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EXECUTIVE SUMMARY

Cambodian civil society is suffocating. Organizations advocating for democracy and human rights are facing enhanced repression, having long been a thorn in the government's side. In an attempt to preserve his grasp on power and to dismantle the democratic framework, Prime Minister Hun Sen, who has ruled the country for over 30 years, has shuttered media outlets, executed attacks and implementing restrictions on civil society, and dissolved the opposition party, the Cambodia National Rescue Party (CNRP). The current state of political, civic, and media space in advance of the July 2018 elections remains bleak, and if the international community, donors, international nongovernmental organizations, and civil society do not take action, a one-party, autocratic state will be formalized.

Civil society in Cambodia is robust and dynamic, with approximately 1,350 active nongovernmental organizations and associations and 1,110 small community-based organizations. An outpouring of funds from donors after the 1991 Paris Peace Accords allowed civil society organizations (CSOs) to proliferate. The majority of CSOs concentrate their work on service delivery and other forms of development; only 7 percent of CSOs focus on advocacy, human rights, and democracy—and these are the organizations that are most frequently targeted by the government's restrictions.

Civil society has increasingly been subjected to attacks from the government as the ruling party struggles to remain in power. The legal framework is one of the key tools used to execute the crackdown. Chief among the updates and additions to the legislation are those to the constitution, the criminal code, and the Law on Associations and Non-Governmental Organizations (LANGO) (2015). Despite the absence of a major security or terrorism threat in the country, the LANGO allows the Ministry of

Interior total discretion to remove any NGO that conducts activities that endanger the security, stability, and public order, among other limiting clauses, including one mandating political neutrality. The LANGO has been applied in increasingly creative methods, empowering the government to conduct debilitating investigations; to enforce censorship on the web; and to shut down CSOs, charged with allegations of violating the law. The government has enacted controversial amendments to the constitution as well, that enshrine its policy and rhetoric of flushing out foreign interference and of “political neutrality,” ensuring citizens conform to “national” interest. Another amendment that will be a prospect for resourceful application to curtail freedom is that to the criminal code, called *Lèse-Majesté*, which criminalizes any “insult” to the king.

The government has employed other tactics to diminish civic space. This includes the arbitrary detention of activists, violent reactions to civic action, and in some cases, the execution of targeted killings. Though these actions are not widespread, they serve as careful, calculated attempts to ensure the persistence of the culture of fear that plagues civil society. Ramping up its efforts to monitor civil society, both confirmed reports and rumors abound surrounding the activity of paid spies, village security authorities, and even CSOs' receipt of funds from China or the government in exchange for the dilution of any negative messaging targeted at the Cambodian government.

Finally, as media space closes, the government has attempted to create an alternative narrative justifying their actions and delegitimizing civil society actors through propaganda. The result of these tactics is a climate of fear, self-censorship, and suspicion. As funding reduces and restrictions ramp up, there is serious distress that momentum for democracy and human rights will be lost. And these attacks will most certainly have a lasting impact on civil so-

ciety, its relationship with the government, and the country's progress on economic development and societal advancements.

In response, civil society has utilized a variety of strategies to enhance its sustainability, security, and resiliency. These approaches are in the initial stages as attacks, especially the application of the LANGO, have become more severe. Efforts involve: improving digital and physical security, self-care, and mental health; informally organizing through social media or dialogue platforms about geostrategic and human rights issues; releasing recommendations on the passage of new laws and increasing attempts to engage with the government; focusing on organizational development; and pursuing alternative or informal avenues of funding. However, civil society is large and fragmented—without a unifying agenda these efforts may falter, rendering CSOs even more vulnerable to abuse.

The donor and INGO community have as well felt the effects of the government crackdown; as a result, there is a high degree of self-censorship, along with a desire to adapt messaging to become less politicized. This includes pivoting toward supporting democracy and human rights in an “indirect” way, through avenues such as economic development and women's issues. Still, some donors remain committed to ensuring programs address the root causes of governance issues, such as the culture of patronage that persists in the country.

The attacks on media, civic, and political space have garnered several reactions from concerned parties in the international community. Those responses have comprised the withdrawal of funds for the election; visa bans; statements at the recent UN Human Rights Council meeting; proposed action from the United States that would cut assistance programs and include sanctions on members of the government; and the pending review of the “everything but arms” agreement between the European

Union and Cambodia that would lead to its possible suspension. The reaction of the Cambodian People's Party (CPP) to such action has previously fallen into one of two groups: the first, complete disregard, and the second, expressive outbursts—but it has not yet halted further perpetration of the attacks, nor has it led to a reopening of political space. The international community must ensure that timely and adequate action is taken to signal that Cambodia's rapid closing of space is unacceptable, and to make attempts to pry political, civic, and media space back open.

To this end, and to meet the needs of Cambodian civil society, the report advances the following key recommendations:

To the international community:

- Ensure that sanctions are targeted, precise, and timely, so as to avoid having unintended adverse impact on the Cambodian population and civil society.
- Push for legal reform. Undertake a comprehensive review of restrictive legislation and propose concrete recommendations for improvement.

To donors and INGOs:

- Support off-shore training and exchange opportunities for activists. This may include transnational programs with activists from other countries that also specialize in human rights and democracy, or it may include all relevant stakeholders within Cambodia, across sectors, including service delivery organizations, INGOs, media, and private-sector representatives.
- Put in place mechanisms to protect civil society actors from government retaliation for their engagement and interaction with international stakeholders, similar to the

UN secretary general’s report on reprisal and intimidation for cooperation with UN representatives and mechanisms in the field of human rights.

To civil society:

- Prioritize outreach and relationships with domestic constituencies, especially in rural areas. This may include working on the grassroots level to engage citizens on projects directly relevant to them, through exercises such as community consultations. It also may include enhancing citizens’ skills to engage actively in civic space to build “bottom-up demand” for democracy and civil society.
- Take measures to enhance organizational governance and security. Revisit and redesign strategic, financial, and programmatic approaches to accommodate risks and challenges. Consider alternative funding approaches, especially those that draw upon domestic support.

INTRODUCTION

A country distinguished by both rich, ancient history and modern tragedy, Cambodia's fragile system of governance is rapidly regressing. Though democratic governance in the country has been shaky since it was first established, the government has intensified its repression of dissenting voices in recent years, grimly dismantling the freedoms of expression, assembly, and association that undergird a strong and free democratic society. And the situation has become particularly dire in the run-up to the July 2018 elections as the ruling party attempts to protect its hold on power.

Despite considerable investment by the United Nations and the international community to put in place a democratic framework, progress toward democracy derailed after Prime Minister Hun Sen took power over 30 years ago; the country has never seen a successful democratic power transition. The deficient system of governance is partially attributed to faulty follow-up and implementation of the 1991 Paris Peace Agreements, which officially ended the violence of the Khmer Rouge genocide and engaged in the country's post-conflict reconstruction. The legal system was destroyed by the Khmer Rouge and civil war, and the judiciary never became fully independent from the executive branch; it has continued to enable abuses perpetrated by the ruling party.¹ Deeply entrenched cultural issues, such

as patronage and inclinations toward strongman leadership, as well as pressure for quick and complex change, are a few drivers among many that contribute to power dynamics in the country.

Today, Hun Sen continues to serve as Southeast Asia's longest-ruling leader and dominates the country economically and politically. Not discounting his authoritarian tendencies, Hun Sen ushered in an era of shaky peace and economic development after the devastating tragedy. After two decades of strong economic growth, Cambodia attained lower-middle-income status as of 2015, built on an economy of garment exports and tourism.² However, growth was lopsided and there still exist deep disparities and inequalities between the poor and the rich elites, as well as some parts of the urban population.³ And the government continues to be heavily dependent on foreign aid; between 20 and 40 percent of the government's central budget relies on such contributions for services including health, education, and governance.⁴ China provides a sizable amount of funds to the country, as a large source of foreign investment, trade, infrastructure projects, and tourism.⁵ Cambodia's relationship with China is one characterized by tacit agreement. When China steps in with security assistance or economic development, Cambodia is expected to return the favor on strategic matters, as evidenced by Cambodia siding with China on South China Sea issues, often blocking the Association

- 1 Laura McGrew and Scott Worden, "Lessons from Cambodia's Paris Peace Accords for Political Unrest Today," United States Institute of Peace, Peace Brief 224, May 2017, <https://www.usip.org/sites/default/files/2017-05/pb224-lessons-from-cambodia-s-paris-peace-accords-for-political-unrest-today.pdf>.
- 2 World Bank, "Cambodia Country Overview," <http://www.worldbank.org/en/country/cambodia/overview>.
- 3 UNICEF, "UNICEF in Cambodia," <https://www.unicef.org/cambodia/1.Overview.pdf>.
- 4 U.S. Department of State, "U.S. Relations with Cambodia," February 12, 2016, <https://www.state.gov/r/pa/ei/bgn/2732.htm>.
- 5 Some media outlets claim that China is Cambodia's largest donor. See Prak Chan Thul, "China signs new aid agreements with Cambodia," Reuters, January 11, 2018, <https://www.reuters.com/article/us-cambodia-china/china-signs-new-aid-agreements-with-cambodia-idUSKBN1F00IJ>. However, the Embassy of Japan claims that it is the largest donor in the country (see Embassy of Japan in Cambodia, <http://www.kh.emb-japan.go.jp/economic/cooperation/cooperation.htm>). Regardless, many interlocutors mentioned expanding Chinese influence as an important geostrategic component of recent developments.

of Southeast Asian Nations' (ASEAN) statements on the disputes.⁶

In addition to continuing development challenges, including land administration, natural resources management, and environmental sustainability, perhaps most pressing is the country's diversion from the early promise of a functioning democracy respecting human rights and good governance. Governing institutions, elections, and other mechanisms in Cambodia's democratic system have consistently been undermined by intimidation, corruption, and impunity, especially over the past 10 years. The international community's substantial financial investment signifies a strong attachment to democratic advancements in the country, and the government has historically been concerned with being in good standing on the global stage—though deep governance issues persist. However, the Cambodian People's Party (CPP) crossed new boundaries when the Supreme Court officially dissolved the opposition party in November 2017.

The ban came in the wake of the commune elections in June 2017, in which it was revealed that support for the CPP was declining in favor of the Cambodia National Rescue Party (CNRP) opposition party. Though the elections were fundamentally flawed—there was unequal media access, bias in favor of the CPP within the national and local electoral apparatus, and threats against the opposition—the CPP only won by a thin margin, getting 51.39 percent of the vote while the CNRP scored 44.22 percent.⁷ Many Cambodian civil society activists agreed that it was this pivotal time in Cambodian history that

brought the ruling party to high alert. Public trust and opinion of the ruling party at the time appeared to be low not only because of the communal election results, but also because of rumors that the ruling party hired a consulting firm to survey public opinion and received displeasing results. As such, the CPP had reason to have high levels of insecurity surrounding the July 2018 national election and its overarching grip on power.

It also became increasingly clear that the ruling party would take drastic action to maintain its control at all costs. Prior to the commune elections, Hun Sen had said, "To ensure peace and to continue the development, the only option is that the CPP must win elections at all stages. To ensure the lives of millions of people, we are willing to eliminate 100 or 200 people because we have seen bitter past experiences."⁸ In direct response to the perceived wavering public support, the CPP began its crusade. In one fell swoop—all from August to October 2017—the government shut down numerous media outlets, forced the closure of and verbally assaulted civil society groups, and dissolved the opposition, imprisoning its leader. In August 2017, the government cited contract violations to shut down or limit the reach of Voice of Democracy, Radio Free Asia, and Voice of America. The CPP verbally assaulted the Cambodia Daily, an English-language media outlet, and used a \$6.3 million tax bill (supposedly dating back a decade) to force its rapid closure in September 2017.⁹ These actions came as part of systematic attempts to consolidate control over the media—already, a majority of the Khmer-language media outlets are run by the government.

6 Prashanth Parameswaran, "The Truth about U.S.-China Competition in Cambodia," *Diplomat*, March 2, 2018, <https://thediplomat.com/2018/03/the-truth-about-us-china-competition-in-cambodia/>.

7 Human Rights Watch, "Cambodia: Commune Elections Not Free or Fair," June 12, 2017, <https://www.hrw.org/news/2017/06/12/cambodia-commune-elections-not-free-or-fair>.

8 Liam Cochrane, "Cambodian PM Hun Sen says local election worth sacrificing 200 lives," ABC News, June 3, 2017, <http://www.abc.net.au/news/2017-06-04/cambodia-election-pm-hun-sen-threatens-civil-war-kem-sokha-gains/8587496>.

9 The paper has consistently covered "sensitive" topics, including the country's illegal logging trade and the ruling family's wealth.

To prepare for the dissolution of the CNRP, the CPP amended the Law on Political Parties, first in February 2017 and again in July 2017, surrounding the commune elections. It now allows authorities to suspend and dissolve political parties if their leaders hold criminal convictions—regardless of whether other members were also implicated in those crimes; prohibits parties from carrying out activities that affect the “security of the state”; and promotes the dissolution of parties that use any materials of a convicted criminal (speculated to directly target then-CNRP leader Sam Rainsy).¹⁰ The attacks finally culminated, when, in November 2017, the CNRP was officially dissolved, marking the “death of democracy” in Cambodia according to many analysts and news outlets (though others argue it never truly took hold in the first place).¹¹ The dissolution was made official with a Supreme Court ruling—which was entirely one-sided, as the CNRP declined to send legal representation—the midnight arrest of the opposition leader Kem Sokha on charges of treason for “conspiracy with a foreign power,” and the banning of over 100 party members from politics.¹²

These developments indeed have grave implications for Cambodian society at large. Space in Cambodia—including political, media, and civic space—has always ebbed and flowed over the years, with restrictions worsening and accelerating as elections approach, after which there has previously been a soft withdrawal by the government as it feels more secure.¹³ But in recent years the government has crossed boundaries defining international democratic norms to ramp up crackdowns and consolidate power. Some activists and analysts interviewed



10 International Federation for Human Rights, “Update for the European Union (EU)-Cambodia human rights dialogue,” March 13, 2018, https://www.fidh.org/IMG/pdf/20180312_cambodia_eu_dialogue_bf_en.pdf.

11 Ben Sokhean, Mech Dara, and Ananth Baliga, “‘Death of democracy’: CNRP dissolved by Supreme Court ruling,” *Phnom Penh Post*, November 17, 2017, <https://www.phnompenhpost.com/national-post-depth-politics/death-democracy-cnrp-dissolved-supreme-court-ruling>.

12 Ibid.

13 Lauren Mooney, interview with consultant from an international NGO (INGO), Washington, DC, March 28, 2018.

remain hopeful that space will reopen after the July 2018 elections, as it has in the past. However, this is increasingly unlikely considering the rapidly snowballing amount and broadening scope of recent legislation and amendments, as well as the use of new tactics such as digital surveillance and monitoring that mark an expansion in the government's toolkit. Indeed, the attacks have been ratcheted up to a point where much of the damage cannot be rolled back, and while physical or active attacks may diminish to a certain extent, the government has created a framework in which certain actions are normalized and will be the modus operandi. To halt the formalization of a one-party autocracy, a legitimate opposition must be reinstated and the opening of civic space for criticism and debate should be part of the key message of the international community and particularly of strategic partners.

GOVERNMENT ATTACKS ON CIVIL SOCIETY

Legal Framework

As one of the key tools used to crack down on civil society actors, the Cambodian legal framework has been amended with rising frequency over the past few years to severely restrict human rights and civil liberties. Perhaps the most prominent restriction of civic space in particular is the Law on Associations and Non-Governmental Organizations (LANGO), which puts in place burdensome constraints on civ-

il society's operations and reporting. Initially drafted in December 2010, the LANGO was passed in August 2015, though it received criticism from civil society and the international community due to both its content and the lack of consultation during its drafting.¹⁴ Its text lays out a limited landscape for civil society. The LANGO mandates all associations and nongovernmental organizations (NGOs) (including foreign NGOs) to:

- Be in conformity with the constitution and other existing laws;¹⁵
- Register and sign a memorandum of understanding, with total discretion from the Ministry of Interior (MoI);¹⁶
- Maintain neutrality toward political parties;¹⁷ and
- Submit a copy of its activity and financial report.¹⁸

Despite the absence of a major security or terrorism threat in the country, it allows the MoI the power to “decide to remove from the register any domestic association or non-government organization that conducts activities that endanger the security, stability and public order, or jeopardize the national security, culture, tradition, and custom of Cambodian national society, regardless of other criminal punishments.”¹⁹ As such, the MoI has been given ultimate authority to decide which organizations do or do not constitute a threat to the security of the country, or more realistically, of the ruling par-

14 ICNL, *Civic Freedom Monitor: Cambodia*. ICNL also notes, “The Cambodian government has a number of formal mechanisms in place that allow civil society consultation in policy design, strategy, and development. Practice and application of these mechanisms is severely lacking, leaving limited space for meaningful dialogue and influence on policies.”

15 UN OHCHR, *Law on Associations and Non-governmental Organizations*, Unofficial translation by OHCHR of the law adopted by National Assembly on July 13, 2015, http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Unofficial_Translation_of_5th_LANGO_ENG.pdf.

16 *Ibid.*

17 *Ibid.*

18 *Ibid.*

19 *Ibid.*

ty. In practice, the LANGO mandates cumbersome reporting. In one instance, an organization's activities were delayed for months while waiting for approval from the government.²⁰ In others, the LANGO is used as a pretext to close down and kick out organizations, to execute investigations on those implementing "sensitive" activities, or to prevent the implementation of program activities.

The government has also not hesitated to amend laws that affect all Cambodian citizens, instead of solely targeting political or civic actors. Amendments to the constitution were approved in March 2018, despite having also received significant criticism from the international community and civil society, with Human Rights Watch releasing a joint CSO statement expressing its "grave concern."²¹ The amendments followed a "rushed and secretive internal consultation process that failed to seek the views of civil society and the Cambodian public at large."²² In fact, the official content has not yet been revealed. However, some CSOs were able to obtain leaked copies, which include the following provisions:

- Amended Article 49(2): "Every Khmer citizen shall primarily uphold the national interest and shall not conduct any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia and of Khmer citizens."²³

- Amended Article 42(2): "Political parties shall primarily uphold the national interest and shall not conduct any activities which either directly or indirectly affect the interests of the Kingdom of Cambodia and of Khmer citizens."²⁴
- Amended Article 34(5): "Provisions disenfranchising the right to vote and the right to stand as candidates of the elections shall be set by Law."²⁵
- Amended Article 53(3): "The Kingdom of Cambodia absolutely opposes any interference from abroad conducted through any forms into its own internal affairs."²⁶
- Amended Article 118: "The Council of Ministers shall be led by a Prime Minister, assisted by Deputy Prime Ministers as well as by Senior Ministers and Ministers (and Secretaries of State removed), as members."²⁷

The amendments have been criticized due to their broad and vague language, as they "establish ill-defined bans that threaten to curtail the exercise of rights and fundamental freedoms."²⁸ The language could easily be applied to a wide variety of activities, and the implications of altering the constitution—the document intended to protect fundamental rights under a democracy—are vast. By executing these amendments, the government has enshrined its policy and rhetoric of flushing out foreign interference and of "political neutrality," ensuring citi-

20 Lauren Mooney, interview with anonymous civil society actor, Phnom Penh, Cambodia, April 11, 2018.

21 Human Rights Watch, "Cambodia: Reject Draft Amendments to the Constitution and Criminal Code," February 21, 2018, <https://www.hrw.org/news/2018/02/21/cambodia-reject-draft-amendments-constitution-and-criminal-code>.

22 Ibid.

23 The International Center for Not-for-Profit Law (ICNL), "Civic Freedom Monitor: Cambodia," <http://www.icnl.org/research/monitor/cambodia.html>.

24 Ibid.

25 Ibid.

26 Ibid.

27 Ibid.

28 Human Rights Watch, "Cambodia: Reject Draft Amendments."

zens conform to “national” (rather, the ruling party’s) interest. Because the LANGO stipulates that organizations must be in compliance with the constitution, these amendments will undoubtedly have a considerable impact on civil society. In particular, that article that specifies noninterference may pose a significant challenge to receiving foreign funding.

The Cambodian government has also recently amended the criminal code to add a new offense, Article 437, also called *Lèse-Majesté*. Imitating a law with the same name in Thailand, *Lèse-Majesté* criminalizes any “insult” to the king, where insult is defined as “any speeches, gestures, writings, paintings or items that are affecting the dignity of individual person(s).”²⁹ Those convicted could face punishments such as imprisonment of one to five years, fines from \$500 to \$2,500 (an enormous sum for Cambodian citizens, where the GNI per capita is \$1,140³⁰), or, if a legal entity is charged, it could be dissolved or prohibited from carrying out certain activities.³¹ Not only is the language vague and vulnerable to abuse to target individuals or organizations that express legitimate dissent, the punishment is grossly disproportionate and the law could also be applied to any and all individuals. Its first arrest already proved problematic in May 2018, when authorities detained a teacher over a Facebook post that allegedly accused the king and other royal family members of colluding to ban the CNRP.³² Considering how the implementation of other laws and

tactics has previously spilled over to be applied to civil society, *Lèse-Majesté* may follow this trend and pose threats to its operations and influence, similar to how the constitutional amendments may have creative application methods in the future.

The legal framework is weaponized to defeat the CPP’s enemies, described as “rule by decree” instead of rule of law.³³ In preparation for its attempts to stifle dissent, the government has stockpiled an inventory of restrictive laws for later use. Though there are limiting provisions, a legal expert asserted that the Cambodian legal framework is not as restrictive as other Southeast Asian countries’ or by international standards.³⁴ The language becomes particularly problematic in its interpretation, enforcement, and in the courts where many of these attacks play out, over which the ruling party has consolidated control. It is important to note that these threats do not affect every aspect of the civil society sector evenly. Instead, organizations and groups that focus on democracy, human rights, political engagement, and land issues are adversely impacted because of the direct threat they pose to the CPP’s power.

Fake News Law

The proposed “fake news” law is one of the latest legislative tactics the ruling party is seeking to employ. It copies similar legislation promulgated in Malaysia³⁵;

29 Ibid.

30 World Bank, “GNI per capita, Atlas method (current US\$), 2016, Data for Cambodia,” <https://data.worldbank.org/?locations=KH-XN>.

31 Ibid.

32 Eli Meixler, “Cambodia Has Made Its First Arrest Under a Repressive New Law,” *Time*, May 14, 2018, <http://time.com/5275749/cambodia-lese-majeste-law-arrest/>.

33 Lauren Mooney, interview with Lao Mong Hay, Phnom Penh, Cambodia, April 9, 2018.

34 Lauren Mooney, interview with legal expert, Washington, D.C., April 23, 2018.

35 There have been conflicting news stories that the new Malaysian prime minister will now repeal this law. However, the trend has already taken hold across the globe, including, most recently, in Kenya.

the idea was introduced the same week.³⁶ Both appear to have been inspired by rhetoric from the U.S. president Donald Trump, with a Malaysian government communications official saying, “Fake news has become a global phenomenon... When the American president made ‘fake news’ into a buzzword, the world woke up.”³⁷ Similarly, Hun Sen has frequently applauded President Trump’s efforts to stop the spread of “fabricated” stories.³⁸ No doubt emboldened by these two leaders, the CPP expressed interest in drafting a similar law that would regulate “fake news,” which leads to the question: What exactly would be defined as fake news? There have not been any updates on this draft law since the CPP spokesman mentioned the establishment of a technical working group who would compose its text.³⁹

Physical Threats

Perhaps the most severe and troubling attacks on civil society actors and organizational leaders have been the government’s efforts to arbitrarily detain activists, violently react to civic action, and in some cases, execute targeted killings. Though these efforts are not widespread, they serve as careful, calculated attempts to ensure the persistence of the culture of fear that plagues civil society. As such, it is no surprise that the country’s leading—and most “controversial”—human rights organizations and activists have borne the brunt of the assaults. The most notorious at-

tacks have often had a direct link to political activity related to or providing indirect support for the opposition.

As of July 2017, four cases of extrajudicial killings that year were reported.⁴⁰ Though uncommon, targeted killings have stained Cambodia’s political history for years, and are usually executed by security forces or by assassins with ties to the government. Many of those interviewed mentioned the murder of Kem Ley, a prominent political activist, analyst, and founder of the Grassroots Democracy Party, as a cause for much of the fear they feel when speaking out. In July 2016, he was murdered in broad daylight. Kem Ley satirized political situations over the radio, which has a deep reach into rural communities. In the days before his death, he had expressed criticism of Hun Sen over his and his family’s expansive economic and business empire.⁴¹ Kem Ley was a household name and had many friends in the political and human rights community, including anonymous activists who served as interview subjects. As such, the backlash was strong and thousands took to the streets in protest. The ensuing lack of justice followed the typical Cambodian framework of impunity—including a lack of legitimate investigation and a faulty trial. In this case, the person ultimately condemned for the murder is suggested to have been a hitman hired by the government to execute the killing, as even

36 Mech Dara and Ananth Baliga, “Hun Sen ‘mulling fake news bill,’” *Phnom Penh Post*, April 6, 2018, <https://www.phnompenhpost.com/national/hun-sen-mulling-fake-news-bill>; See more on the Malaysia Fake News Law here: Hannah Beech, “As Malaysia Moves to Ban ‘Fake News,’ Worries about Who Decides the Truth,” *New York Times*, April 2, 2018, <https://www.nytimes.com/2018/04/02/world/asia/malaysia-fake-news-law.html>.

37 Beech, “As Malaysia Moves to Ban ‘Fake News.’”

38 Ben Sokhean, “Hun Sen chides Cambodia Daily, lauds Trump,” *Phnom Penh Post*, January 22, 2018, <https://www.phnompenhpost.com/national-politics/hun-sen-chides-cambodia-daily-lauds-trump>.

39 Dara and Baliga, “Hun Sen ‘mulling fake news bill.’”

40 U.S. State Department, “Cambodia 2017 Human Rights Report,” <https://www.state.gov/documents/organization/277315.pdf>.

41 Julia Wallace and Neou Vannarin, “A Life Sentence in Cambodia, but Kem Ley’s Murder Is Far from Solved,” *New York Times*, March 23, 2017, <https://www.nytimes.com/2017/03/23/world/asia/cambodia-kem-ley-killing-life-sentence.html>.

Maina Kiai, former UN special rapporteur on the rights to freedom and assembly, has hinted.⁴²

In 2017 alone, human rights organizations reported at least 38 arbitrary arrests, though the actual number is likely to be much higher.⁴³ The government's efforts to arbitrarily detain leaders of human rights organizations are embodied through the incident known as the "ADHOC 5." ADHOC, or the Cambodian Human Rights and Development Association, is the country's oldest human rights organization.⁴⁴ When Kem Sohka, the then-leader of the CNRP, was being investigated for an alleged affair, current and former employees of ADHOC lent legal expertise to his supposed mistress. In response to their involvement, the activists were accused of bribery, and then held in prolonged pretrial detention, and were denied bail and access to legal counsel while in custody—all in direct violation of international law. In this case, the Cambodian government made creative use of its Anti-Corruption Unit, the institutional body in charge of fighting corruption, which has judicial police authority to investigate allegations of bribing a witness, and whose leader at the time had close ties to Hun Sen.⁴⁵ After 14 months (427 days), the five human rights defenders were released on bail under the pretext that the investigation was completed. However, as of May 2018—11 months after their release—a trial has yet to take place, meaning that the AHOC 5 could be imprisoned once more after the verdict is delivered.⁴⁶

These cases are just a few examples of those activists, leaders, and protestors who are persecuted for posing a threat to the ruling party's power. They also highlight the major deficiencies in Cambodia's governance: namely, impunity, corruption, a lack of independent judiciary heavily coopted by the CPP, weak rule of law, and the silencing of healthy dialogue with and engagement from its citizens. The dysfunctional courts as such pose a significant problem for safeguarding justice. Corruption is rife, and investigations are often falsified or simply do not take place—they are a significant check on executive power that simply does not function.

Land Rights and Activism

Land-grabbing, evictions, and forcible confiscations of land continue to pose pressing human rights challenges. The country has a sordid history surrounding land rights, dating back to the Khmer Rouge era when the regime destroyed property records and all land became state property.⁴⁷ When Cambodia began to privatize land, the lack of available data and registration meant that authorities could confiscate land, displacing families living there.⁴⁸ In response, many activists speak out against the abuses, and protests have become widespread. Authorities then react with violence, arbitrary detention, and even murder.

Chut Wutty was a key example of such practices—a land and environmental rights defender, he was investigat-

42 Mech Dara, Niem Chheng, Lay Samean, and Shaun Turton, "Longtime rights champion Kem Ley gunned down in broad daylight," *Phnom Penh Post*, July 10, 2016, <https://www.phnompenhpost.com/national/longtime-rights-champion-kem-ley-gunned-down-broad-daylight>.

43 U.S. State Department, "Cambodia 2017 Human Rights Report."

44 Please note that AHOC's website is currently not working: <http://www.adhoc-cambodia.org>.

45 Human Rights Watch, "Cambodia: Free 'ADHOC Five' Rights Defenders," December 1, 2016, <https://www.hrw.org/news/2016/12/01/cambodia-free-adhoc-five-rights-defenders>.

46 Nina Trige Andersen, "False Freedom for Cambodia's Adhoc 5," *The Diplomat*, August 1, 2017, <https://thediplomat.com/2017/08/false-freedom-for-cambodias-adhoc-5/>.

47 Rina Chandran, "Risking banishment, Buddhist monks speak up for land rights in Cambodia," Reuters, October 23, 2017, <https://www.reuters.com/article/us-cambodia-landrights-religion/risking-banishment-buddhist-monks-speak-up-for-land-rights-in-cambodia-idUSKBN1CS1CA>.

48 Ibid.

ing illegal logging and land seizures near the time of his death.⁴⁹ Global Witness described him to be perceived as “a direct threat by the country’s military, business and political elites who continue to loot the country’s natural resources.”⁵⁰ Chut Wutty was murdered in April 2012 by members of the military police. Similar to Kem Ley, he was anticipating his murder due to his “provocative” and very public stance.⁵¹ Members of Chut Wutty’s family are also not convinced of the legitimacy of the investigation and the evidence presented in court.

Most recently, prominent international human rights organizations, like Human Rights Watch, have also spoken out against the year-long jailing of Tep Vanny, who is charged with “public insult” and “death threats”—yet another stain on the Cambodian government’s relationship with land rights activists.⁵²

Investigations and Monitoring

Illustrative of the government’s efforts to monitor, investigate, and intimidate civil society were its recent actions against the “Situation Room.” The Situation Room is a coalition of human rights and political CSOs that banded together in order to monitor the (flawed) 2017 communal elections. Comprised of 40 prominent organizations, the government unsurprisingly reacted by calling for an investigation into the coalition, accused of violating the political neutrality clause in the LANGO.⁵³ Networks and co-

alitions are often lauded as bulwarks against civil society attacks. In this case, it only served to provide the government a “watch list” of organizations that represent a direct threat to the government. Not only has the government released public statements attempting to delegitimize the coalition, it also carried out investigations into the Situation Room organizations, which consisted of breaking into their offices and taking pictures of their financial and administrative rooms.⁵⁴ This targeting is not reserved solely for those organizations that were members of the Situation Room. Civil society activists also feared being on the government’s list of organizations to examine, an unofficial document circulated and referred to as the “white pages.”⁵⁵ Because they are heavily scrutinized, they are highly vulnerable to attacks by the government.

From April 2016 to March 2017, there were 60 incidents of meetings, trainings, or gatherings being prevented because of LANGO provisions.⁵⁶ Village security authorities have been established who are required to note any gathering over five people and report it to the commune police. One activist cited an instance where such authorities directly imposed upon their meeting and took photos of the gatherings. These village security authorities, according to another interlocutor, are held accountable by a network of CPP informants that report to the ruling party at the provincial level.⁵⁷ Informal methods are

49 Global Witness, “Five Years Since the Murder of Our Friend Chut Wutty,” April 26, 2017, <https://www.globalwitness.org/en/blog/five-years-murder-our-friend-chut-wutty/>.

50 Ibid.

51 Aun Chhengpor, “In Cambodia, 5 Years after Chut Wutty’s Killing, Questions Remain,” Voice of America, April 19, 2017, <https://www.voanews.com/a/cambodia-chut-wutty-killing/3816512.html>.

52 Human Rights Watch, “Cambodia: Drop Charges against Land Rights Defenders,” July 14, 2017, <https://www.hrw.org/news/2017/07/14/cambodia-drop-charges-against-land-rights-defenders>.

53 Human Rights Watch, “Cambodia: Revoke Ban on Election Monitors,” July 9, 2017, <https://www.hrw.org/news/2017/07/09/cambodia-revoke-ban-election-monitors>.

54 Lauren Mooney, interview with anonymous civil society actor, Phnom Penh, Cambodia, April 10, 2018.

55 Ibid.

56 U.S. State Department, “Cambodia 2017 Human Rights Report.”

57 Lauren Mooney, interview with anonymous funder, Phnom Penh, Cambodia, April 9, 2018.

also being employed, such as the use of casual, but frequent check-ins from acquaintances who work for the ruling party.⁵⁸ There have been reports of paid spies attending NGO events that would then note any activity to the police, and there were frequent references to plainclothes policemen and other authorities in coffee shops and other public areas, such as hotels.⁵⁹ Whether or not these activists have had indirect or direct experience with being monitored, almost all interview subjects referenced concerns about speaking out or using harsh language for fear of being watched, either in person, online, or even over the phone.

Digital Surveillance

The tactics of monitoring and physical threats have been embedded in Cambodia's political history. Digital surveillance, however, is relatively new to the government's toolkit of intimidation. The atmosphere of fear and its chilling effect have extended to the web—though social media has often been an important platform for activism, people have increasingly engaged in self-censorship. While the media and those operating in the political sphere are primary targets for digital surveillance, civil society organizations and other members of the general public have begun to feel its effects as well. By extending the LANGO to the web, the government has warned CSOs that pages on their website violate the political neutrality clause—in this case, LICADHO, a prominent human rights organization, had a page titled “Cambodia's Political Prisoners.”⁶⁰

In Cambodia's political space, smear campaigns have included a deluge of leaks incriminating political figures, especially those in the opposition.⁶¹ In many cases, the content is unverified and it is speculated that such information was obtained through illegitimate surveillance.⁶² This may begin to spill over to civic space; indeed, one activist mentioned the use of phone tapping by the government to surveil activity. Civil society organizations are particularly vulnerable because digital security is often severely lacking. Combined with the sensitivity surrounding democracy, human rights, and political issues, this new tactic poses immense risks.

Propaganda and Verbal Intimidation

As the government attempts to drive out any threatening content on the web, it has ramped up its own media presence, and has released public statements that use self-serving rhetoric to justify their actions and delegitimize civil society actors. The CPP has continued to justify its actions in the name of peace, stability, and development, saying its methods are necessary to prevent the recurrence of genocide “at all costs.”⁶³ A senior government official interviewed pointedly mentioned the importance of avoiding conflict, otherwise risking descension into a situation like the Middle East.⁶⁴ In February 2018, the government released a paper, “Cambodia: Stability and Development First,” which in many ways embodies the government's narrative about the closing of political and civic space. Using inflammatory language throughout the statement, it identifies the main threats to peace as “Western

58 Lauren Mooney, interview with anonymous civil society actor, Phnom Penh, Cambodia, April 10, 2018.

59 Ibid.

60 Freedom House, “Freedom on the Net 2017: Cambodia Country Profile,” <https://freedomhouse.org/report/freedom-net/2017/cambodia>.

61 Ibid.

62 Ibid.

63 Kingdom of Cambodia Ministry of Foreign Affairs and International Cooperation (MFAIC), “Cambodia: Stability and Development First,” February 2018, <https://www.mfaic.gov.kh/wp-content/uploads/2018/02/4T2-Stability-12-February-2018.pdf>.

64 Lauren Mooney and Lana Baydas, interview with senior Cambodian government official, Washington, D.C., April 30, 2018.

meddling” and foreign interference, and specifically calls out the U.S. Congress, EU parliament, human rights groups, UN institutions, and NGOs as the primary perpetrators.⁶⁵

The Cambodian government urges the recognition of positive developments in the country, notwithstanding the absence of political and civil rights. According to the government, “there are more urgent human rights,” which the government has promoted, such as the rights to food, housing, and education, allowing the country to be “among the fastest growing economies.”⁶⁶ This, in many ways, signifies a new orientation for civil society as suggested by the government—in other words, it would be in the government’s interest if civil society instead focused on the “more urgent human rights,” which have an emphasis on economic development, instead of democratic advancements and political and civil rights, which would pose a direct threat to the government.

The government exclaims, in the Peace and Stability First document, “For a post-crisis country, what more could Cambodia have done? How more democratic can it be?... Utopic democracy can wait!”⁶⁷

Ultimately, the ruling party argues that any attacks or restrictions executed were constitutional and democratic within the system set up by its “[American] master”—and in fact, the government attempts to make the case that Kem Sohka would have been charged under a variety of laws if a similar situation played out in U.S. courts.⁶⁸ The opposition’s and civil society’s activities—groomed

by foreign experts—on the other hand, incited violence to recreate a so-called color revolution. This narrative is echoed in a 132-page book released by the Cambodian government that paints a picture of a country on the brink of war “due to the actions of the CNRP and civil society organizations, which are said to be funded by ‘superpowers.’”⁶⁹ The verbal discrediting has not ended with the attempted association of CSOs with the color revolutions. Hun Sen himself has, on occasion, called for the closure of civil society organizations, such as the Cambodian Center for Human Rights (CCHR), which Kem Sohka once led, supposedly due to a violation in neutrality.

The government narrative has yet to take hold in the urban population. Most civil society activists interviewed cited high public support with domestic constituencies, and a general disbelief in the messaging from government outlets. Some may argue that Cambodian CSOs currently do not mobilize nor operate on a grassroots-level enough, but many organizations implement programs in rural areas or execute outreach through outlets such as radios (though after the closure of many of these platforms this will prove to be increasingly difficult).

Forced Closures

Under the implementation of the LANGO, CSOs have been shut down after being charged with alleged violations of the law. Mother Nature, an organization that has consistently reported on sand-dredging activities, was removed from the

65 Cambodia MFAIC, “Cambodia: Stability and Development First.”

66 Ibid.

67 Ibid.

68 Ibid.

69 Kann Vicheika, “In New Book, Gov’t Details ‘Color Revolution Plots,’” VOA Cambodia, February 16, 2018, <https://www.voacambodia.com/a/in-new-book-government-details-color-revolution-plots/4256237.html>.

government's list of NGOs, invalidating any documents permitting its operations in Cambodia.⁷⁰ And the National Democratic Institute (NDI), a prominent American international organization that focuses on democracy promotion, was asked to halt its operations in August 2017, and its foreign staff were expelled from the country. In a public statement from the Cambodian government, the authorities explained that NDI operated without being registered for several months before receiving its official approval (as required by the LANGO, which went into effect in August 2015).⁷¹ The statement disclosed that "NDI...carr[ied] out its activities with total contempt."⁷² The expulsion is perhaps in response to NDI's training of Cambodian political parties, including the CNRP (though NDI also implemented the same training to the CPP).⁷³ Here, the government's use of the LANGO and their efforts to discredit organizations came together to force their expulsion. NDI held a significant presence in the country, and some organizations interviewed mentioned that they receive funding from NDI that they now are no longer able to receive.⁷⁴ But the impact of NDI's expulsion goes beyond the discontinuation of funds. Donors and other international NGOs (INGOs) have become wary that they are not immune to the government's tactics—and as such have begun to engage in the same process of self-censorship as some CSOs. Because these institutions often set the agenda and vision for activities in the democracy and human rights space, their self-censorship has the possibility of impacting the organizations they work with.

Corruption

Civil society organizations have not been able to escape similar problems that plague the government, including weak governance, poor financial management, and instances of corruption. Deeply engrained in the culture of Cambodia are complex patron relations and networks. This has allowed some CSOs or individuals to be susceptible to offers of bribes or positions from the government or from government-supported stakeholders, including the private sector. Additionally, rumors abound surrounding CSOs' receipt of funds from China or the government in exchange for the abstention or dilution of any negative messaging targeted at the CPP. These rumors were neither confirmed nor denied, but one matter is certain—the government has, at a minimum, successfully sowed suspicion among members of a very large and fragmented civil society.

As illustrated, the government has expanded its toolkit and accelerated its attacks, especially in recent years. The result is a climate of fear, self-censorship, confusion, and suspicion. In the past, the government has executed a carefully calculated and selected crackdown in order to achieve its desired results of fear and self-censorship. Now, the crackdown is increasingly widespread. Though, in many ways, the government's campaign has been successful, all CSOs interviewed still expressed a hope and desire to make democratic advancements and fight for political and civil rights.

70 Mech Dar and Ananth Baliga, "Environmental NGO Mother Nature dissolved," *Phnom Penh Post*, September 18, 2017, <https://www.phnompenhpost.com/national/environmental-ngo-mother-nature-dissolved>.

71 Cambodia MFAIC, Press Release, August 23, 2017, <https://www.mfaic.gov.kh/site/detail/12937>.

72 Ibid.

73 Niem Chheng and Ananth Baliga, "US-funded National Democratic Institute accused of colluding with CNRP," *Phnom Penh Post*, August 18, 2017, <https://www.phnompenhpost.com/national/us-funded-national-democratic-institute-accused-colluding-cnrp>.

74 Lauren Mooney, interview with anonymous civil society actor, Phnom Penh, Cambodia, April 11, 2018.

CIVIL SOCIETY SUSTAINABILITY⁷⁵

Civil society in Cambodia is robust and dynamic, with approximately 1,350 active nongovernmental organizations and associations and 1,110 small community-based organizations.⁷⁶ An outpouring of funds from donors after the 1991 Paris Peace Accords allowed CSOs to proliferate—less than 4 percent of those organizations were founded in the 1980s or earlier.⁷⁷ Heavily reliant on foreign funding, most CSOs “owe their existence to the influence and financial support of international donors instead of being the consequence of the gradual opening up of democratic spaces or the scaling up of grassroots organisations.”⁷⁸ Notably, the majority of CSOs (hovering around 80 percent in 2013) concentrate their work on service delivery and other forms of development, such as emergency or humanitarian assistance.⁷⁹ Only 7 percent of CSOs focus on advocacy, human rights, and democracy—a surprisingly low percentage considering the explosion of civil society surrounding the democratic transition.⁸⁰

Some say that the number of Cambodian NGOs in particular (as opposed to informal civil society

groups or community-based organizations) has reached an unsustainably high volume, and that the crackdown may provide a necessary shake-up that would encourage NGOs to consolidate, reflect, or ultimately improve their operations and activities.⁸¹ Because NGOs are plagued by a patronage system, their number should decline as such organizations may actually feed into exploitative activities of communities, according to one analyst interviewed.⁸² Indeed, since the days of the Angkor empire, patronage has characterized Cambodian citizens’ relationship with authority. Much of Hun Sen’s previous success is attributed to it—he is poised as a “meritorious benefactor,” with a subtext that, if the public supports him, Hun Sen will provide services and development projects, and, if the public betrays him, such goods will be seized. An indirect result of such a system is an intense culture of “follow-ship,” as one analyst coins it, where citizens are accustomed to instinctively following their patron, and in particular, a charismatic leader. Employing these assumptions, NGOs will only become sustainable once this culture shifts. This may be an impossibility considering current programmatic approaches, especially those that have a strong emphasis on “results” over impact.

75 The CSIS iCon’s official definition of civil society sustainability is as follows: “the capacity and capability of organized and loosely formed citizens associations and groupings to continuously respond to national and international public policy variations, governance deficits, and legal and regulatory policies through coherent and deliberate strategies of mobilizing and effectively utilizing diversified resources, strengthening operations and leadership, promoting transparency and accountability, and fostering the scalability and replicability of initiatives and interventions.” See more here, Charles Kojo VanDyck, *Concept and Definition of Civil Society Sustainability*, (Washington, DC: CSIS, June 2017), <https://www.csis.org/analysis/concept-and-definition-civil-society-sustainability>.

76 European Roadmap for Engagement with Civil Society in Cambodia 2014–2018, http://www.eeas.europa.eu/archives/delegations/cambodia/documents/publications/2015/2014_2018_eu_roamap_en.pdf.

77 Louise Coventry, “It’s Complicated’: Cambodia’s NGOs and International Donors,” IAPS Dialogue, August 2017, <https://iaps-dialogue.org/2017/08/07/its-complicated-relationships-between-cambodian-ngos-and-international-donors/>.

78 Carmen Malena and Kristina Chhim, *Cambodia: Linking Citizens and the State: An Assessment of Civil Society Contributions to Good Governance in Cambodia* (Washington, DC: World Bank, February 2009), <http://documents.worldbank.org/curated/en/398781468222011480/pdf/491470WP0Box331BLIC10CCSA1Eng1Final.pdf>.

79 European Roadmap.

80 Ibid.

81 Lauren Mooney, interview with international funder, Phnom Penh, Cambodia, April 9, 2018.

82 Ibid.

Incited and exacerbated by the attacks and restrictions, many activists are questioning what a strong and healthy civil society identity in the country will look like. Concerns were expressed about civil society's tendency to blur the lines between democracy and human rights organizations and political parties themselves.⁸³ This has been seen through Kem Sokha establishing the Cambodian Center for Human Rights and then taking on the role of opposition leader, and Kem Ley, who was known for his human rights activism but also established a political party.

Even within the space of democracy and human rights, civil society leaders sometimes disagree about their role. Some argue for a more traditional function in terms of advocating for democratic advancements and holding government actors accountable for human rights violations. Others see civil society solely as the link between service delivery organizations and Cambodian citizens, or advocate for civil society to play a role in providing services.⁸⁴ And still others advocate a continuation of their activities while playing a stronger role in engaging the government, encouraging a relationship defined by productivity instead of adversity.⁸⁵ Thus, civil society in Cambodia is fragmented, without a unifying agenda—and the attacks on civil society have only aggravated such fragmentation, especially as suspicion becomes rampant. In addition to the existing climate of fear, there is a sense that there is a shrinking pool of financial support, which will only lead to increased competition and rivalry,

thereby aggravating civil society's unity even more so. As funding withdraws, activists have begun to feel a sense of abandonment and isolation from both donors and the international community.⁸⁶ Against this limiting backdrop, there is also serious distress that momentum for democracy and human rights will be lost if donor priorities shift, funding decreases, and restrictions ramp up.⁸⁷

CIVIL SOCIETY RESPONSES

Responses to the various restrictions by civil society have fallen in several groups that correspond with the different sentiments about its identity. The organizations and groups that have a strong desire to maintain their focus on democracy and human rights have begun to focus internally, especially to enhance their resiliency in the face of the elections. Efforts are being made to improve both their digital and physical security—they may lag behind in terms of having the most updated or state-of-the-art technology and policies; as such, these efforts are a necessary revamp.⁸⁸ The desire to make these changes is—and should continue to be—met with strong financial and technical support from donors. In these cases, employees may also engage in self-care and improve mental health, through initiatives even including gym memberships.⁸⁹ In a similar vein, there is a priority to visit and maintain morale of those political prisoners arrested following protests, or who were journalists, or supporters, or former members of the CNRP.

83 Lauren Mooney, interview with Kit Touch, Community Legal Education Center, and anonymous peace practitioner and researcher, Siem Reap, Cambodia, April 6, 2018.

84 Lauren Mooney, interview with anonymous civil society actor, Phnom Penh, Cambodia, April 10, 2018.

85 Lauren Mooney, interview with Kit Touch and anonymous practitioner and researcher.

86 Lauren Mooney, interview with Srorn Srun, Sophea Phoeng, and Saophorn Phoeng, Rainbow Community Kampuchea, Phnom Penh, Cambodia, April 9, 2018.

87 Ibid.

88 Lauren Mooney, interview with anonymous civil society actor, Phnom Penh, Cambodia, April 10, 2018.

89 Ibid.

Other informally organized groups—those not registered or with a flexible structure—have continued to undertake activities that focus on democracy and human rights issues using a more unofficial framework. For example, one organization (that is volunteer-run) engages the population through Facebook live and other social media outlets on fulfilling the Paris Peace Accords.⁹⁰ Instead of directly engaging on political issues, this group has been able to cut across party lines to discuss healthy democracy instead, in which all citizens—including those who support or are part of the CPP—should feel invested. Similarly, another group comes together to create a culture of dialogue among young people around political issues and current affairs.⁹¹ Because this group provides a much-needed space for youth, human rights groups like CCHR have assisted in launching their website and organizing their forums. These informal spaces for citizens to have discussions about democracy and human rights issues will become more important as the government closes the formal spaces for healthy debate.

Those organizations that desire to engage with and rebuild its relationship with the government have embraced the transparency required by the government. Underpinned by a belief in restoring trust and instilling a sense of security in the government, these organizations seek constructive avenues for engagement. For example, several advocates mentioned releasing proposed revisions to pending legislation, such as the LANGO (when it was being considered, though it followed a rushed and secretive process), as a way to productively evaluate and provide recommendations that the government may consider.⁹² This may also serve to provide a written record of suggestions for posterity. Dialogues between various stakeholders and the

government were also recommended, though they have not yet been undertaken widespread. However, one interlocutor mentioned utilizing check-in meetings between their organization and the MoI as a way to express legitimate barriers that the LANGO poses, such as the delay of project activities.⁹³

There is also movement to enhance transparency and accountability through programs like the NGO Governance and Professional Practice (GPP), under which the Cooperation Committee for Cambodia has instated a Code of Ethical Principles and Minimum Standards for NGOs and Voluntary Certification System. This may be a productive way to encourage healthy transparency for CSOs, thereby enhancing the government's trust in these organizations. However, such a project must utilize flexible and adaptive methodologies to productively enhance management and programmatic approaches in the current restricted environment. The health of an organization—which includes benchmarks such as good governance, financial management, and security—will be important as attacks are ramped up. Certainly, strong, well-run organizations will be able to weather the storm better. However, if such standards and ethics programs are not implemented effectively, they may only serve to decrease trust or may be vulnerable to cooptation by the government, in which a new system where government-sponsored organizations are the only ones that comply with the standards set out.

Because NGOs are heavily reliant on foreign funds—and now that pool of finances seems to be shrinking—some activists mentioned pursuing alternative forms of funding. However, these individuals or organizations have subscribed to a more informal or flexible organizational structure of funding.

90 Mooney, interview with Srorn Srun, Sophea Phoeng, and Saophorn Phoeng.

91 Lauren Mooney, interview with Ritthy Ou, Politikoffee, Phnom Penh, Cambodia, April 11, 2018.

92 Mooney, interview with Lao Mong Hay; interview with anonymous civil society actor.

93 Lauren Mooney, interview with anonymous civil society actor, Phnom Penh, Cambodia, April 11, 2018.

For example, one organization mentioned using a surplus of consulting funds for some of their other activities that seek to promote democracy and human rights; partnering with organizations that would sponsor a bulk of the expenses; and charging fees for events and other services.⁹⁴ These efforts are in the very early stages due to the deep entrenchment of foreign funding into the current landscape, but will perhaps become more prevalent as restrictions increase.

DONOR AND INGO APPROACHES

Donors and INGOs have also not been able to escape the climate of fear that permeates throughout civil society. In fact, when NDI was expelled, this may have brought attention to the fact that INGOs and donors may also have reason to fear a rejection of their registration or activities under the LANGO. Additionally, as in other contexts, local CSOs lamented the lack of coordination among donors. There have been myriad discussions to reorient approaches to navigate around or within the restricted landscape. Similar to local CSOs' responses, there is a high degree of self-censorship and ensuring that current messaging or programming become more palatable and less "politicized" so as to avoid any scrutiny from the government. In fact, multiple donors and INGOs mentioned pivoting toward a different approach that would advance democracy and human rights in an "indirect" way, through avenues such as economic development, social entrepreneurship, and women's issues. Indeed, one peace researcher and practitioner mentioned that

women's rights programming still garners support from donors in the restricted landscape.⁹⁵

Another funder, however, mentioned that it remains important to make a direct connection to democracy and human rights issues, though the form of funded activities may change to avoid government backlash.⁹⁶ For example, a research project in rural areas may also teach community-organizing skills. Indeed, as the crackdown worsens, it will be increasingly important to sustain optimism and drive toward guaranteeing a healthy democracy and holding the government and other actors accountable. Addressing underlying cultural issues, such as patronage, also pose an important undertaking for some donors. This includes increased knowledge of the strengths and weaknesses of different power systems, an emphasis on critical thinking, and an enhancement of financial literacy.

Some donors—though very few⁹⁷—have begun providing core funding to organizations, especially as the sustainability of civil society operations will likely depend on this funding as the environment is ever more in flux.⁹⁸ As in other contexts, core funding poses challenges not just because of its very limited availability, but also because it is contingent on a very strong relationship between an NGO and donor.

Responses from the International Community

There are significant concerns that Cambodian civil society is subject to forces beyond their control—namely, the whims of geopolitics and geostrategic issues. As political tensions flare and the crackdowns intensify in Cambodia, backlash from the

94 Mooney, interview with Srom Srun, Sophea Phoeng, and Saophorn Phoeng.

95 Mooney, interview with peace practitioner and researcher.

96 Mooney, interview with international funder.

97 European Roadmap.

98 Mooney, interview with international funder.

international community has increasingly been publicly dismissed by the ruling party. Leverage is speculated to have diminished as China's influence expands in the country through its backing of the ruling party and its significant economic investment, thereby emboldening Hun Sen. Meanwhile, the United States—which was once a key donor—now frequently received criticism for its role as a “hostile foreign power.”⁹⁹ Though Hun Sen has brushed off some action taken by key global actors in response to increased repression, other public statements hint at possible uneasiness about certain actions taken.

International multilateral platforms and mechanisms have continued to be used to raise awareness on human rights issues and civic space restrictions in the country. The recent UN Human Rights Council meeting in March 2018 saw a discussion of the deteriorating human rights situation, led by Amnesty International.¹⁰⁰ New Zealand, on behalf of a group of 45 countries, similarly expressed concerns regarding the backward steps and decline of civil and political rights, especially in advance of the July 2018 elections.¹⁰¹ Both called for legal reform and the reinstatement of the CNRP. In this case, the Cambodian government responded in an expressive and sensitive manner. The Permanent Representative of Cambodia to the United Nations

Ney Sam Ol rejected the concerns and accused the council of being used as “a political tool to meddle in other State’s [sic] domestic affairs,”¹⁰² and that, “because they want regime change, because they have their pre-selected candidates to win.”¹⁰³ This and other actions clearly ruffled the government’s feathers, showing that it may still be sensitive to its reputation on the global stage, and that it may be responsive to increased pressure. Overall, however, Hun Sen has continually “called the international community’s bluff,” in some cases directly flouting actions taken.¹⁰⁴

Several foreign governments have taken direct and timely action in response to the undermining of democracy. After the CNRP was dissolved, the United States and EU immediately withdrew funding for the expenses accompanied with the July 2018 election processes—though China and Japan remain the primary donors for those costs. The United States in particular has been “leading the charge,” according to some members of the diplomatic community.¹⁰⁵ The U.S. government’s actions have included visa sanctions on high-ranking Cambodian government officials.¹⁰⁶ However, Hun Sen appears to be unfazed by such action, saying he wasn’t interested in traveling to the United States anyway—and in fact also encouraged the United States and EU to freeze the assets of CPP officials, as it wouldn’t have much

99 Human Rights Watch, *Cambodia, Events of 2017*, <https://www.hrw.org/world-report/2018/country-chapters/cambodia>.

100 Amnesty International, “Oral Statement Item 10: General Debate, UN Human Rights Council 37th Session,” March 22, 2018, <https://www.amnesty.org/download/Documents/IOR4081192018ENGLISH.PDF>.

101 Joint Statement on the Human Rights Situation in Cambodia, UN Human Rights Council 37th Session, U.S. Mission to the UN, March 22, 2018, <https://geneva.usmission.gov/2018/03/21/joint-statement-on-the-human-rights-situation-in-cambodia/>.

102 Leonie Kijewski, “Joint UN statement condemns Cambodia’s political ‘repression,’” *Phnom Penh Post*, March 22, 2018, <https://www.phnompenhpost.com/national/joint-un-statement-condemns-cambodias-political-repression>.

103 Associated Press, “Cambodia rejects joint statement of human rights concern,” *Seattle Times*, March 22, 2018, <https://www.seattletimes.com/nation-world/cambodia-rejects-joint-statement-of-human-rights-concern/>.

104 Olivia Enos, “Getting Tough on Hun Sen for Undermining Democracy in Cambodia,” *Forbes*, January 5, 2018, <https://www.forbes.com/sites/oliviaenos/2018/01/05/getting-tough-on-hun-sen-for-undermining-democracy-in-cambodia/#28f2a88579b3>.

105 Lauren Mooney, interview with members of the diplomatic community, Phnom Penh, Cambodia, April 11, 2018.

106 Vannarith Chheang, “Why Cambodia Sanctions Will Fail,” *Diplomat*, January 13, 2018, <https://thediplomat.com/2018/01/why-cambodia-sanctions-will-fail/>.

of an impact according to him.¹⁰⁷ After the White House announced the end or curtailing of Treasury Department, U.S. Agency for International Development (USAID), and military assistance programs, however, the CPP expressed their discontent, with the spokesman for the Council of Ministers saying, “Such sanctions are nothing short of an insult to Cambodians and hurt those who love real democracy.”¹⁰⁸ Additionally, bipartisan members of U.S. Congress have sustained a strong commitment to holding the government accountable, as evidenced by the introduction of the Cambodia Accountability and Return on Investment (CARI) Act, which includes conditions on new assistance to Cambodia, a visa ban on more Cambodian officials, asset freezes, opposition to all new loans and assistance from international financial institutions, and the prohibition of debt relief.¹⁰⁹ Though it has since been tabled, members from the House of Representatives also introduced a similar bill, called the Cambodia Democracy Act, that includes sanctions on members of the government that have undermined democracy.¹¹⁰ Both aspire to pass a consolidated version prior to the July 2018 elections.

The CPP also reacted negatively to threats of EU action, which would include enhanced monitoring, and in the future, possible suspension of the “everything but arms” agreement, under which Cambodia exports goods including garments and textiles duty-free to the European Union.¹¹¹ The only member of the European Union, however, to take

significant action was Germany, which suspended preferential treatment in issuing visas for government officials.¹¹² Given the action taken by the international community thus far, there has certainly been substantial movement, but there are certain developments, which would likely have a significant impact on the Cambodian government, that are still pending, such as the European Union’s official stance and the U.S. Congress’s new laws. The international community should recognize the severe consequences that may take place if such action is not taken in a timely fashion—if the CNRP is not reinstated, Cambodia will be left on the slippery slope of a one-party system. However, any sanctions implemented should be precise, and focus on those services, such as security sector assistance, that would have its intended impact on the government instead of the Cambodian population and civil society. Any cutting of aid for public service delivery or the imposition of restrictions on exports from the garment industry—which would have an adverse impact on Cambodian workers—would only drive Cambodia further into the arms of China.

CONCLUSION

The political, civic, and media landscape remains bleak as the July 2018 elections approach. The government insists that elections will be free and fair, having invited governments to monitor them (of which Russia, Japan, China, and others have accept-

107 Radio Free Asia, “Cambodia’s Hun Sen Challenges US, EU to Act on Sanction Threats,” December 15, 2017, <https://www.rfa.org/english/news/cambodia/sanctions-12152017164926.html>.

108 Radio Free Asia, “Cambodia Calls US Aid Cutoff, EU Sanctions Threats an ‘Insult,’” February 2, 2018, <https://www.rfa.org/english/news/cambodia/cambodia-calls-us-aid-cutoff-eu-sanctions-threats-an-insult-02282018163442.html>.

109 Men Kimseng, “With CARI Act, US Senators Hope to Fight Chinese Influence in Cambodia, VOA Cambodia, February 25, 2018, <https://www.voacambodia.com/a/with-cari-act-us-senators-hope-to-fight-chinese-influence-in-cambodia/4269725.html>.

110 U.S. House of Representatives, Cambodia Democracy Act of 2018, May 9, 2018, <https://foreignaffairs.house.gov/wp-content/uploads/2018/05/HR-5754.pdf>.

111 “EU turns screw on Myanmar and Cambodia over rights abuses,” *Financial Times*, February 22, 2018, <https://www.ft.com/content/a5976a4e-17f4-11e8-9376-4a6390addb44>.

112 Ibid.

ed). However, this is no longer a possibility in the absence of a legitimate opposition party and a lack of open civic discourse. The only question that remains is the amount of coercion that will take place to ensure a reasonable turnout, especially considering that the former CNRP leader, Sam Rainsy, called for a boycott of the election.¹¹³ As such, foreign governments and independent institutions like OHCHR must participate in election monitoring to analyze the degree to which corruption is taking place. Other governments may choose to abstain from participation to avoid validating an already illegitimate election.

As the elections approach, restrictions will undoubtedly hasten. Most recently, the ruling party's tendrils stifled the Phnom Penh Post, the other major English-language media outlet. After the Post was hit with taxes similar to those that forced the closure of the Daily, it was sold to a Malaysian investor with ties to Hun Sen. Its editor-in-chief was fired, while others, including the CEO, resigned.¹¹⁴ The Post's independence has already been called into question after the sale as stories emerge about calls from its new leadership to remove certain inflammatory articles.¹¹⁵

As attacks ramp up, this is a critical moment to halt any further precipitation into a truly consolidated, autocratic state. If the CNRP is not reinstated, then the only (dubious) hope that remains is that which may come with a transition from Hun Sen to his eldest son, who is anticipated to take power as Hun Sen ages. However, research has shown that the

death of a dictator almost never ushers in democracy; nor does it typically inspire the collapse of the regime.¹¹⁶ As such, the international community must not diminish its call for legal reform and for the subsiding of attacks on political, media, and civic space after the election. Continued cooperation in spite of the crackdown would only send dangerous signals to governments in the region and across the world; efforts should continue to be made to pry space back open.

Meanwhile, the ruling party should recognize that economic development and stability is not divorced from healthy democracy and respect for human rights. And if the government aims at achieving progress, then advancements must be made to improve the quality of governance, which includes creating a healthy space for debate and dialogue. The government should take heed of its responsibilities to protect human rights and the security of its people as stipulated under international law. This includes undertaking legal reform of repressive legislation, releasing political prisoners, reinstating the CNRP, reforming the judiciary to ensure its independence, allowing the flourishing of other legitimate political parties, and ending attacks on political, media, and civic space. As Rhona Smith, special rapporteur on the situation of human rights in Cambodia, said, "Restricting Cambodians' voices could ultimately threaten the very stability that the Government and the people have worked hard to build. Freedoms of association, expression and peaceful assembly should be protected and developed, not restricted, in a multi-party liberal democ-

113 Prak Chan Thul, "Cambodia's former opposition leader calls for election boycott," Reuters, April 8, 2018, <https://www.reuters.com/article/us-cambodia-politics/cambodias-former-opposition-leader-calls-for-election-boycott-idUSKBN1HF0G6>.

114 Eli Meixler, "The Sale of Cambodia's Last Independent Newspaper Pushes Press Freedom into Peril," *Time*, May 11, 2018, <http://time.com/5269047/cambodia-phnom-penh-post-newspaper/>.

115 Julia Wallace and Mike Ives, "A Newspaper Is Sold, and Cambodians Fear the End of Press Freedom," *New York Times*, May 7, 2018, <https://www.nytimes.com/2018/05/07/world/asia/cambodia-phnom-penh-post-sale.html>.

116 Andrea Kendall-Taylor and Erica Frantz, "When Dictators Die," *Foreign Policy*, September 10, 2015, <http://foreignpolicy.com/2015/09/10/when-dictators-die/>.

racy.”¹¹⁷ Despite the oppressed environment, hope remains with civil society actors, who preserve a strong demand for and commitment to progress toward a participatory and responsive democracy.

RECOMMENDATIONS

To the international community

- Amplify the call for the reinstatement of the CNRP and the release of CNRP prisoners through public and private forums. Stipulate that the relief of any sanctions would be contingent on those conditions. Ensure that, if elections pass without any movement from the CPP, the costs of closing space will continue to be raised.
 - Ensure that sanctions are targeted, precise, and timely, so as to avoid having unintended adverse impact on the Cambodian population and civil society.
 - Support high-level dialogue between the ruling party and the opposition.
 - Push for legal reform. Undertake a comprehensive review of restrictive legislation and propose concrete recommendations for improvement.
 - Assist in the revitalization of the civil society consultation mechanism currently in place so civil society can effectively advise on policy design and implementation.
 - Employ a coordinated approach to the above goals to ensure that action is not only taken by a small group of concerned parties, but by a large and diverse coalition.
- ### To donors and INGOs
- Support off-shore training and exchange opportunities for activists. This may include transnational programs with activists from other countries that also specialize in human rights and democracy, or it may include all relevant stakeholders within Cambodia, across sectors, including service-delivery organizations, INGOs, media, and private-sector representatives.
 - Put in place mechanisms to protect civil society actors from government retaliation for their engagement and interaction with international stakeholders, similar to the UN secretary general’s report on reprisal and intimidation for cooperation with UN representatives and mechanisms in the field of human rights.
 - Enhance ability to provide core, flexible, or long-term funding, in order to support long-term planning and the retention of staff during turbulent times.¹¹⁸
 - Build the capacity of local CSOs to diversify funds and explore alternative funding models. Support the decrease of dependency on foreign funding and empower local CSOs to reclaim civic space.
 - Support organizational development initiatives, especially to enhance digital and physical security, and to improve the governance, strategy and financial management of the organization.
 - Promote programs that address the root causes of current democratic stress, including those that strengthen rule of law, and seek to eliminate the culture of impunity

117 UN OHCHR, “End of mission statement by United Nations Special Rapporteur on the situation of human rights in Cambodia Professor Rhona Smith,” March 14, 2018, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22819&LangID=E>.

118 See more about donor strategies here, Barbara Smith, *Donors’ Perspectives on Closing Civic Space* (Washington, DC: CSIS, June 2018).

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