

# CONGRESSIONAL TESTIMONY

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## “Labor and Human Rights in Cambodia”

Testimony before the  
Tom Lantos Human Rights Commission

September 11, 2019

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Cambodia’s democracy is in shambles.<sup>1</sup> The 2018 elections solidified Cambodia’s descent into one-party rule—the outcome of the elections widely known before 2018 even began.

The country’s leader, Prime Minister Hun Sen, has ruled for more than 30 years. He has no intention of vacating his position of power; he is, in fact, quoted saying that he intends to rule the country for another 10 years.<sup>2</sup> Hun Sen has systematically driven any hope of democratic transformation in Cambodia into the ground with little to no regard for the impact it would have on the Cambodian people. Like most dictatorial leaders around the globe, his primary motivation is to maintain his grip on power whatever the cost.

Cambodia’s turn from democratic norms and values has ramifications for the protection of the Cambodian people’s fundamental human rights. When a government shirks its responsibility to protect its citizens, the freedom and rights of its citizens are the first to be sacrificed. In abrogating its duty to protect and preserve its citizens’ human rights, a country invites other responsible governments to intervene to hold it accountable.

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<sup>1</sup>Olivia Enos, “Holding Cambodia Accountable for its Descent into One-Party Rule,” *Heritage Foundation Issue Brief* No. 4894, August 7, 2018, <https://www.heritage.org/asia/report/holding-cambodia-accountable-its-descent-one-party-rule> (accessed September 8, 2019).

<sup>2</sup>The Editorial Board, “Cambodia’s Democracy Betrayed,” *The New York Times*, September 11, 2017, <https://www.nytimes.com/2017/09/11/opinion/cambodia-democracy-hun-sen.html> (accessed December 7, 2017).

Few places in the world have a mechanism for accountability laid out in advance of violations being committed. In Cambodia, however, the international community had foresight. After the Khmer Rouge genocide and the political turmoil that ensued, the international community came together in 1991 to sign the Paris Peace Agreement which obligated the U.S. and 18 other signatories to hold Cambodia to account in the event of democratic backsliding.<sup>3</sup> Cambodia is way past the point of democratic backsliding. It can no longer be referred to as a democracy. The international community, led by the U.S., should act swiftly and boldly in Cambodia to right the ship and get it back on the path toward political reform and respect for human rights.

Rather than provide an outline of Cambodia's turn from democracy—the arrest and detention of Kem Sokha, the dissolution of the opposition, and sham 2018 elections<sup>4</sup>—I would like to spend the remainder of my testimony making the case for why the U.S. should hold Cambodia accountable and lay out next steps to encourage political reform and respect for human rights.

### **The Case for Holding Cambodia Accountable**

U.S. strategists often set up a false dichotomy when observing Cambodia that forces U.S. policymakers to choose between promoting human rights and democracy and achieving strategic and national security priorities in the country. But there is no need to choose.

While some may view promotion of values in the region as a fool's errand that will ultimately fail to advance U.S. interests and priorities in the region, promotion of values are actually a critical part of achieving U.S. objectives in Asia.

Why is this the case?

**1. Promoting Human Rights and Values in Cambodia Advances Core Components of the U.S. Strategy in Asia.** When the Trump Administration inaugurated the Indo-Pacific strategy, it did not just commit to increasing engagement with partners and allies in Asia on security and economic challenges. It committed to promoting values.

According to Alex Wong, Deputy Assistant Secretary, Bureau of East Asian affairs, in a briefing<sup>5</sup> on the Indo-Pacific strategy, free means promoting sovereignty of the U.S. and individual countries in Asia, freedom from coercion, and human rights. Open means open communication, open investment, and open trade. Both modifiers relate directly to U.S. commitment to values.

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<sup>3</sup>United States Institute of Peace, "Agreement on a Comprehensive Political Settlement of the Cambodia Conflict," Part I, Section II, United National Transitional Authority in Cambodia, 1991, [http://www.usip.org/sites/default/files/file/resources/collections/peace\\_agreements/agree\\_comppol\\_10\\_231991.pdf](http://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/agree_comppol_10_231991.pdf) (accessed August 3, 2018).

<sup>4</sup>Library of Congress, "Cambodia: Supreme Court Dissolves Main Opposition Party," December 6, 2017, <https://www.loc.gov/law/foreign-news/article/cambodia-supreme-court-dissolves-main-opposition-party/> (accessed September 8, 2019).

<sup>5</sup>Alex N. Wong, "Briefing on the Indo-Pacific Strategy," Bureau of East Asian and Pacific Affairs, U.S. State Department, April 2, 2018, <https://www.state.gov/briefing-on-the-indo-pacific-strategy/> (accessed May 21, 2019).

In a *Washington Post* op-ed, Vice President Pence, put a finer point on it, saying:

[The Indo–Pacific strategy] support[s] transparent and responsive government, the rule of law and the protection of individual rights, including religious freedom. Nations that empower their citizens, nurture civil society, fight corruption and guard their sovereignty are stronger homes for their people and better partners for the United States. Conversely, nations that oppress their people often violate their neighbors’ sovereignty as well. Authoritarianism and aggression have no place in the Indo–Pacific region.<sup>6</sup>

As the strategy has taken shape, the security (and to some extent) the economic aspects of U.S. commitments in the Indo–Pacific strategy materialized. However, the values component of the strategy remains grossly underdeveloped.

The inclusion of values in the Indo–Pacific strategy demonstrated foresight, as well as a recognition that U.S. engagement in Asia has traditionally been marked by promotion of human rights and freedom. Presumably, the reason why values are included in the strategy is because U.S. policymakers believe that U.S. interests are best advanced when values are promoted. Promotion of values has been one of the primary distinguishing features of U.S. engagement from many other actors engaging with and in the region—especially China.

At root, the Indo–Pacific strategy identifies a battle—a battle over values and what system of governance will set norms in the region for the foreseeable future. It poses a question: Will Asia trend more toward authoritarianism or toward democratic norms?

A failure to address political realities in Cambodia contradicts the strategy and undermines U.S. ability to advance its foreign policy priorities in the region.

**2. U.S. Promotion of Values in Asia Contrasts with China.** The primary objection to promoting values and defending democracy in Cambodia is the fear that the U.S. criticism of Cambodia on human rights grounds may force Cambodia further into China’s orbit. This argument is strengthened when we look at recent events in Cambodia, where reports suggest that Cambodia may be leasing a naval port to China.<sup>7</sup> The alleged base-sharing agreement between China and Cambodia was a 30-year lease that automatically renews every 10 years and could amplify the threat that China poses to freedom of navigation in the South China Sea.<sup>8</sup> At minimum, the base increases China’s ability to enforce its disputed claim to certain parts of the South China Sea. The alleged base-sharing agreement poses a significant threat to U.S. interests in freedom of navigation and respect for sovereignty in the region.

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<sup>6</sup>“Mike Pence: The United States Seeks Collaboration, Not Control, in the Indo-Pacific,” *Washington Post*, November 9, 2018, [https://www.washingtonpost.com/opinions/mike-pence-the-united-states-seeks-collaboration-not-control-in-the-indo-pacific/2018/11/09/1a0c330a-e45a-11e8-b759-3d88a5ce9e19\\_story.html?utm\\_term=.733b0de7d2c7](https://www.washingtonpost.com/opinions/mike-pence-the-united-states-seeks-collaboration-not-control-in-the-indo-pacific/2018/11/09/1a0c330a-e45a-11e8-b759-3d88a5ce9e19_story.html?utm_term=.733b0de7d2c7) (accessed May 21, 2019).

<sup>7</sup>Gordon Lubold, Jeremy Page, and Rob Taylor, “Deal For Naval Outpost in Cambodia Furthers China’s Quest for Military Network,” *Wall Street Journal*, July 22, 2019, <https://www.wsj.com/articles/secret-deal-for-chinese-naval-outpost-in-cambodia-raises-u-s-fears-of-beijings-ambitions-11563732482> (accessed September 9, 2019).

<sup>8</sup>Ibid.

Cambodia's efforts to cozy up to China cannot be overlooked in crafting U.S. strategy. But that does not automatically mean capitulating on the promotion of human rights.

Countries in Southeast Asia do not like to be asked to choose between engaging with China or the U.S. The reality is that all countries in the region will engage, especially economically, with both countries. However, some in Southeast Asia may be persuaded that China is not a suitable long-term partner on political and security matters.

First, China's engagement in Southeast Asia is hardly altruistic. Much of China's engagement in the region has been through infrastructure development and investment projects that make up a part of China's amorphous Belt and Road Initiative. Rather than hiring local workers from the various Southeast Asian nations, the Chinese state-owned enterprises (SOEs) carrying out these projects have brought their own Chinese workers.<sup>9</sup> Many of the benefits to the local economies of these countries are, therefore, foregone. Furthermore, because local workers are not the ones building the infrastructure projects, the knowledge of how to maintain these new projects is never imparted to the local populations. This continues to increase a reliance on China and creates additional economic opportunities which benefits Chinese populations almost exclusively. This has bred resentment among Cambodians who, rightly or wrongly, fear that their country is being taken over by China.<sup>10</sup>

In contrast, U.S. investment in Cambodia is mutually beneficial. For example, Cambodia enjoys preferential trading status under the Generalized System of Preferences (GSP) with the U.S. GSP benefits U.S. consumers by granting them access to cheaper products sourced from Cambodia and benefits Cambodia because businesses there enjoy a lower tariff rate when exporting goods to U.S. markets and greater market access. U.S. government-led investment also favors the advancement of human rights and democratic norms, which benefit the Cambodian people and advance U.S. interests in the region. Both of these examples, including many others I have not mentioned, benefit both countries. But it is not a given that they will continue if Cambodia continues to backtrack in its respect for norms.

Second, China has been known in the past to covertly (and in some cases overtly) deploy surveillance technology in its investment projects.<sup>11</sup> In some cases, it is deployed to assist other governments in efforts to spy on their own citizens, as in the case of Ecuador and Zimbabwe.<sup>12</sup> In other situations, it is deployed for the purposes of spying on various

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<sup>9</sup>Daniel R. Russel and Blaker Berger, "Navigating the Belt and Road Initiative," Asia Society Policy Institute, June 2019, pp. 15–16, [https://asiasociety.org/sites/default/files/2019-06/Navigating%20the%20Belt%20and%20Road%20Initiative\\_0.pdf](https://asiasociety.org/sites/default/files/2019-06/Navigating%20the%20Belt%20and%20Road%20Initiative_0.pdf) (accessed September 8, 2019), and Richard Javad Heydari, "Beijing's Inchoate Hegemony: The Brewing Backlash in Asia to China's Resurgence," Carnegie Endowment for International Peace, June 24, 2019, <https://carnegieendowment.org/2019/06/24/beijing-s-inchoate-hegemony-brewing-backlash-in-asia-to-china-s-resurgence-pub-79302> (accessed September 8, 2019).

<sup>10</sup>Hannah Ellis-Petersen, "No Cambodia Left: How Chinese Money Is Changing Sihanoukville," *The Guardian*, July 31, 2018, <https://www.theguardian.com/cities/2018/jul/31/no-cambodia-left-chinese-money-changing-sihanoukville> (accessed September 8, 2019).

<sup>11</sup>Olivia Enos, "Responding to the Crisis in Xinjiang," Heritage Foundation *Backgrounder* No. 3416, June 7, 2019, <https://www.heritage.org/asia/report/responding-the-crisis-xinjiang> (accessed September 8, 2019).

<sup>12</sup>Paul Mozur, Jonah M. Kessel, and Melissa Chan, "Made in China, Exported to the World: The Surveillance State," *The New York Times*, April 24, 2019, <https://www.nytimes.com/2019/04/24/technology/ecuador-surveillance->

governments for espionage and information-collecting purposes. One particularly egregious example took place in the African Union. In 2018, the African Union (AU) levied accusations that the Chinese government hacked into computer systems at the AU headquarters in Addis Ababa, Ethiopia. Beijing footed the \$200 million bill for the development of AU headquarters, which were built by a Chinese SOE.<sup>13</sup> The Chinese government allegedly lined the walls with microphones and rigged the system so that they received downloads from AU servers nightly between 2012 and 2017.<sup>14</sup> While these efforts, so far, took place outside the region, it is nonetheless a warning sign of what could happen in places like Cambodia if they accept Chinese investment without much forethought or caveats. Either way, these efforts certainly do not advance Hun Sen's priorities and have the potential to foment ill-will toward China from the Cambodian people who already are less supportive of China.

Hun Sen may find the U.S. a better long-term partner when contrasted with the potential for the Chinese government to spy on his internal operations and disadvantage the Cambodian economy. Hun Sen also has other practical reasons to continue to engage with the U.S., like access to U.S. markets and its interest in regional security that can only be provided by the U.S., which will not change because the U.S. criticizes Hun Sen's human rights record.

### **3. Advancing Human Rights in Cambodia Breeds Goodwill among the Cambodian People.**

While the Cambodian government's actions in recent months trend toward China, overwhelmingly, the Cambodian people remain supportive of the U.S.—in large part because the U.S. has advocated for their human rights—even when their own government has not. According to recent polling, most Cambodians are more supportive of the U.S. than China. This is goodwill that the U.S. should do all in its power to maintain.

Cambodia's future is far brighter as a democracy, and many of the Cambodian people recognize that. In fact, the Cambodian people, as independent agents of change, are the most likely engines of future democratic reforms. It is important that the U.S. institute policies that create space for civil society and the voices of the Cambodian people to be heard. This means that the U.S. should refrain from instituting policies that disadvantage the Cambodian people in favor of policies that hold Hun Sen and the Cambodian government accountable when they undermine democracy.

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[cameras-police-government.html](#) (accessed May 21, 2019), and Adrian Shahbaz, "The Rise of Digital Authoritarianism: Freedom on the Net 2018," Freedom House, October 2018, [https://freedomhouse.org/sites/default/files/FOTN\\_2018\\_Final%20Booklet\\_11\\_1\\_2018.pdf](https://freedomhouse.org/sites/default/files/FOTN_2018_Final%20Booklet_11_1_2018.pdf) (accessed May 21, 2019).

<sup>13</sup>John Aglionby, Emily Feng, and Yuan Yang, "African Union Accuses China of Hacking Headquarters," *Financial Times*, January 29, 2018, <https://www.ft.com/content/c26a9214-04f2-11e8-9650-9c0ad2d7c5b5> (accessed May 21, 2019), and Arthur Gwagwa, "Exporting Repression? China's Artificial Intelligence Push into Africa," Council on Foreign Relations, December 17, 2018, <https://www.cfr.org/blog/exporting-repression-chinas-artificial-intelligence-push-africa> (accessed May 21, 2019).

<sup>14</sup>Viola Rothschild, "China's Heavy Hand in Africa," Council on Foreign Relations, February 15, 2018, <https://www.cfr.org/blog/chinas-heavy-hand-africa> (accessed May 21, 2019), and Mailyn Fidler, "African Union Bugged by China: Cyber Espionage as Evidence of Strategic Shifts," Council on Foreign Relations, March 7, 2018, <https://www.cfr.org/blog/african-union-bugged-china-cyber-espionage-evidence-strategic-shifts> (accessed May 21, 2019).

## The Way Forward

The U.S. policy response to the current political situation in Cambodia has been inconsistent. In the lead-up to elections, the U.S. government responded with agility.<sup>15</sup> There was strong condemnation after Kem Sokha was arrested and detained in September 2017. (He remains under house arrest today.)<sup>16</sup> When the Cambodian Supreme Court dissolved the opposition Cambodia National Rescue Party (CNRP), the U.S. responded by instituting visa restrictions against Cambodian officials.<sup>17</sup> And ahead of fateful 2018 elections, the U.S. designated Hing Bun Hieng, Hun Sen's bodyguard and de facto head of his personal army, under Global Magnitsky authorities placing him on the Specially Designated Nationals (SDN) list.<sup>18</sup> The designation seemed like a warning shot fired ahead of 2018 elections, foreboding of what was to come.<sup>19</sup>

The 2018 elections came and went. Hun Sen and the Cambodia People's Party secured their grip on power for another five years.<sup>20</sup> The White House issued a strongly worded condemnation of the elections and alluded to follow-on actions.<sup>21</sup> More than a year later, there have been no follow-on actions.

Meanwhile, Congress has been at work. The Cambodia Democracy Act passed the House in July, provisions from that Act are now incorporated into the Appropriations legislation, and the Senate has mobilized with legislation that urges the U.S. government to review the preferential trading status the U.S. grants to Cambodia, the Generalized System of Preferences. Cambodia is an incredibly bipartisan issue—there is consensus that something must be done.<sup>22</sup>

Hun Sen is taking note of movement in Congress. Hun Sen has tried to walk back a lot of these decisions—releasing Kem Sokha from prison only to be held under house arrest, restoring the

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<sup>15</sup>Thomas Lum, "Cambodia: Background and U.S. Relations," Congressional Research Service, January 28, 2019, <https://fas.org/sgp/crs/row/R44037.pdf> (accessed September 8, 2019).

<sup>16</sup>U.S. Embassy in Cambodia, "Opening Statement by Ambassador William A. Heidt at a Press Availability," September 12, 2017, <https://kh.usembassy.gov/opening-statement-ambassador-william-heidt-press-availability/> (accessed December 7, 2017).

<sup>17</sup>U.S. Department of State, "Visa Restrictions on Individuals Responsible for Undermining Cambodian Democracy," December 6, 2017, <https://www.state.gov/r/pa/prs/ps/2017/12/276288.htm#.Wig9ip5FpCE.twitter> (accessed December 7, 2017).

<sup>18</sup>News release, "Treasury Sanctions Two Individuals and Five Entities Under Global Magnitsky," U.S. Department of the Treasury, June 12, 2018, <https://home.treasury.gov/news/press-releases/sm0411> (accessed July 24, 2019).

<sup>19</sup>Olivia Enos, "Cambodia's Democracy in Shambles Ahead of July Elections," *Forbes*, July 5, 2018, <https://www.forbes.com/sites/oliviaenos/2018/07/05/cambodias-democracy-in-shambles-ahead-of-julyelections/#116f9794571a> (accessed July 24, 2018).

<sup>20</sup>Nathan A. Thompson, "Cambodia's Election Condemned as a 'Sham,'" CNN, July 29, 2018, <https://www.cnn.com/2018/07/27/asia/cambodia-election-intl/index.html> (accessed September 8, 2019).

<sup>21</sup>White House, "Statement from the Press Secretary on Cambodia's Flawed Parliamentary Elections," July 29, 2018, <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-cambodias-flawed-parliamentary-elections/> (accessed September 8, 2019).

<sup>22</sup>Cambodia Democracy Act of 2019, H.R. 526, <https://www.congress.gov/bill/116th-congress/house-bill/526> (accessed July 24, 2019), and Cambodia Trade Act of 2019, S. 34, [https://www.cruz.senate.gov/files/documents/Bills/20190108\\_cambodia.pdf](https://www.cruz.senate.gov/files/documents/Bills/20190108_cambodia.pdf) (accessed July 24, 2019).

RFA and VOA radio and print services, among others—but this is a dog and pony show we have seen before.

Fancy deals and purely cosmetic changes have been made by Hun Sen previously. This is usually because he thought he had something tangible like international assistance on the line or because he thought he could outsmart his opponent—like the deal he made with the opposition in the wake of near defeat post-2013 elections.<sup>23</sup> In today’s case, Hun Sen is undertaking minor changes because the EU is threatening to revoke Cambodia’s “Everything but Arms” preferential trade status and Congress is threatening action. The U.S. should craft a more consistent policy toward Cambodia and a much stronger response to the 2018 elections.

### **Recommendations**

The executive branch and U.S. Congress should consider the following next steps:

- **Commit to advancing human rights and values in the Indo-Pacific strategy.** While the security components of the Indo-Pacific strategy are becoming clearer and the Trump Administration has taken some steps in the area of development (the biggest being the BUILD Act, which created the new U.S. International Development Finance Agency), the values components of the strategy lag significantly behind. It is not clear, for example, who is responsible for making promotion of human rights and values in Asia a priority as a component of the Indo-Pacific strategy. It should be made clearer which agency or inter-agency process is responsible for actualizing the values component of the Indo-Pacific strategy.

The U.S. has intermittently viewed human rights as a luxury issue to be raised when all other diplomatic issues are addressed—but this is *not* the most strategic way to respond to human rights challenges in Asia.

This recommendation need not be limited to promoting values and human rights in Cambodia, but can also include the promotion of values in other countries in Asia of strategic importance, including, but not limited to, Burma, China, and North Korea.<sup>24</sup>

- **Create and convene an emergency meeting of the Cambodia Contact Group comprised of parties to the 1991 Paris Peace Agreement,** including Australia, France Indonesia, Japan, the United Kingdom, and the United States, to monitor and press for democratic reform. Among the purposes of the Paris agreement was to ensure “the right to self-determination of the

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<sup>23</sup>Walter Lohman and Olivia Enos, “Promoting True Democratic Transition in Cambodia,” Heritage Foundation *Backgrounder* No. 2898, March 31, 2014, <http://www.heritage.org/asia/report/promoting-true-democratic-transitioncambodia>.

<sup>24</sup>Olivia Enos, “Responding to the Crisis in Xinjiang,” Heritage Foundation *Backgrounder* No. 3416, June 7, 2019, <https://www.heritage.org/asia/report/responding-the-crisis-xinjiang>, and Olivia Enos, “The U.S. Must Discuss North Korea’s Prison Camps at the Trump–Kim Summit,” Heritage Foundation *Backgrounder* No. 3322, June 1, 2018, <https://www.heritage.org/global-politics/report/why-the-us-must-discuss-north-koreasprison-camps-the-trump-kim-summit>.

Cambodian people through free and fair elections” and “assuring protection of human rights.”<sup>25</sup>

The signatories have a continuing moral obligation in this regard. The contact group should be used to coordinate human rights policies and assistance programs toward Cambodia. In short order, leaders from all of the countries at the foreign-minister level should convene to draw up coordinated plans to hold the Cambodian government accountable and get Cambodia back on the path toward reform.

- **Name and sanction Hun Sen and other CPP party cadres for the role they play in undermining democracy in Cambodia.** The U.S. Treasury Department should use all available tools in its toolbox to freeze and seize assets of known individuals actively obstructing freedom in Cambodia. It should expand its use of existing Global Magnitsky authorities and use any other relevant authorities to place individuals on the SDN list. Members of Congress have repeatedly provided names of individuals in Cambodia to Treasury who are recommended for sanctioning— members should continue to do so and pressure Treasury to take action swiftly. Such an action would send a clear signal to Hun Sen that the U.S. will intervene in necessary ways to get Cambodia back on the path toward democratic reform.
- **Expand existing visa restrictions on Cambodian officials undermining democracy.** The U.S. State Department should follow through on promises made in its condemnation of the July 2018 election to expand existing visa restrictions on Cambodian government officials. One potential way to expand these authorities would be to extend visa restrictions unequivocally to family members, especially to Hun Sen’s direct family members. (Current visa restrictions only apply to family members on a case-by-case basis.)<sup>26</sup>
- **Condition assistance to Cambodia on the health of democracy.** The U.S. should adopt stringent metrics for determining whether Cambodia is eligible for key assistance programs.
- **Continue to press for the full release of Kem Sokha.** While Kem Sokha was released from prison last year, he remains essentially under house arrest today. This must come to an end.

## Conclusion

The U.S. should do all that it can to encourage Cambodia on a path toward political reform. The tools are there to do so, by reforming a Cambodia Contact Group to hold Cambodia accountable, levying Global Magnitsky and other targeted financial measures against senior officials in Cambodia responsible for undermining democracy, and by supporting civil society groups, there

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<sup>25</sup>United States Institute of Peace, “Agreement on a Comprehensive Political Settlement of the Cambodia Conflict,” Part I, Section II, United National Transitional Authority in Cambodia, 1991, [http://www.usip.org/sites/default/files/file/resources/collections/peace\\_agreements/agree\\_comppol\\_10\\_231991.pdf](http://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/agree_comppol_10_231991.pdf) (accessed August 3, 2018).

<sup>26</sup>News release, “Visa Restrictions on Individuals Responsible for Undermining Cambodian Democracy,” U.S. Department of State, December 6, 2017, <https://www.state.gov/r/pa/prs/ps/2017/12/276288.htm> (accessed August 6, 2018).

is some hope of getting Cambodia back on track. The U.S. should do what it can to support actors in Cambodia that will fight for the civil liberties and fundamental freedoms of average Cambodians. They, alone, form the sole basis for hope that human rights will be respected in Cambodia again.

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