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before the

**U.S. House of Representatives Committee on Foreign Affairs
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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.