

Cambodia's Descent: Policies to Support Democracy and Human Rights"

**Testimony before the
Subcommittee on Asia and the Pacific in the Committee on Foreign Affairs**

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Monovithya Kem

Member of Permanent Committee

Deputy Director-General of Public Affairs

The Cambodia National Rescue Party

Chairman Yoho, Ranking Member Sherman, and distinguished members of the subcommittee,

Thank you for the invitation to testify today about the fragile state of Cambodia's democracy and the vital role the United States can play to protect the political rights of the Cambodian people in the lead up to our national elections scheduled for July 2018. I am a member of the permanent committee of the Cambodia National Rescue Party (CNRP), the main democratic opposition party, which was recently, and unconstitutionally, dissolved. I am honored to appear before you today to offer an account of the Cambodian government's recent violations of the Paris Peace Accords, and their impacts on multiparty democracy, and to recommend a way forward to resurrect the spirit of the Accords and restore democratic stability and peace to Cambodia.

Let me begin by making clear that my concerns are about more than the opposition party or my father the opposition leader Kem Sokha, who has been a political prisoner for 103 days. My concern is for the livelihood of sixteen million people, the majority of whom are under the age of 35 and are hungry to take charge of their own destiny. My concern is about the struggle for free and fair elections in 2018 and for the Cambodian people to finally shape their own destiny free from the bonds of repression.

What is going wrong?

Twenty-six years after the world came together and negotiated the Paris Peace Accords to help Cambodia rebuild itself from the devastation caused by the Khmer Rouge and decades of civil strife, Cambodia once again faces an historic crossroads, where two options appear: either descent into outright dictatorship or a restoration of democracy.

Today, fundamental elements of the Accords have been violated by the Cambodian ruling elites

through the systematic abuse of state institutions, including the courts, the executive, the army, the National Assembly, and even the anti-corruption body, just to name a few. By signing the Accords, Cambodia and the other signatories promised, and are obliged to strictly maintain and preserve national unity, sovereignty, territorial integrity and independence, as well as “ensure respect for and observance of human rights and fundamental freedoms” and “adhere to relevant international human rights instruments.” As evidenced by recent developments, the Cambodian government has violated the core principles of the Accords through actions that undermine the Cambodian Constitution and the universal human rights and democratic freedoms of Cambodia’s people. Examples of these violations and abuses include:

1. The November 16th dissolution of the Cambodia National Rescue Party (CNRP), the only opposition party elected to the National Assembly. The supreme court’s groundless decision to dissolve CNRP directly violates the Cambodian Constitution, which states that Cambodia shall be ruled according “to the principles of liberal democracy and pluralism,” and constituted impermissible discrimination based on political opinion in violation of Article 26 of the International Convention on Civil and Political Rights (ICCPR). The court’s decision was made by judges who hold high-ranking leadership positions in the ruling party, further proving the biases of a court system repeatedly used by the ruling party to eliminate opposition and turn Cambodia into an effective one-party state. Furthermore, the theft and redistribution of the CNRP’s 55 seats in the National Assembly to unelected minor parties in an effort to preserve a veneer of multiparty democracy also violated the Constitution, which states that Members of the National Assembly shall be chosen in a free and fair election. The Constitution never allows any institution to select legislators on behalf of the Cambodian voters, who are the sole bearers of this fundamental political right.

2. The illegal and unconstitutional arrest of the opposition leader Kem Sokha. In violation of his parliamentary immunity, Kem Sokha was arrested after midnight September 3rd, by police officers acting without a warrant. Cambodian law prohibits both warrantless arrests and arrests after 6 p.m. The act of breaking into his house after midnight was designed to terrorize. Like the dissolution of the CNRP, the arrest was a severe violation of a number of principles of the Paris Peace Accords, first, as a clear attempt by the ruling party to eliminate its only viable opposition by immobilizing the leader of a party that represents nearly half of the country in parliament and earned three million votes in the last election. In doing so, the Cambodian government has taken on millions of Cambodians as its enemies and effectively destroyed national unity, which it pledged in the Accords to preserve. Second, Kem Sokha was arrested for “treason,” an all-too-familiar term that echoes the divisive rhetoric of Cambodia’s darkest age. In the Paris Peace Accords, Cambodia has pledged “to take effective measures to ensure that the policies and practices of the past shall never be allowed to return.” Treason was a widely used accusation by the Khmer Rouge to eliminate anyone it saw as a threat to its brutal regime. Arresting someone at night for being a “traitor” is the policy and practice of Cambodia’s ugliest past that shall never be allowed to return—but sadly it has.

3. The ban of 118 CNRP leaders from participating in politics and the removal of roughly 5000 CNRP commune councilors who were just elected in June this year, bringing a balance of power to local government for the first time. These violations of universal political rights and fundamental freedoms show that the Cambodian government has been willing to disregard elections and sweep aside the will of the people. The Cambodian government took away the rights of these voters and political leaders to participate freely in politics.

4. The crackdown on the independent media and civil society, particularly the assassination of prominent political analyst Kem Ley. The Cambodian government has shut down critical newspapers, radio stations and non-governmental organizations that are key to establishing conditions for a free and fair election. The intent behind the crackdown is very clear: to ensure that the Cambodian people will not have access to the information they need to make informed decisions in the 2018 election. Journalists and activists, including both CNRP members and nonpartisan defenders of human rights, most notably land rights activist Tep Vanny, were imprisoned without due process. The most violent and terrifying stage of this crackdown was the public assassination in broad daylight of independent political analyst Kem Ley.

Today, anyone not a member or supporter of the ruling party lives in fear that they may become a target of state repression. Foreign residents, union organizers, journalists, NGO workers and even social media users now find themselves relegated to an environment where the Cambodian government may come to their house, without notice or credible basis, and accuse them of attempting to overthrow the government. Suddenly, at least half of the country becomes a suspect. The ruling elites have labeled other members of society their enemies.

Why should the U.S. care?

In 1991, countries from around the world rightly decided that they could no longer turn their back on the people of Cambodia after the suffering brought by the Khmer Rouge and decades of civil strife. To its credit, the United States was among these countries. A peace agreement was reached and the four Cambodian parties as well as many signatory countries signed the Paris Peace Accords 1991, which effectively ended civil war and guaranteed a free and fair election in Cambodia.

As a signatory to the Accords, the United States has a legal and moral responsibility to ensure that Cambodia does not fall back into an outright dictatorship. In fact, the U.S. intent to support human rights and democracy in Cambodia has been clear not only through the signing of Paris Peace Accords but also through your heavy investment in the form of foreign assistance worth over \$1.7 billion focused not only on developing the economy but also bolstering civil society's efforts to organize and advocate. Democracy and freedom are American values that echo universal ideals. These ideals have taken root in Cambodian society as Cambodian people increasingly find the courage to defend our dignity and speak our hearts. Your country's bedrock values align very well with the desire for change felt deeply by the Cambodian people of all walks of life.

There is also a strategic calculus at play. Cambodia is one of the places around the world where there is a clear overlap between American interests and values. It is not only a moral responsibility of the United States to support democracy and freedom in Cambodia, but it is also in the U.S. interest to do so from a strategic foreign policy standpoint. In Asia, democracies tend to be more stable, open and prosperous, and also more likely to uphold the rules-based international order which underpins global commerce and international security.

The current Cambodian government has become increasingly unfriendly to the United States and its

allies, and as it has acted increasingly at odds with the unity in ASEAN. This is troubling for the U.S. role and regional security in Asia-Pacific. And the U.S. benefits by staying engaged in Asia, the most economically dynamic region in the world.

What can the U.S. do to help Cambodia reverse course?

The United States has done much already. I commend both houses of Congress, The White House, and the State Department for taking concrete steps to hold the Cambodian government accountable for its regression. These steps include:

- The statement issued by the Department of State on December 6th, announcing that the Secretary of State will restrict entry to the U.S. for those Cambodian government officials (and their families) who are undermining democracy in Cambodia and reiterating the call for the unconditional release of Kem Sokha and for free fair elections;

- The passage of bipartisan Senate Resolution 279 on November 17th, introduced by Senators John McCain (R-AZ), Dick Durbin (D-IL), and Marco Rubio (R-FL). The resolution called for the release of Kem Sokha, free and fair elections, and for the Department of the Treasury to consider placing senior Cambodian officials responsible for democracy and human rights abuses on the Specially Designated Nationals List (SDN);

- The statement from the White House on November 16th, announcing the U.S. decision to cut funding for Cambodia's upcoming elections and calling for the release of Kem Sokha;

- The statement from the U.S. Mission to ASEAN on November 14th, on the meeting between Cambodian Foreign Minister Prak Sokhonn and Deputy Assistant to the President and Senior Director for Asian Affairs at the National Security Council Matthew Pottinger and Deputy Assistant Secretary of State for Southeast Asia W. Patrick Murphy. The meeting highlighted concerns on Kem Sokha's continued detention and overall deterioration of democracy in Cambodia;

- The State, Foreign Operations, and Related Programs bill (S. 1780) introduced on September 7th, by the Senate Appropriations Committee. The bill conditions all assistance to the Cambodian central government on respect for human rights and democracy including the release of opposition leaders and civil society activists. The bill also calls for a visa ban to be placed on Cambodian government officials who undermine democracy.

With these actions, the U.S. has sent a clear signal to the Cambodian government that it remains resolute in its support for human rights and democracy in Cambodia. It is important now for the US to communicate to the Cambodian government on a deadline to reverse course or further sanctions will be imposed. If the Cambodian government does not quickly reverse course, I believe further U.S.

action is needed as follows:

-Placing targeted financial sanctions on Cambodian government officials identified as undermining democracy through the SDN list as recommended by the Senate (S Res. 279) and/or through the Global Magnitsky Act;

-Suspending any and all assistance for the central Cambodian Government, including security-related assistance, as proposed in the Senate State and Foreign Operations bill (S. 1780);

-Continuing democracy assistance programs for civil society, particularly those engaged in election-related matters;

-Reviewing Cambodia's eligibility for the Generalized System of Preferences (GSP). A notice of this review needs to be sent to the Cambodian government soonest possible to provide incentive for backtracking;

-Coordinating with like-minded countries and entities (starting with Japan, the European Union, Australia, and South Korea) to use their leverages in calling on Cambodian Government to reverse course;

-Convening key signatories of the Paris Peace Accords to review the violations by the Cambodian Government and recommend a synchronized global response to the Cambodian government's assault on the Accords.

What are the risks of keeping the status quo?

The current oppression, if allowed to continue, will generate political instability as repressed dissent boils over; this will eventually trigger economic instability that will take the country backwards. Left unchecked, the Cambodian ruling elite will lead Cambodia toward the wrong side of history simply to preserve its power. If the signatories to the Paris Peace Accords allow impunity, the Cambodian government will believe that it is free to act irresponsibly. The lack of effective responses from the free world will be read by the Cambodian government as a clear indication that it is not accountable to the community of democracies, and that international assistance and trade relationships are a one-way obligation, where the Cambodian government is entitled to foreign aid and investment but not obligated to fulfill any responsibility to defending its democratic stability and the rights and freedoms of its people. Eventually, the abuse will extend beyond domestic issues. The Cambodian government

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will soon become an irresponsible regional actor by detaching itself from international laws and building alignments based on the personal benefits of the ruling elites.

Toward that end, I urge you to remain resolute in your calls for the immediate release of Kem Sokha and other prisoners of conscience, the restoration of the CNRP and of the political rights of its members and supporters, the establishment of conditions for free and fair elections in 2018, including reinstating banned media and ending judicial and political harassment of civil society groups critical of the government.

Cambodia is worth your attention and concrete action, because this crossroads presents an unprecedented opportunity for positive changes that the country has not seen in decades. The results of the 2013 national elections, the months-long peaceful protests that followed, as well as the results of the 2017 local elections, all provide evidence that we are an inch away from historic changes. It is worth your attention because Cambodia is one of the places in the world where your action will likely yield positive results during this gloomy time our world faces today. Democracy is very much possible in Cambodia and it can happen very soon, the U.S. can play a unique role in helping Cambodia tell an inspiring story to the region and the world about the power of perseverance in the face of adversity.