voter list because they were incorrectly deleted or believe they are registered when in fact they are not.

⁴ NEC calculates the registration rate by dividing the eligible population by the number of names on the voter registry.

⁵ This phenomenon can be found in many VRA results and is also known as "ghost voters."

The percentage of eligible voters who have registered has decreased since 2008, even though the overall size of the registry has increased. The existence of unknown, deceased or relocated names on the registry could present an opportunity for electoral abuse or fraud on election day if proper oversight and safeguards are not in place. The list is less accurate than it was five years ago, potentially indicating a lack of progress on creating or distributing identity documents in Cambodia and inviting possible confusion at the polls for people to prove their identity.

To respond to these challenges, the VRA partners recommend the following measures to be implemented before the July 2013 elections in Cambodia:

- Due to the significant number of eligible citizens who believe they are registered but are not, the NEC should organize another period for voters to check their names on the voters list and register if needed.
- Given the rate of inaccuracy of voters' personal data and the high percentage of unknown voters on the list, the NEC should provide access for independent monitors to observe the identification of voters by standing directly behind the polling station clerk and should provide monitors with access to the voter list used in the polling station.
- To avoid the possible misuse of invalid names on the list by ineligible people (under 18 years of age, non-citizens), the Ministry of Interior and NEC should prohibit further issuance of the Statement of Identity for Electoral Purposes.⁶
- Considering the high internal migration rate, NEC should open a mechanism to allow voters who are away from their electoral district at the time of the election to vote.
- To build public confidence in the voter registry, the NEC should allow independent observers and political parties to access the voter registry in its entirety in an analyzable format. This is common practice in established democracies and would allow the VRA to expand upon its findings and provide more comprehensive information.

In the longer term, there is a dire need for fundamental electoral reform. Changes in the voter registration and list compilation process are necessary to ensure all eligible citizens have the right to vote, to prevent and remove invalid names on the registry, and to mitigate the potential for manipulation and fraud. The VRA partners recommend the following measures:

- The Government of Cambodia and the NEC should consider the adoption of a more efficient voter registration system that would better address the increasing rate of internal migration and would enfranchise unregistered citizens who may learn too late they are not on the list. This could include a change to a continuous or automatic registration system,⁷ which would allow for changes or corrections to the voter registry closer to election day.
- An impartial, unelected professional local body should be assigned or created to register voters, removing this responsibility from the elected and partisan commune councils.
- To increase the accuracy of the list and ease the registration process and voting for

⁶ The Statement of Identity for Electoral Purposes is a temporary identification paper for citizens who have no documentation to allow them to register and vote. Statement of Identities are distributed by the commune councils.

⁷ An automatic registration would require a complete civil registry; when citizens turn 18 years old, their names would be automatically added to the voter registry.

citizens, the Ministry of Interior should complete the civil registry and expedite the distribution of national ID cards to all citizens.

- The NEC should take steps to improve its data management systems at all levels of election administration. This includes a more coordinated oversight of data collection and entry, the systematic use of Khmer spelling and fonts, and current and synchronized IT systems.

The Royal Government of Cambodia and the National Assembly should enact the necessary laws and allocate appropriate resources to allow these recommended reforms to occur.

Mr. CHABOT. Thank you very much.
Mr. Mitchell, you will be our final witness here this afternoon.
You are recognized for 5 minutes.

**STATEMENT OF MR. DANIEL MITCHELL, CHIEF EXECUTIVE
OFFICER AND MANAGING DIRECTOR, SRP INTERNATIONAL
GROUP**

Mr. MITCHELL. Mr. Chairman, distinguished committee members, thank you for the opportunity to testify at this hearing today.

By way of background, I am a native of Illinois. I have served in the Army Reserve and National Guard to include the Ohio National Guard. I worked for several large manufacturing companies including Ford and Mitsubishi. I founded SRP International Group and have been involved in agriculture, forestry and manufacturing in Cambodia over the past 13 years. I am a member of the Board of Governors of the American Chamber of Commerce in Cambodia, AMCHAM, and the founding member of the Corporate Social Responsibility Committee.

My objective here today is neither to attack or defend the current government of Cambodia. There are human rights and corruption issues. The country's dynamic NGO community and press regularly report and document these issues. The issues presented are serious and some of them are acknowledged by the government. My effort here today is to provide objective information and reasoned assessments based upon my experience on the ground. I believe it is essential that the policy initiatives by the United States to deal with each challenge be informed, look to the future and remain engaged.

The AMCHAM has played its role through workshops over the past several years that began with USFCPA compliance and have expanded to include the U.N. Guiding Principles for Business and Human Rights. Positive government actions have included government land titling program that has issued over 3 million land titles to villagers. Additionally, management of ACLEDA Bank, holder of over 90 percent of bank loans in Cambodia, reports that one-third of their new loans are using these new land titles as collateral. This is progress. A lack of consistency, however, on the government's implementation of their other programs have frustrated both the informed business community and the population at large.

But tangible progress has been made. In this context, I would argue that while Prime Minister Hun Sen may be a strong man he is not a dictator, neither is his party monolithic. Consequently, the prime minister must have consensus backing for his initiatives from a variety of constituencies. Since the late 1990s, Cambodia's progress has been significant and sustained. I was fortunate enough to be a founding partner in an enterprise that was the first large scale investment of institutional financial capital in Cambodia, in this case, European pension fund money. We were only able to reach this milestone within the requisitely international legal compliance, social and environmental responsibility criteria they mandated. We demonstrated that it is possible to meet these criteria in Cambodia.

As an entrepreneur I became interested in Cambodia because of its tremendous untapped human potential, but this is also one of the country's greatest challenges. Cambodia faces major demo-

graphic issues with over 50 percent of its population under 25 years old, and an estimated 300,000 new entrants to the workforce annually. Absorption of these new workers and increasing the overall population standard of living will require a real GDP growth of 7–8 percent. That growth requires significant capital investment. This must be socially and environmentally responsible investments and address the gaps and the skills of graduates of Cambodia's education system. The issue of youth skills and employability is of increasing significance and has greater long term social crisis potential than the current human rights issues capturing the headlines.

Economic security is the most basic of human rights. American companies and those from other developed countries can lead by example in the area of fair labor practices, environmental sustainability, and corporate social responsibility. Our behavior sets the standards in marked contrast to experience with Chinese investors who have created serious issues for local population. But in our absence the Chinese stand ready with both investment and aid. We can be sure that human rights and corporate social responsibility are not discussion points in these negotiations. Rather than withdrawal of U.S. aid, I would advocate reallocation of portions to programs for the development of democracy.

Cambodia-U.S. relations are at a crossroad. History has provided the leadership of both countries with the opportunity to work together to achieve common objectives that are of universal appeal. I will look forward to your questions in further discussions. This is a summary of a longer written statement. Thank you.

[The prepared statement of Mr. Mitchell follows:]

Daniel Mitchell

CEO SRP International Group

House Committee on Foreign Affairs

Cambodia's Looming Political and Social Crisis

July 9, 2013

Background of SRP International Group Ltd. In Cambodia

SRP International Group Ltd. (SRP) is an investment, and advisory firm focused on developing opportunities in the frontier markets of Southeast Asia. The industry sectors company focuses in commercial reforestation, agriculture and manufacturing. It engages in start-up operations as well as support of other companies seeking to establish operations in these markets.

SRP has been active in Cambodia for over 13 years. Beginning with feasibility studies in 1999 and 2000. SRP's first nursery operations were established 2002 employing over 200 people at its peak. The first sites were planted from 2003 through 2006. In 2008, SRP International formed a joint venture with Capricorn Forest Fund K/S of Copenhagen Denmark. The joint venture Monsoon Timber K/S owns Grandis Timber Limited in Cambodia. This venture marked the first investment of institutional capital (in this cash Danish and Swedish pension fund money) in Cambodia. In 2009, Grandis Timber completed the negotiation of a 9,820 hectare economic land concession (ELC) in Kompong Speu province. This site is currently under development under a commercial reforestation plan to establish it as a teak plantation, employing an average of 800 persons. Through close cooperation with villagers, and officials of both local and national government, Grandis Timber is one of the few ELC's in Cambodia that does not have significant land tenure conflicts with the local populations. The policies and procedures have been reviewed by multiple NGO's and international aid agencies and are considered some of the best practices in the region. These processes have been reviewed by the German aid agency GIZ and the Ministry of Land Management and Urban Planning. Many of the basic elements can be found in governments land titling program of 2011 and 2012.

From 2008 until 2012, I served as the CEO of Grandis Timber and remain on the board of directors of Monsoon Timber K/S, its parent company, in which SRP is a shareholder. Over the past 14 years in Cambodia I have been directly involved in a wide range of the issues that challenge Cambodia today, including foreign direct investment, land tenure and labor. I have directly interfaced with government officials from the national from numerous ministries, as well as provincial district, commune and village level officials.

Since 2011, I have served on the board of governors of the American Chamber of Commerce in Cambodia (AMCHAM), and am the founding member of the Chambers Corporate Social Responsibility (CSR) Committee. My testimony is as a resident of Cambodia and as well as an investor with over 80% of my personal net worth invested in the country.

Demographics and Employment: Cambodia's Looming Social Crisis?

Cambodia's total population 15.2 million (CIA Fact Book 2013 Estimate). Because of high mortality rates and low fertility rates during the Khmer Rouge period and the periods of civil conflict that followed, the country has experienced a baby boom beginning in roughly 1980 and continues today. With a median age of 23 and a birth rate of 2.72 children/woman, (well above the 2.10 children/woman considered replacement rate), the effects of this baby boom can be expected to continue for the next the decade.

Today 54% of the population is 24 years old or below. In 2011, the Cambodian workforce was estimated to be 7.9 million (CIA Fact Book 2011 Estimate). With an estimated 300,000 new entrants

in the workforce, SRP estimates the current workforce as 8.8 million. Based on the sustained birth rate annual new entrants could grow the 400,000 over the next 15 years.

Cambodia's skewed demographics present specific economic and social challenges. A minimum 3.4% annual nominal GDP growth is required to maintain current productivity per worker of US\$1620/worker, and will challenge GDP per capita growth. While the overall GDP growth rate has been steady near 7% annually for the past few years, youth unemployment is a growing issue and has potential to create social instability. Historically, approximately 54% of the workforce has entered into subsistence farming (which had a close correlation with deforestation rates). This translates to roughly 150,000 jobs annually and 75,000 ha annually. In the future however, the agriculture sector, as it currently exists, will not to be able to absorb these new workers. Growth in the industry and service sectors is becoming more critical.

Business Environment in Cambodia

The Cambodian government has long recognized the need for foreign direct investment (FDI) to rebuild its economy. To attract foreign investment, the government passed the first Law on Investment in 1993 with amendment in 2003. The law includes guarantees of:

- 100% foreign ownership for most industries;
- Non-discrimination of foreign businesses
- No nationalization of assets or property
- No price controls
- No restriction on currency transfers

Further, the 2003 amendments provided for the establishment of the Council for Development of Cambodia (CDC) to serve as a One-Stop shop for foreign investment. Under CDC's Qualified Investment Project (QIP) status, the government has developed an aggressive investment incentive package which includes:

- Tax holidays; and
- Import tariff exemptions for capital goods and equipment

This has created one of the most business friendly environments in the region. It is not without its issues with the lack of rule of law and corruption key. The government has made first steps toward improving these issues through:

- Recent establishment of the National Arbitration Council (NAC), as an alternative for businesses to the Cambodian court system;
 - NAC includes foreign arbitration experts and membership of the local and foreign business associations.
- Passage of the 2011 Anti-Corruption Law;
 - Ministries have begun the process of posting what were informal facilitation fees (now illegal under the Anti-Corruption Law) as normal tariffs for standard ministry functions

Cambodia has long had its Government Private Sector Forum which provides a venue for direct interaction and communication between the government and the private sector. This system is often cited internationally as one of the best in the region.

Both the government and the international community recognize the need for Cambodia to diversify its economy beyond the garment sector which currently represents approximately 80% of the country's exports. Efforts are being made to attract higher tech industries and progress is being made in the electronics and food processing sectors.

Activities of the US Embassy in Cambodia

The US has historically had a dynamic diplomatic mission in Cambodia. However, under Ambassador William Todd, the mission has significantly increased its visibility and its engagement outside the embassy walls. In the business community, this engagement takes the form of near daily communication with the staff of the mission's economic section, and regular meetings and dialogue directly with the Ambassador. Three examples that I have personally been involved in or have first-hand knowledge of are:

US Ambassadors Youth Council

With over half of the Cambodian population under 25, the hearts and minds of the Cambodian youth are key to the long term relations between the US and Cambodia. Ambassador Todd immediately recognized the importance of engaging the kingdom's young people and formed the US Ambassador's Youth Council. The purpose of the council is to cultivate young Cambodian leaders around the country, engage Cambodian youth on topics of interest, and generate feedback on U.S. policy and programs in Cambodia. The 15 members of the council were selected from over 350 applicants and represent a broad cross section of youth from around the country.

The ambassador meets with the Youth Council monthly to discuss a wide variety of issues including, freedom of information and expression, the political process, corruption, education and job opportunities.

Jobs are a key concern of Cambodia's youth and as a result, one of the first projects the council initiated is an internship program in cooperation with the AMCHAM. This program has so far involved over 40 students and recent graduates who first participated in training in preparation of CV's and interviewing skills and then are being placed for 3 to 6 months with western companies doing business in Cambodia. The program provides quality work experience and prepares the interns for what to expect when entering the workforce. I serve as an advisor to the council for this program.

Other activities of the council have included organized country-wide screenings, beginning at the end of March, of the critically acclaimed film "Half the Sky" to raise youth awareness on the consequences of trafficking in persons, and engaged in team-building activities with some high school students from the U.S. Embassy community who shared an American youth perspective on the challenges Cambodian youth face.

Human Rights Advisory Council

Cambodia is home to over 3000 NGO's. The purpose of the Human Rights Advisory Council is to work to focus these diverse organizations onto three to four key themes, making the message to the Cambodian government more consistent, of a higher intensity and more effective.

Bridge Project

Shortly after his arrival in Cambodia, Ambassador Todd and his staff engaged in extended dialogue with AMCHAM about the issues and challenges in Cambodia that are inhibiting US trade and investment in Cambodia and development of at least a first tangible step toward addressing the issue. The among the key issues identified and first steps toward jointly identified solutions were:

- Lack of rule of law
 - Support of the National Arbitration Council
- Corruption
 - USFCPA Compliance Seminars
- Gaps in skill sets and capacity of local employees
 - Planned conference on vocation and technical education
- Technical skills and understanding among ministerial working level staff
 - Enhanced participation in the joint US/Singapore Third Country Training Program (TCTP)

American Chamber of Commerce in Cambodia (AMCHAM) Human Rights Related Activities

The purpose of the AMCHAM is the promotion of US business interests in Cambodia. With regard to human rights,

- AMCHAM has historically taken the lead in regular (usually annual) seminars regarding compliance with USFCPA and has expanded this program to include similar laws enacted by the United Kingdom and Australia,
- Nearly 2 years ago, AMCHAM established a Corporate Social Responsibility (CSR) Committee. Promotion of Corporate Social Responsibility (CSR) among the members of the American Cambodia Business Council and its members through the following activities:
 - Proposal , coordination and execution of CSR activities of American Cambodia Business Council as an organization;
 - Serve as a point of contact and liaison between Non-Government Organizations and International Aid Agencies and the American Cambodia Business Council members fostering enhanced communication and cooperation;
 - Serve as an interface with other business / commerce advocacy organizations for CSR Issues;
 - Provide a forum for the discussion and exchange of ideas of CSR topics and issues;
 - Raise the awareness CSR activities of the AMCHAM member companies ;
 - Complete all of the above within the context of advocacy of mutual benefit to all stakeholders involved.
- Activities over the past two years have included:
 - Seminar supporting the United Nations Human Rights Office in the role out of the UN Guiding Principles for Business and Human Right;
 - Regular presentations by member companies of their CSR programs; and

- Development of a group of speakers from AMCHAM member companies to present CSR concepts and examples at local university seminars.

AMCHAM encourages its members to take a leadership role in the promotion of human right in the business community.

Comparison of China's Aid and Investment in Cambodia

China is very active in Cambodia both in terms of foreign aid and business investment. This factor proves especially challenging for the US in the promotion of human rights. Whereas US aid typically has stipulations for improvements in human rights, the Chinese are spending more aid money in Cambodia and human rights improvements are simply not a Chinese requirement of the Cambodian Government. Further, the Chinese stand ready to fill any aid gaps created by suspension or termination of aid by the US for human rights issues.

Whereas, the US has a policy in Cambodia of "no bricks and mortar", the Chinese are only "bricks and mortar" focusing on dams, roads, bridges and other highly visible infrastructure projects. Consideration should be given to two policy changes:

- Reallocation of a portion of the aid to tangible infrastructure projects with higher visibility to the average Cambodian; and
- Reallocation to significantly increase spending on programs promoting democracy, facilitating the voice of the Cambodian population to hold the government accountable on human rights issues.

Chinese investors are active in infrastructure and agriculture sectors, and within each of these sectors human rights issues often arise. Corruption, which is a serious issue for US investors and businesses, is much less of a concern for the Chinese, who are not governed by an equivalent of the US Foreign Corrupt Practices Act (USFCPA). This issue makes it challenging for US companies to compete. Further, it undermines the initial efforts the government is making to address corruption. Within the infrastructure sector, multiple dams are being built which involve displacement of villagers and have potentially significant negative environmental impact. Many of the well-publicized land disputes on ELC's are direct Chinese investments or local partnerships backed by Chinese capital. Whereas this is a serious concern to US and other western investors, it is of minimal concern to Chinese investors in Cambodia.

Because of the role of the Chinese, the US should stay engaged both in terms of foreign aid. Whatever aid the US withdraws, the Chinese stand ready to fill the gap, with no human rights requirements attached.

Role of US Investment and Trade in Championing Human Rights

US investment and trade has been at the forefront of promotion of human rights in Cambodia. Beginning with the Clinton Administration's 1999 increase in Cambodia's garment sector quota linked to labor law development ,enforcement and the cooperation with ILO and other labor related organizations through the "Better Factories" and "Better Work" programs. This set program made

the largest set of economic and human rights gains to date. It should serve as a model of the effectiveness of a “carrot” over a “stick” in efforts to drive change.

US customers and shareholders have a tradition of holding companies accountable to meeting international human rights and environmental standards, whether the national government in any given country does or not. With regard to labor and environmental issues, being locally legal is not necessarily sufficient. This accountability is critical in frontier economies such as Cambodia with weak and/or ineffective government institutions. Fostering US investment in Cambodia, as companies are seeking alternatives to China, provides a key point of leverage for improving human rights in the areas linked to labor and the environment.

Conclusion

This election cycle has been calmer than any previous. Political violence has been nearly non-existent since the official campaigning started late last month, even in the provinces where before it was prevalent. Campaigning convoys of the two main political parties pass each other in the street without incident. Sometimes they are rallying in the same parks, again without incidents. While not perfect, this is progress. Both parties feel they need to campaign, they are not taking voters for granted.

There are human rights issues in Cambodia. Cambodia has an active and dynamic NGO and international aid community and a free and uninhibited press that publish articles critical of the government daily, and documenting these issues. My question is, “what has the government gained by this?”. While it is expected that the CPP will win a majority necessary to form a government, it will lose seat in parliament, while having a strong record on economic growth and development. I take this as a sign that human rights are moving up the pyramid of priorities for Cambodians and that is the another sign of a maturing democracy.

Improving the economy is one of the most effective tools in addressing the root causes of the human rights issues that exist. To effect human rights, the US government and business should engage rather than shy away from opportunities in Cambodia. A mature democratic process is a political manifestation of self-actualization. Requisites for his maturing are individual self-esteem, respect for others, problem solving, a sense of belonging, and respect and faith in the democratic process. To take a page from Abraham Maslow’s playbook, as long as a majority of the Cambodian people are concerned about issues at the of his pyramid (such as food, shelter and physical security), higher level self-actualization issues necessary to mature their democratic institutions and process will receive a lower level of attention. But tangible progress is emerging.

Context is important. After years of civil war, stability, the type of stability taken for granted in our mature democracy, is a high priority to the Cambodian population. The portions of any society that have little, have little to lose in the event of civil strife and conflict. In that situation, the society as a whole, must rely on its government to maintain stability, and that situation provides the opportunity for abuse of power and human rights issues, in the name of maintenance of stability. Today, a majority of Cambodians believe the CPP is offering the best alternative for stability; a stability the Cambodian population does not take for granted. However, because of the aforementioned issues, it is expected that fewer Cambodians believe this than before and that will lead to the loss of seats for the CPP in the parliament. That is democracy at work.

The business climate in Cambodia provides an opportunity to provide participative economic growth that can help the average Cambodian up Maslow's pyramid. Stable employment, a liveable wage address the base issues and frees and individual to contemplate higher level issues. This will raise the expectations her or she has of the government.

US companies are looking for alternatives to China, (and now Bangladesh following the tragedies there) for labor intensive manufacturing. Cambodia has the untapped and underutilized human potential to meet that need. This is an opportunity for US business to invest and support and emerging democracy that has demonstrated, if not a perfect human rights record, one substantially better than that of China.

Cambodia is at a crossroads. Cambodian/US relations are at a crossroads. History has provided the political leadership of both countries with an opportunity. The opportunity is whether this event will mark the beginning of a period of constructive dialogue, enhanced economic cooperation and trade, with the resulting improved human rights, and ultimate the transition from an emerging democracy to a mature democracy; or period during which Cambodia moves closer into the China's sphere of influence, within which neither human rights or democracy will be a priority. Continued foreign aid, and enhanced economic investment trade and cooperation provide one of the best opportunities following the upcoming elections.

Mr. CHABOT. Thank you.

Thank you very much to all the witnesses. We will now ask questions and I will begin with myself for 5 minutes.

The subcommittee hosted an event last month to screen the award-winning documentary, "Even a Bird Needs A Nest," which depicts the scourge of forced evictions in Cambodia perpetrated at the hands of the government. I reviewed the tape last night myself. Unfortunately, the people were speaking Cambodian and it had French subtitles. I have not taken French since college. I got the gist of it, but a lot of it went beyond.

Mr. Mitchell, in the past you said that U.S. investment will help the human rights situation and difficulties over land disputes in Cambodia because it is subject to higher standards, such as the Foreign Corrupt Practices Act. As you are aware, land grabs have become an enormous problem throughout the entire country and nearly 1 million people have been forced out of work or have no home to go to due to these forced evictions, which have not ceased despite Hun Sen's promises.

One of my concerns regarding this issue is whether or not U.S. companies are involved in these land evictions. How is Cambodia implementing the standards established under the Foreign Corrupt Practices Act and how has your work helped set the standards in Cambodia? Also, you stated in your testimony that Chinese investments in Cambodia have made it increasingly difficult for U.S. companies to promote human rights, and at the same time, compete for business. How are you, through the businesses you represent, effectively helping the human rights situation in Cambodia and conducting responsible business despite the country's corruption and lack of rule of law. Also, what are you specifically doing to help stop these land grabs and help the Cambodian people?

I would be happy if Ms. Schueller might want to comment on the land grabs, as well. So Mr. Mitchell and then Ms. Schueller.

Mr. MITCHELL. That is a very long list of questions.

Mr. CHABOT. It is. You have about 60 seconds to answer them all.

Mr. MITCHELL. Excellent. Forced land evictions at the end of the day are just a bad business practice. The economic land concessions involved are primarily agriculture, a few of them are involved in plantations. There is a need for labor in both in any economic land concession. As such, we advocate, we have worked with the Cambodian Government, the Ministry of Land Management, and the German development agency, GIZ, the development of what is referred to as the leopard's skin approach to concessions. It is effectively setting aside space for existing occupants, not relocating them, working around them and using them, or providing them labor and employment opportunities at a livable wage. This has proven very, very successful for Grandis Timber, which I was CEO of for 5 years, and is cited in one of the U.N. reports on the land grab issue as one of the best practices.

With regard to USFCPA issues, we at AMCHAM advocate this. We hold basically annual seminars on this which has enjoyed the support of, I believe it was the Treasury Department, and additionally the Cambodian Government is sending senior level officials. In my discussions with officials they know what the USFCPA is and

they know that I as a U.S. passport holder cannot violate that or I run the risk of the penalties.

Chinese investment is a very real issue. Chinese investment is not governed by things like USFPCA. The investors at their institutional level are typically state-owned enterprises and they do not have the social responsibility or the environmental sustainability criteria that U.S. institutional and European institutional investors mandate. The more money coming in from those two areas in investment, the more competitive we are in implementing programs where we are not asking the government to hold us accountable, but rather our investors themselves are holding us accountable.

Mr. CHABOT. Thank you. Let me cut you off there because I want Ms. Schueller to jump in with the short time I have left.

Ms. SCHUELLER. I would add just that as Mr. Mitchell mentioned there are a small handful of investors that perhaps have obligations from outside investments to comply with certain rules. But the fact is that Cambodia's 2001 land law and its sub-decree on economic land concessions already actually provides fairly stringent safeguards which are routinely ignored. There are requirements for size limitations which are ignored, prior environmental and social impact reports, prior consultations and consent from affected communities, transparency, fair and adequate compensation—those have all been routinely ignored.

And these are, we are talking the vast majority are these large agricultural, industrial land concessions which also have not only past forced violation evictions but they have ongoing rights violations as you mentioned. There has been crackdowns on the demonstrations, arbitrary criminal prosecutions. There has been no offers of compensation or legal remedies to assist the hundreds of families that have continued to suffer as a result of losing their homes or farmland.

And I would just want to quickly mention that in May of last year, the government asserted that it had addressed many of these issues through a directive suspending new land concessions and mandating a review of existing concessions, and also by the prime minister's June launch of an ad hoc land titling program using thousands of student volunteers. Both the directive and the privately funded titling scheme have been highly problematic. A loophole in the directive allowed for at least 16 new concessions to be granted afterwards totaling over 80,000 hectares, and LICADHO is unaware of any systematic review of problematic concessions taking place.

And while the push to expedite land titling is laudable in theory, the program completely bypassed established state land titling, institutions set up to perform these duties, so the program has been implemented in a secretive manner with no provisions for independent monitoring, with civil society organizations explicitly told to stay away, and numerous credible reports from landholders, especially in indigenous communities, being intimidated or tricked into accepting terms dictated by volunteer students. Such individual titles undermine these indigenous communities' communal land titling efforts.

Mr. CHABOT. Okay. Thank you very much. My time is expired. I will recognize the ranking member for 5 minutes. Thank you.

Mr. FALCOMVAEGA. Thank you Mr. Chairman. I thank the witnesses for their testimony. And I know quite obviously we have got some real good discussions here.

Mr. Mitchell, how is it possible for the business community from the United States to survive if this is the kind of atmosphere that the people of Cambodia face here? What I mean is that we are not just using a pocket knife here, we are using a sledge hammer to really tell the Cambodian Government and the people that they don't know what they are doing. They are not leaders because they don't come up to the standards that we Americans expect them to be in forming a democracy. Sometimes I think we have to understand that democracy means different things to different people over different regions.

If we call ourselves a great democracy, how come we allowed nine unelected officials to determine the results of a Presidential election we had some years ago? How do we justify to the Cambodians that that is a better form of campaign or democracy when the majority of the people did not determine who should be our next President? So I want to ask Mr. Mitchell, all the presidents of these American companies I know, but we haven't even discussed the garment industry problem fiasco with Bangladesh, with India, with Cambodia, with Laos, with Vietnam.

What about the consistency, a sense of saying are we doing the same thing? Are we pressing other countries about the violations? We can talk about supply and demand. Eighty-five percent of small arms sold in Mexico comes from America, and the cartels and the drugs and all that goes into supply and demand. So what happens is a tremendous demand for clothing and garments to come out of Asia because of cheap labor.

Cambodia is one of the prime countries that produces garment. Cheap labor, the wages that don't even come up to standards with us. How do you reconcile that the major difference, Mr. Mitchell, economically, to suggest oh, American companies are doing very well there. Then when I hear our friends, human rights activists say, oh, things are so terrible there. Hun Sen is a dictator, is a terrible person. And we seem to have forgotten what happened to the killing fields, what these people have had to endure to go through in trying to rebuild this country from ashes.

I am sure that all of you have been to the killing fields, and I am telling you, Mr. Mitchell, it is not something that I want to share with every American here, what it meant to be to these people. And whether it was Hun Sen or Pol Pot or whatever it is, the fact of the matter is Cambodia's history is quite different. I would say 99 percent of the American people do not know that Cambodia was a colony of the French for some 100 years, along with Laos and Vietnam, before we got involved. And I can tell you, Mr. Mitchell, from what I visited and what I saw, these people were treated like animals. And France is supposed to be the source of enlightenment about democracy and freedom? Give me a break. Mr. Mitchell, could you respond to my question?

Mr. MITCHELL. I will do my level best to respond without any disagreement to your assessment.

Mr. FALCOMVAEGA. And by the way, I have the utmost respect for my friends here in human rights. I am a human rights advo-

cate. But you have got to put it in proper perspective. Let us talk about human rights in the Middle East. Let us talk about human rights in China. Let us not cherry pick. Let us be consistent. If we are going to do this, let us do it with the others too. I am sorry. I didn't mean to interrupt you. I have got 1 more minute left.

Mr. CHABOT. Were you finished with your response, Mr. Mitchell?

Mr. FALEOMAVAEGA. I am sorry, Mr. Chairman.

Mr. MITCHELL. The United States does not use a consistent yardstick with regard to evaluation of human rights. We don't have the option of critiquing elections in China. We don't have the option of critiquing elections in Lao or in Vietnam, yet we do do business with those places. How do U.S. companies survive? Because we set our own standards and they are higher. And this isn't just the Americans, the Europeans. And that provides a mechanism for weak institutions that are characteristic of frontier markets that we, in fact, don't ask what is legal, it is what is right. What are our customers and our investors going to hold us accountable to?

Mr. FALEOMAVAEGA. Mr. Mitchell, I have got 6 more seconds, just a note of interest. Hun Sen's son graduated from the military academy at West Point. That is where Eisenhower graduated. That is where Nimitz graduated. That is where MacArthur graduated. Does that make him a bad person? And I understand that his son is one of the most positive results of the kind of advice it is trying to give them to make the country better.

I am sorry, Mr. Chairman, my time is gone. I wish we were at the third round already. Thank you.

Mr. CHABOT. The gentleman's time has expired. The gentleman from North Carolina, Mr. Holding, is recognized for 5 minutes.

Mr. HOLDING. Thank you, Mr. Chairman.

Mr. Sifton, you mentioned in your preliminary testimony that cutting foreign and military assistance is a given, and you alluded that you had other suggestions as to how the U.S. could engage the Cambodian Government to seek reform. So I will give you a minute or so to elaborate on that please.

Mr. SIFTON. Thank you. I said it was a given because I think there is an increasing realization in the State Department and the Pentagon and the interagency dialogue that it is time for a new approach to U.S. foreign policy to Cambodia. These are four elections, 21 years since the Paris Peace Agreements, and we have had five U.S. Presidents since Hun Sen took power, seven U.S. Ambassadors. Whatever that attempt has been has not promoted democracy and rights in Cambodia. And so the thinking now is starting to tilt toward realization that Hun Sen responds, if he ever responds, more to tough talk than to diplomatic talk. Talk all the same, but tough talk in the sense that a warning is put on the table.

The money is not so much the issue. IMET is small, FMF is small, but it is symbolically quite potent. The real hurt financially, I think, comes in infrastructure lending from international financial institutions like the World Bank, the Asian Development Bank, IMF and others. The World Bank has currently pulled out of Cambodia because of concerns about, well, many things, but it is currently not there. But the U.S. can use its voice and vote on the

World Bank, IMF, Asian Development Bank, to vote against large infrastructure lending. We can pull aid, direct assistance to the Cambodian government.

One thing that should not be on the table though is USAID health programming, PEPFAR funding for HIV/AIDS. Pulling that stuff will not hurt Hun Sen. It won't change anything. It will just harm ordinary Cambodians.

Mr. HOLDING. If you pulled out the lending for infrastructure, I assume that companies like what Mr. Mitchell works with, I mean they would pull out as well. I mean that has got to be an attractor to Cambodia that they have access to infrastructure capital.

Mr. SIFTON. A quick word about the economics. I mean the problem, in my opinion, with the ranking chair and Mr. Mitchell's suggestion about the role of economic investment is one of cause and effect. I agree that corporate social responsibility and responsible investment is to the good in every country. But I think it is questionable at best to suggest that these methods will actually promote democracy and human rights. I mean even if we zoom out and speak in terms of the macroeconomic situation, having a person in power for 30 years, which is what he will be after this election, is ultimately a destabilizing factor in the country's future and will lead to instability which will lead to serious economic downturns far more serious than whatever is lost through the loss of investment.

Mr. HOLDING. One other concern would be—well, first off, China provides infrastructure loans to Cambodia as well the other institutions that you talked about. So if we were to block the International Monetary Fund from providing infrastructure loans do you think it would drive them closer to China? China would step in and provide whatever loans, infrastructure loans that they needed, and so long term we would lose any leverage that we might have in Cambodia?

Mr. SIFTON. Well, there is two responses I would add to that. One is that I have never quite understood why occupying the space would lead China not to occupy the space or attempt to, and China can make very good offers of its own and will, regardless of how much U.S. investment is put in, first.

Secondly, after the experience in Burma, I don't think anybody in the U.S. Government really has a problem driving a country into the arms of the Chinese. I don't think the Cambodian Government really wants to be in the arms of the Chinese any more than any other government anywhere else in the world. So driving folks to the Chinese to beg, hat in hand, for infrastructure lending may be, in the long term interest, in the sense that ruling a lead of Cambodia, undemocratic as it is, may realize, like Burma did, that the future ultimately will be predicated on opening up to the rest of the world and not just depending on handouts from the Chinese Government.

Mr. HOLDING. Thank you. Mr. Chairman, I yield back.

Mr. CHABOT. The gentleman yields back. The gentleman from California, Mr. Rohrabacher, who is also the subcommittee chairman on Europe, Eurasia, and Emerging Threats is recognized for 5 minutes.

Mr. ROHRABACHER. Thank you, Mr. Chairman, and thanks for holding this hearing. It is significant that we should actually be looking at Cambodia after such a long time of ignoring Cambodia. It is interesting that our ignoring Cambodia after all of these years Hun Sen is still there. It is time for Hun Sen to go. Hun Sen is a corrupt, vicious human being who has held that country in his grip for decades. It is time for Hun Sen to go.

We could talk all we want about theory. Let me ask the panel. Is Hun Sen a wealthy man now after these decades, or is he a committed public servant and thus has no outside wealth? Can anyone answer that question for me?

Mr. SIFTON. I think it would be difficult to estimate given the lack of transparency in Cambodia just how wealthy he and his family are.

Mr. ROHRABACHER. Has anyone done any guesstimates as to the wealth of Mr. Hun Sen? All right, let us just suggest that knowing the Cambodian system and knowing his ability to silence the opposition, let us say that it would really take a great deal of integrity for him not to succumb to people who want to give him money in order to do things. Let us go to our businessman over here. Can people do business in Cambodia without having to pay bribes and pay off the government?

Mr. MITCHELL. Absolutely yes. It requires patience. It takes longer. But absolutely yes, you can do business in Cambodia—

Mr. ROHRABACHER. So remember you are on the record now.

Mr. MITCHELL. Yes, I understand that.

Mr. ROHRABACHER. And there is a lot of people around the world who are going to say, here is this American businessman who is now saying that Hun Sen is not corrupt when it comes to business investments in his country. And if we—

Mr. MITCHELL. That is not what I am saying.

Mr. ROHRABACHER. Oh. What is it that you said? Excuse me.

Mr. MITCHELL. I am saying that it is possible to do business—

Mr. ROHRABACHER. Oh, I see.

Mr. MITCHELL [continuing]. In Cambodia—

Mr. ROHRABACHER. If Hun Sen's out of town for a week and somebody sneaks in you mean?

Mr. MITCHELL. No, that is not what I mean.

Mr. ROHRABACHER. Okay.

Mr. MITCHELL. I mean that it is possible to meet the standards of USFCPA and the international standards with regard to avoidance of corruption. It requires patience but it can be done.

Mr. ROHRABACHER. I think that when someone says something can be done, and you are trying to figure out what, really, someone is saying, is if there is a 1-percent chance that it can be done, it still can be done, which gives you the—

Mr. MITCHELL. I did it.

Mr. ROHRABACHER. Okay.

Mr. MITCHELL. I did it with European pension fund money behind me.

Mr. ROHRABACHER. All right.

Mr. MITCHELL. If at any given day they had thought for a moment that I was paying bribes, they would have shut down the project.

Mr. ROHRABACHER. All right. Now let me ask you this. You said it can be done, just to analyze your words here. It can be done. Does that mean that it is commonplace that people can do business without having to pay off the Hun Sen regime, or is it—

Mr. MITCHELL. American and Western European companies, yes. Companies from developed markets, yes.

Mr. ROHRABACHER. All right. I am happy you are on the record as saying that. It does stretch my knowledge because—and you may know, you are on the scene. My information about Hun Sen indicates that that isn't the case, but I will have to admit you are on the scene and I am very happy you have made a solid statement on that.

Do you know Brett Sciaroni by the way?

Mr. MITCHELL. Yes, I do.

Mr. ROHRABACHER. Okay, send him my best wishes.

Mr. MITCHELL. I will.

Mr. ROHRABACHER. And a man—

Mr. MITCHELL. I think, rest assured, Brett is probably watching.

Mr. ROHRABACHER. Okay. Let me ask you this. And let us remember, Hun Sen would not be in power, Mr. Chairman, if it wasn't for the cowardice of the United States. Let me just suggest Hun Sen lost the election that was held after the peace agreement in 1991. He lost the election. There was someone else elected prime minister. We had 10,000 United Nations troops on the ground at that time, and our Ambassador decided, well, a compromise would be we will let there be two prime ministers. No, the compromise was you should have followed what the election was all about and had the person who was elected become the prime minister.

So whatever problems we face right now with Cambodia can be traced back to the cowardice of our government in making sure that we stood tall for democratic principles at a time when we could have enforced that adherence to the democratic process. So now Hun Sen is still there and it is time for Hun Sen to go. Thank you.

Mr. CHABOT. Will the gentleman yield to the ranking member?

Mr. ROHRABACHER. I would certainly be happy to, my good friend.

Mr. CHABOT. The gentleman is given an additional minute to yield to the gentleman.

Mr. FALEOMAVAEGA. I just wanted to add a little bit to my dear friend from California. Marcos of the Philippines took \$8 billion of the Philippine treasury. Suharto of Indonesia took \$8 billion from the Indonesian treasury. Ho Chi Minh took nothing. He died a simple man, and yet, boy, how we demonized this nationalist leader among the Vietnamese people. And he was the most evil person because he was a Communist. He was a socialist. All he wanted to do was get rid of French colonialism that existed among his people.

Hun Sen, that is a good question. I am going to help my friend from California. My impression, Mr. Chairman, is that if he was so rich I don't think Cambodia would be in the situation it is now. And by the way U.S. laws do prohibit the kickbacks or bribes of officials when our businesses go overseas to do business. Am I correct in that, Mr. Mitchell?

Mr. MITCHELL. Absolutely.

Mr. FALCOMAVAEGA. Okay. And I think there has been some question too about the wealthier Members of Congress. How do they get so wealthy since becoming members of this great institution? I yield back, Mr. Chairman.

Mr. CHABOT. Okay. We will begin a second round now. The Chair will recognize himself. First of all, I think as chair of the subcommittee it is probably my responsibility to comment that Ho Chi Minh was responsible for a tremendous number of deaths and was a pretty dastardly person in many respects. Despite the fact that Saigon is now named after him, at least officially, even though a lot of the people there still call it Saigon. I want to recognize the gentleman, the ranking member, who actually served in Vietnam, wore the uniform of this country and served there. We certainly respect him greatly for that.

I would also note, relative to just a point of reference, the gentleman mentioned corruption, and I think it certainly is there. In fact, Cambodia is ranked 157th out of 176 countries when it comes to Transparency International's Corruption Perceptions Index for 2012. So it is ranked pretty darn low. But also, Mr. Mitchell, the gentleman who is here—I don't want to say defending business necessarily—but giving a business point of view, I would like to think that our American companies around the world, when faced with corrupt practices in that country, do follow a higher standard.

I know Proctor & Gamble, for example, is headquartered in my district and I have had lots of conversations about their dealings all over the world. They have an absolute policy against that. If a country doesn't cooperate, they will leave in a heartbeat and there are a lot of jobs that leave with them. They have high standards. GE Aircraft Engines is also headquartered in my district and they have the same standards. I would like to commend our business community for their practices around the world. I wish other companies in other countries always followed that and they don't always do that. Some do. A lot don't. But I think most American companies do, and if they don't, they could be prosecuted for it, as we are aware.

I have used about half of my time in the second round making these statements, but I thought they needed to be said.

As we look at what is happening in Cambodia, the deteriorating human rights situation, the political oppression of opposition parties, and restrictions on freedom of expression to name just a few, what I would like to ask the panel is, how much leverage does the U.S. still have in Cambodia and with Hun Sen as well? How much of an impact do American administrations, say press releases or pieces of legislation that we pass here in Congress or hearings like we are holding here today, to the extent that they are covered in that part of the world, or potential action that we might have? Cutting foreign aid has been discussed. Those types of things, what actual power do we have to do some good in that part of the world, and specifically in Cambodia? I will go down the line if I can. Mr. Sifton?

Mr. SIFTON. Yes, that is a great question. And I want to emphasize—

Mr. CHABOT. Thank you. My staff wrote it.

Mr. SIFTON. I want to emphasize that a very important thing that the State Department and the White House can do is not just what they say and what they do after the election, but what they do with other capitals. What they do in Tokyo, Brussels, and Paris, in particular, as well as in Australia and some other countries, in terms of coordinating a coordinated response to what is going on. If Tokyo and Brussels and Paris and London and all the rest of them, together, make demands about what needs to happen going forward toward the next democratic exercise, if they make credible warnings to Hun Sen about the price of not meeting those standards, he will cave. He has shown himself again and again of a psychological profile where when pushed against the wall he will deal. He is not a particularly stable leader, but when pushed he does go back on rationality and doesn't act crazy to the end of the line.

Mr. CHABOT. Thank you, Mr. Sifton. Let me go to Mr. Merloe. I had already asked Mr. Mitchell and Ms. Schueller my first question earlier today, so I would like to turn to you as we wrap up.

Mr. MERLOE. Thank you, Mr. Chairman. I think it is really important to distinguish a few different ways the United States can have influence in this circumstance. First, there is the role of the U.S. Embassy and USAID on the ground in Cambodia, and we have already heard from our colleague about the role of the U.S. Ambassador in intervening, and the rolling back of the ban on covering Voice of America and Radio Free Asia and so on within the country. The help that has been given to human rights defenders has been instrumental and invaluable within Cambodia. There are many such things. The role of USAID in giving funding to programs that help promote democracy and human rights and human dignity within Cambodia are instrumental, and those sorts of things should be continued.

Second, the role of Congress, the role of the State Department and the White House, as has just been said by my colleague: As you speak up the world listens, and that brings to bear the whole weight of the international community. And, I think we have to keep in mind that the new Cambodia was born out of the 1991 Paris Peace Agreements. In the annexes to that agreement, Number 4 applied to the Constitution, calls for democracy, pluralist political competition and the rule of law. It is not international standards or U.S. standards are foreign or that are being applied or somehow imposed on Cambodia. These are the things that the Cambodian people have been striving for and risking their lives for even during the days of Pol Pot and in the 30 years since. It is our role to support them, to come forward, and it is your leading role, and the role of this committee is instrumental in that respect. Thank you, Mr. Chairman.

Mr. CHABOT. Thank you very much. I want to thank all the panel members. I would like to recognize the ranking member for 5 minutes.

Mr. FALCOMA. We are dealing with a dilemma here in terms of how do we go about enunciating our foreign policy, as it may have been suggested earlier that we become consistent. If we do it for Peter, we should do it for Paul. But when it comes to the realities as far as diplomacy is concerned, issues become gray and

it becomes muddled because there are so many other factors to take into consideration.

For example, let us talk about the rights of women. Let us talk about the rights of women on a worldwide scale, although we can't talk about it in Saudi Arabia because we import over \$700 billion worth of oil from the Middle East and other countries. So which is more important, human rights of women or the oil that we need to run our cars? That is where the problem of being consistent comes in, not because diplomacy is bad but the reality. It is the reality.

We never criticized the Russians for their elections. Oh, we did kind of dabble a little bit on it, but has Putin given in to the pressures from other democracies that say, hey, Russians, you are not doing a democracy here. What are you doing? Putin is a strong man. He is a dictator in the opinions of some of our pundits and experts here.

I can talk to you about Indonesia. To a point, 2 million West Papuans at the point of a barrel of a gun of the Indonesian military under Suharto, you will vote for Indonesia. One thousand West Papuan chiefs all voted 100 percent in support of Indonesia's dictatorship. And guess who took a blind eye to this whole thing? Our own U.S. Ambassador to the United Nations. Why? Because we needed Indonesia because we were fighting the Cold War. We didn't care whether they were dictators or whatever, as long as they were with us.

We can also talk about the CIA putting up the Shah of Iran. That is another mess that we created and it has nothing to do with democracy. So I say this, as I love my country, but sometimes we do things. Look what we have done in Iraq and look at Afghanistan. Look at all these areas. Have we really produced the results that we wanted? Oh no, don't worry about it. Well, Iraq has got all the oil in the world that will pay back the \$1 trillion that we fought for some 10 years that we were there in Iraq. One trillion dollars, and guess what, ten major oil companies put up a bid for the use of the Iraq oil, guess which company won the bid. The Chinese, and they never lifted a finger to help us fight Saddam Hussein.

Anyway, Mr. Chairman, I think my time is up. I am sorry. I apologize to my dear brother there, Dana, I know he wants to ask some questions. But I yield back, Mr. Chairman.

Mr. CHABOT. All right. The gentleman yields back. The gentleman from California is recognized to wrap up the hearing.

Mr. ROHRABACHER. All right, just a couple notes about Ho Chi Minh. Let us just note, oh, he died a simple man, did he? Ho Chi Minh died in a Presidential palace. He held power, absolute power, with a terror in North Vietnam and he sent millions of his people to their death. It resulted in 400,000 Vietnamese were killed in his desire, what, to create a Communist state. And guess what? He was the head of it. He was the one who wasn't going to have to worry about elections because he was in power. No, he was a simple man, all right.

And then of course what you really have to—by the way, the 400,000 South Vietnamese that were killed, that is after his troops took over South Vietnam. That is not during the process. Not to mention I think a few people lost their lives in Cambodia due to

Mr. Ho Chi Minh and his desires and his maneuvers for power in Southeast Asia. And yes, the United States tried to oppose him and it was a bridge too far and we walked away, and people who allied themselves with us were slaughtered. And nowhere was that more evident than in Cambodia.

But now back to where Cambodia is today as compared to then—and by the way, all those people who died in Cambodia, wasn't there a field commander of Pol Pot named Hun Sen? Am I wrong about that? No. So when we are talking about atrocities into millions, there is nobody who comes close enough to Adolph Hitler and Joseph Stalin than Pol Pot, and Hun Sen was his field commander doing his dirty work. And he ended up on top, why? Because after he lost the election that was an honest election back in 1991–92, the American Ambassador decided, my goodness, Hun Sen will not give up even though he has lost the election and even though we had plenty of U.N. troops in there to see that that election was recognized.

Back to where we are today in terms of, I am sorry. I know that Hun Sen has done right by your company and you are protecting the interests of your company, but a lot of people think it is very corrupt in Cambodia and that there might be a possibility that someone doesn't have to get sucked into it, but it appears by the analysis that actually most people think they are going to get sucked into it if they go there to invest. In that chart that we were just talking about, or the chairman just mentioned, in terms of transparency and accountability, yes, Cambodia comes in 157th out of 172 countries, and countries like Yemen, Angola, Paraguay, Syria, they are all more honest than Cambodia in the analysis of this organization that makes its living by trying to do an honest analysis of what countries are human rights violators or not.

Let us put this way. I think that it is a very important thing that we are drawing attention to Cambodia today. It is important that these arguments get out. I do not blame our business community for trying to get in and make a profit. And I do believe what our witness said, in his case and in the case of most American companies, because we have made it illegal for them to actually, breaking our law for them to try to bribe somebody overseas, these other countries don't have that. Now correct me, am I wrong? Is there a large amount of Chinese investment going into Cambodia? Am I wrong about that?

Mr. MITCHELL. You are correct. There is a tremendous amount of Chinese investment.

Mr. ROHRABACHER. Okay. So my guess is that the Chinese who are going in are not going in with the same regulatory burdens that our own companies have in terms of honesty and bribes and paying people off. And what we have seen and what we have just heard testimony, Mr. Chairman, is that the people of Cambodia, some people may have owned land for hundreds of years, are finding that their property is being taken from them and their property is being stolen from them and often given to foreign investors. And what could be more of an insult to your own people than to be making a profit by selling out your people to foreigners who are there of course taking advantage of the fact that you can't have, without

freedom of the press, which is very limited there, that they are not going to be exposed.

So I appreciate you, Mr. Chairman. I appreciate my good friend Eni. And let me just note, this is a man who fought for his country. I was in Vietnam in 1967 but I was not in the military. But let me just note that when you said something good about Ho Chi Minh, some people I worked with are dead because of Ho Chi Minh and they were not bad people. They were very good people.

And yes, sure, I would yield, yes.

Mr. FALEOMAVAEGA. Will the gentleman yield? Just for 30 seconds, Mr. Chairman. I just want to say I wish we had more time so my good friend from California and I could debate Ho Chi Minh and what he stood for.

Secondly, we talk about acquisition of lands. There is a saying among the American Indians, yes, you stole our land fair and square. I would like to talk about that in terms of what we have done as a country for the last 236–37 years. It always seems to be that if you don't remember the past you are condemned to repeat it. I sincerely hope they will be fair in the same way that the American Indians have lost their land. What have we done about it? Oh, they are getting spots of it here and there, but I wish it could have been more.

Mr. ROHRABACHER. We let them open up casinos and take our money, what do you mean?

Mr. FALEOMAVAEGA. Because it is the only means of survival they have got—

Mr. ROHRABACHER. All right.

Mr. FALEOMAVAEGA [continuing]. In terms of economic opportunity. All the states continue their lotteries and their bingos and casinos. Oh no, the poor Indians, that Congress has got to see them make sure there is no mafia presence or syndicates. No, they run the better gaming operations because it is under the auspices of the Federal Government. I am sorry. I didn't mean to—

Mr. ROHRABACHER. Thank you very much, Mr. Chairman.

Mr. FALEOMAVAEGA. I thank my friend from California.

Mr. ROHRABACHER. But of course.

Mr. CHABOT. Thank you. The Chair would note that the U.S. Native American policies are not within the purview of this committee, but I am sure Congress does have committees that can deal with that issue. We do have India within our jurisdiction but not American Indians. I would also ask unanimous consent that committee members be given 5 days to revise their remarks or submit questions.

I want to thank the panel for their testimony. I thought it was excellent testimony by all four. We also thank the members of the committee for their spirited involvement here this afternoon. If there is no further business to come before the committee, we are adjourned. Thank you.

[Whereupon, at 3:27 p.m., the subcommittee was adjourned.]

A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Asia and the Pacific
Steve Chabot (R-OH), Chairman

July 6, 2013

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Asia and the Pacific in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at www.foreignaffairs.house.gov):

DATE: Tuesday, July 9, 2013

TIME: 2:00 p.m.

SUBJECT: Cambodia's Looming Political and Social Crisis

WITNESSES: Mr. John Sifton
Director
Asia Advocacy
Human Rights Watch

Ms. Evi Schueller
Legal Consultant
Cambodian League for the Promotion of Defense of Human Rights

Mr. Patrick Merloc
Director
Election Programs
National Democratic Institute

Mr. Daniel Mitchell
Chief Executive Officer and Managing Director
SRP International Group

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Asia & the Pacific HEARING

Day Tuesday Date 7/09/13 Room 2172

Starting Time 2:02 pm Ending Time 3:27 pm

Recesses (to) (to) (to) (to) (to) (to)

Presiding Member(s)

Chairman Steve Chabot (R-OH, Ranking Member Eni Faleomavaega (D-AS)

Check all of the following that apply:

- Open Session
- Executive (closed) Session
- Televised
- Electronically Recorded (taped)
- Stenographic Record

TITLE OF HEARING:

Cambodia: The Looming Political and Social Crisis

SUBCOMMITTEE MEMBERS PRESENT:

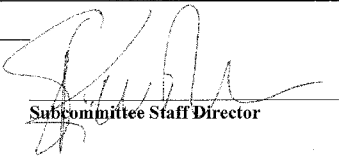
Rep. George Holding (R-NC), Rep. Mo Brooks (R-AL), Rep. Dana Rohrabacher (R-CA)

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

HEARING WITNESSES: Same as meeting notice attached? Yes No
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED 3:27 pm


Subcommittee Staff Director

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE STEVE CHABOT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO, AND CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC



KHMER PEOPLE NETWORK FOR CAMBODIA

បណ្តាញអ្នកសង្គ្រោះខ្មែរសម្រាប់កម្ពុជា

Peace Democracy Independence
P.O. Box 58412, Seattle, WA 98113 USA
www.KhmerUnity.org / www.CAHRAD.org
info@KhmerUnity.org / info@CAHRAD.org

July 5th 2013

**KHMER PEOPLE
Network Members**

Khmer Unity for Cambodia (KUC)
info@khmerunity.org

**Cambodian Americans for Human
Rights & Democracy (CAHRAD)**
info@cahrad.org

Khmer Voice for Democracy
khmervgms@yahoo.com

Me Boun Foundation
Mebsun@aol.com

**Cambodian Mother's Legacy
Foundation**
cmf20@gmail.com

Lohet Khmer Association
stelesovanselha@hotmail.com

World Peace & Justice Foundation
Chandara_khn@wpj1.org

Khmer Civilization Foundation
Stann.moeung@gmail.com

**Human Rights & Land Protection
Activists**
Saphornsp@yahoo.com

DREAM
somnangdream@yahoo.com

CARDO
ngin.bunrith@gmail.com

CHILD HOPE
Childhope.org@gmail.com

**Buddhi Khmer Foundation for
Morality & Democracy**
rikchor@yahoo.com

The United States Congress
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Members of the U.S. Congress,

My name is Hay S. Meas, Chairman of the Khmer People Network for Cambodia. This non-profit organization is based in the United States and comprised of individual Cambodian-Americans and organizations throughout the world. Our purpose is to uphold the Paris Peace Agreements of 1991 on Cambodia, which declares to promote and defend independence, territorial integrity and inviolability, neutrality and national unity of Cambodia. As one of the signatory nations, the United States has a paramount leadership role to uphold their promise to defend freedom and liberty, and remain a beacon of hope for oppressed nations.

We write to you today to express our concerns over the matters of:

- (1) *The Cambodian Election of July 28, 2013*
- (2) *Human Rights Abuses*

1. *The Cambodian Election of July 28, 2013*: through political tactical approach of the current Cambodian government, we found the following:

- a) The ruling government has used civil servants, police and military personnel to campaign for its own political party while working in their official capacity
- b) The ruling government has used state properties and resources for their election campaign
- c) The ruling government has expelled 28 members of parliament during the election process
- d) The ruling government has threatened voters with job dismissal and/or various types of intimidation

KHMER PEOPLE NETWORK FOR CAMBODIA
បណ្តាញអ្នកប្រយោជន៍ខ្មែរដើម្បីកម្ពុជា

- e) The ruling government has used the court system to bar the main opposition party leader, Mr. Sam Rainsy, from participating in the supposedly free and fair election
 - f) The ruling government hand-picked the officials in the National Election Committee (NEC) to serve its interests
 - g) The ruling government, through the NEC, has issued and used fraudulent documents for ineligible voters in their favor to win the election
2. **Human Rights Abuses:** Insurmountable evidence suggests that human rights in Cambodia have been deteriorating at an alarming rate.
- a) The ruling government has harassed and intimidated the opposition party and its activists in the lead-up to the elections and throughout the parliamentary cycle
 - b) The ruling government has created a fearful environment to demoralize the free will of the public to choose their leader in the election
 - c) The ruling government has tried to block Cambodian people from the access to international media such as Voice of America and Radio Free Asia
 - d) The ruling government has warned Cambodian people of civil war and/or the return to the Killing Fields if they do not vote for the Cambodian People's Party (CPP)

Honorable Members of the United States Congress,

We believe that free and fair elections and respect for human rights are two crucial elements to a functioning democracy, of which Cambodia's is in peril. As representatives of freedom and democracy, we urge you to take necessary actions to have the current government of Cambodia:

1. Reform the National Election Committee, as recommended by the United Nations Special Rapporteur on Human Rights in Cambodia, Dr. Surya Subedi
2. Form a court system or judicial bodies and its mechanism outside of the National Election Committee to ensure free and fair election
3. Re-instate the 28 members of the parliament who were expelled by the ruling government at the beginning of the election campaign (in order to meet its constitutional mandate so that Cambodia can maintain its status as a legal nation)
4. Comply with relevant provisions of the Paris Peace Agreements of 1991 on Cambodia, which we believe can guarantee peace and ensure free and fair elections, such as the one held in 1993

KHMER PEOPLE NETWORK FOR CAMBODIA
សហគ្រាសរដ្ឋប្រជាជនកម្ពុជា

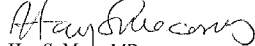
- 5. Allow the return of the main opposition leader, Mr. Sam Rainsy, to play a full role in Cambodian politics, especially in this coming election

Should the Cambodian government fails to meet the above demands, we urge the United States to invalidate the result of the election.

As citizens of the United States of America, we understand firsthand what it is like to live in a democracy, to have the freedom to pursue liberty and happiness, and elect those to represent our best interests. At this time, Cambodian-Americans and Cambodians worldwide are pleading for someone to intervene and help save Cambodia. Please help us by drafting a bill to carry out the actions mentioned. In doing so, the United States will not only save 14 million Cambodian people from falling into Communism again, but also strengthen its standing as a beacon of hope around the world.

Thank you for your consideration, and I hope to hear from you at your convenience,

Respectfully Yours,



Hay S. Meas, MD
Chairman, Khmer People Network for Cambodia (KPNC)
Telephone: (253) 381-8291 Email: hsmcas@yahoo.com

References:

1. **"The Trap of Saving Cambodia", a documentary film**
2. <http://www.miamiherald.com/2013/05/27/3419137/cambodia-pm-seeks-law-to-punish.html>
3. <http://m.upi.com/story/UPI-97971370294777/> (Asian sugar giant accused of human rights abuses)
4. <http://www.sacbee.com/2013/06/03/5466355/7-cambodian-workers-arrested-at.html> (Seven Cambodian workers at Nike contractor arrested)
5. <http://blueandgreentomorrow.com/2013/05/14/land-grabbing-in-laos-and-cambodia-breach-human-rights/> (land grabbing in Cambodia and Laos breach Human Rights)
6. <http://blueandgreentomorrow.com/2013/05/14/land-grabbing-in-laos-and-cambodia-breach-human-rights/> (Cambodian Official Rejects UN Request for Update on Rights)
7. <http://www.rfa.org/english/news/cambodia/election-05202013185812.html> (Cambodian Opposition Petitions EU, UN on Fair Election)
8. <http://www.bloomberg.com/news/2013-06-05/cambodia-risks-violence-if-july-election-flawed-sam-rainsy-says.html> (Cambodia Risks Violence If July Election Flawed, Sam Rainsy Says)
9. <http://www.gulf-times.com/mobile/ascan-philippines/188/details/353930/un-envoy-urges-fair-polls-in-cambodia> (Visiting UN Special Rapporteur for Human Rights to Cambodia Surya P Subedi)
10. http://www.cambodiadaily.com/news/hun-sen-says-national-election-is-already-won-28435/?utm_source=rss&utm_medium=rss&utm_campaign=hun-sen-says-national-election-is-already-won (Hun Sen says national election is already won)

