

# CSO Assessment Study: Legal and Political Environment for Developmental/Rural Development NGOs in Cambodia

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# Introduction

## Rationale and objectives of the study

Civil society organization is a voluntary citizens' group that is organized either at local, national or international levels. They include non-profit organizations, labor unions, community-based organizations (CBOs), professional associations, student groups as well as political parties. CSOs are involved in different sectors such as rehabilitation, reconstruction, democracy, human rights, gender equality as well as development efforts. In general, civic space has shrunk and the trust between CSOs and the Government has decreased (Min, et al., 2019) due to populist and authoritarianist regimes. According to the 2022 report of Freedom House, a total of 60 countries suffered from the declines of democracy practice over the past years, while only 25 countries improved (ANGOC, 2022). This also attributes the considerable issues such as the performance of CSOs themselves, the lack of public awareness, the harmonization of civil society, [and] the lack of visibility of promotion from elsewhere in society (Min, et al., 2019).

As such, the study focuses on “civic organization space” - the nature and dynamics under which civil society organizations operate, the important dimension of civil society as well as the developmental/rural development NGOs and their challenges. The study will also assess the laws, policies, and practices of the State whether they encourage or restrict the operations of CSOs in Cambodia, as well as formulate recommendations to improve the situation of CSOs in the country.

In particular, the objectives of the study are:

- to provide a brief description of the civil society organizations in Cambodia;
- to assess the legal and political environment of developmental/rural development NGOs; and,
- to present recommendations on protecting and enhancing CSO space in the country.

## Methodology, Scope, and Limitation

The methodology for this study includes:

- conduct of a literature review of the topic;
- gathering additional information through online research, focus group discussions and key informant interviews via online;
- preparing draft study based on the agreed outline with ANGOC;
- sharing the findings in the regional online meetings organized by ANGOC;
- organizing an in-country validation workshop with CSOs to present and, discuss the draft study; and,
- finalizing the study based on the inputs received from the various processes.

Due to funding constraints, the study could not visibly conduct a broader interview with a large sample of the civil society organizations and NGOs in Cambodia. Most of data and information were collected through online; while the focus group discussions and the validation workshop are conducted with around 34 NGOs.

## **CHAPTER 1: INTRODUCTION TO CIVIL SOCIETY ORGANIZATIONS (CSOs) IN CAMBODIA**

### **Brief history of Cambodian civil society organizations**

Cambodian civil society organizations (CSOs) have existed since 1993 when the country adopted democracy and declared its commitment to security and peace building, following the signing of the Paris Peace Accord to set up of national elections with the assistance of the United Nations Transitional Authority in Cambodia (UNTAC) (UN-OHCHR Cambodia, 2015). Cambodian CSOs include non-governmental organizations (NGOs), youth associations, Community Based Organizations (CBOs), self-help groups and small clubs (Len and Sophea, 2021).

### **What are the origins of the current CSOs in Cambodia?**

Under the five-year regime of the Khmer Rouge, from 1974 to 1979, they destroyed numerous Cambodia institutions that had previously evolved and functioned for hundreds and/or even thousands of years. In 1993, Cambodia awakened from almost three decades of war and isolation when the UNTAC held Cambodia's first democratic election. With the political and economic support of UNTAC and the permission of the Cambodia political party, a Buddhism Peace initiative started with a group of monks and nuns walking across Cambodia in order to transform the tense of environment toward more peaceful one. The violence of July 1997 compelled Cambodia's emerging civil society (religious leaders and NGOs) to once again visibly work towards national reconciliation, increasing tolerance and peace. The Cambodian people had strongly hoped to rebuild their country, while international donors were shocked at the violent authoritarian behavior of Cambodia's ruling elite. As it was a case, international donors ceased most financial assistance to Cambodia except for aid intended for humanitarian purposes. The people of Cambodia are not in such powerful position and they became frightened about future direction of the country. The Cambodians found it very difficult to publicly express their disappointment at the continuing violence and worsening economic situation. To deal with these emerging issues, the nascent Cambodian civil society grew up as a result of the Paris Accord of 1991 and the arrival of international peacekeeping forces. During the UNTAC period between 1992 and 1993, many local groups including political parties, Non-Governmental Organizations (NGOs) and single interest group were established (ICNL, 2011)..

The first Cambodian CSO debuted in earlier 1991, by a returning Cambodian who formally worked on the Thai-Cambodian border refugee camp - Khemara. In 1992, there were 12 registered local NGOs. In 1995, the number had increased to 595 (registered at the Ministry of Interior). The dramatic rise in Cambodian NGOs took place between 1992 to 1997 with international recognition and financial assistance from international donors being granted (Khus, n.d).

## **What was the context in which CSOs evolved?**

Prior to the introduction of the Law on Peaceful Demonstration in December 2009, CSOs were vibrant and the democratic space in Cambodia had greatly expanded. However, in 2013 CSOs emerged again to play their role in democratic promotion and social political affairs. For example, hundreds of people actively participated in street protests to demand for change in the social, political, economic situation of the country (UN-OHCHR Cambodia, 2015). However, human rights, advocacy and environmental NGOs encountered difficult position due to strict inspection and pressures from the local authorities as well as shrinking political space (Phorn, 2021).

In 2017, 55 international CSOs released an open letter concerning the extreme crackdown of the government on Cambodia's independent media, political opposition, and civil society members over the past years. At the same time, the Cambodia National Assembly tried to enact the legislation that authorizes the government to dissolve the political parties. In addition, the government forcibly banned 31 programs, alleging political engagement and forced the Cambodia Daily to shut down their newspaper due to a \$6.3 - million tax fine in September 2017 (WMD, 2017). However, the public's perceptions of civil society have not been affected. There are attributes that should be considered, such as the performance of CSOs, the lack of public awareness, the harmonization of civil society, [and] the lack of visibility of promotion from elsewhere in society (Min, et al., 2019).

## **Definition and characteristics of CSOs in Cambodia**

Civil society organizations are known by different names in different countries. Based on the ANGOC report outline, CSOs includes non-governmental organizations/developmental NGOs, voluntary sector, non-profit, non-stock organizations, non-State associations, etc. (ANGOC, 2022). CSOs are perceived as organizations that play a vital role and perform their duties such as “promoting of human rights (women's and children's rights), providing and delivering of humanitarian aid, conducting awareness-raising about political and social issues, supporting marginalized groups, advocacy for positive social change, fostering accountability and transparency, and monitoring and influencing the government to shape policies and laws” (Ker, 2018). The international NGOs, local NGOs, associations, networks/federations, and membership organizations are included as part of civil society.

- **International NGO (IO)** is an organization that originated in other countries with their headquarters located in other countries, and policy decisions are made outside of Cambodia. The IOs are implementing their projects in Cambodia. CIDSE, PADEK, AFSC, Oxfam, and Red Barna were among the very few IOs working in Cambodia in 1980 following the ouster of the Khmer Rouge Regime in late 1997 and during the Western economic sanctions. These organizations were providing emergency relief to a devastated country ruined by over decades of civil war and the destruction of both the country's physical and social infrastructure. They work mainly in the humanitarian services in support of the central government of Social State of Cambodia. The IOs and NGOs play a major role in providing basic service, while strongly advocating for national reforms to pay way for improving situation related to health, rule of law and economics.
- **Local NGO** is defined as Cambodian NGOs (CNGO). The organizations originated in Cambodia with its headquarter and project(s) within Cambodia. Policies and decisions are made by the majority of their members, who are Khmer.
- **Association** is a private non-governmental organization. Most people, including the local NGO community, still refer to themselves as an "association". The challenges are in reconciling the differences between the "outside" concept of an NGO and what currently exists in Cambodia. From an insightful non-Cambodian perspective, Cambodian NGOs function more like "Associations", which can be better understood in the context of a nascent NGO movement.
- **Network/Federation** is a group of people and/or organizations that come together to share information and work on specific issues. They may be formal or informal organizations. Their activities may vary. Many indigenous networks and federations face difficulties keeping regular program(s) in operation due to lack of experience.
- **Membership organization** is defined as originating in Cambodia and operating only in Cambodia. The policy decisions are mainly controlled by members, which may consist of international organization or Cambodia organizations (Khus, n.d.).

## What is the terminology being used in Cambodia?

The term of CSOs is use for daily life for Civil Society Organizations in Cambodia – in Khmer word is - សង្គមស៊ីវិល (Sangkum Sivil). "Civil society organization in Cambodia generally included the traditional associations "modern" community-based organizations, non-governmental organizations, trade unions, youth organizations, as well as think tanks and independent media organizations and associations and even business associations (Sor and Khet , 2019).

## How Cambodian CSOs are defined?

“Civil Society is defined as individuals and groups who voluntarily engage in forms of public participation and action around shared interests, namely the maintenance of peace and security, in realization of development, and the promotion and respect of human rights” (UN-OHCHR, 2014). Civil society actors include “trade unions, garment workers, human rights defenders, students, media and the general populace, jointly expressing their concerns on a variety of issues ranging from fair wages and land disputes to election results” (UN-OHCHR, 2014)

## What are the characteristics of CSOs?

*“Civil society is at the core of human nature. Civil Society is human beings want to get together with others ... and act collectively to make the citizens’ lives better. And, when the citizens face evils and injustice, we get together and fight for justice and peace. Civil society is the expression of those collective actions. Through strong civil societies, enjoying the freedoms of association and assembly, we encourage and empower one another to shape our societies and address issues of common concern”* – Archbishop Desmond Tutu. The report added that civil society organizations work in partnership with the government institutions and development partners to, contribute to strengthening the effectiveness of development work and promoting accountability in the use of development assistance and local and national resources. At the same time, CSOs help governments to define development priorities, targets and indicators, for example Sustainable Development Goal (SDG) targets and indicators (Sinthay, et al., 2017).

## Overview of CSOs in the Cambodia

### ***Number of CSOs in Cambodia***

Based on data collected from different sources, the numbers of CSOs varies from year to years and from sources to sources. Based on Feasibility Study on Civil Society Organization (CSO): Networks Development Effectiveness in Cambodia reported that the number of active CSOs in Cambodia are not clearly recorded within the database of government institutions and CSOs. Reported figures for registered CSOs range from 4,378 to 6,268 while only a third of these may be operational to some degree (Sinthay, et al., 2017). “Cambodia has more than 5,000 non-governmental organizations (NGOs) and associations” (ALJAZEERA, 2021).

### ***Coverage and types of organizations***

Civil society actors include wide range of individual groups such as NGOs, associations, trade unions, CBOs, faith-based organization, academia, interest groups, human right defenders, academia, media and other individuals whose interests and activities are in solving and addressing issues that are important to their society (UN-OHCHR Cambodia, 2015).

### ***Reach and network***

The Cambodian CSOs cover all 25 provinces and cities in Cambodia i.e., that their programs and activities based at both national, provincial, district, commune, and village levels. For the CSO networks, they focus on human rights, land, natural resource, health education, IP rights, and so forth covers at the national and provincial levels. Most of CSOs networks operate under the NGO which plays a role as a secretariat to support the network. Provincial NGOs elect the chair, secretary, and other members of their respective steering committees based on their policies.

### ***Areas/sectors where CSOs have significant presence in the country***

CSOs play significant roles such as the promotion and protections of human rights; raising awareness on rights to empower communities; shaping and influencing strategies, laws, and policies; and, demanding for government accountability. Also, CSOs play as a coordinator to collect views from the local communities so that decisions on public policies can be informed more fully and made in a participatory manner. CSOs provide services when needed for those who are at risk and vulnerable on multi-faceted issues facets (UN-OHCHR Cambodia, 2015).

## **CHAPTER 2: THE LEGAL FRAMEWORK ON DEVELOPMENTAL/RURAL DEVELOPMENT NGOS IN THE COUNTRY**

The Law on Association and NGOs (LANGO), which was legislated by the National Assembly last 15 July 2015, regulates NGOs. The LANGO has finally given the government the legal tool it needs to exert its total control over civil society, grassroots groups, and independent human rights organizations. The adoption of the LANGO is a serious attack on Cambodia's vibrant and young civil society. If the law is enacted and implemented in its current form, the Cambodian people will feel its disastrous impact for many years to come (FIDH, 2015). The restrictions on the right to freedom of association contained in the LANGO goes well beyond the permissible limitations allowed by international human rights law and are unnecessary for any legitimate purpose. The legislation already in force in Cambodia is fully sufficient to appropriately regulate the activities of associations and NGOs and to allow prosecution where criminal acts have been committed (FIDH, 2015). The LANGO consists of 9 Chapters, 31 articles (LANGO, 2015).

### **Description of Developmental/Rural Development NGOs**

NGOs play a crucial role in providing basic social services, especially in the remote area as well as are present in every province in Cambodia. Moreover, NGOs always bring alternative models and approaches to development, emphasizing participation, promoting equity, gender sensitivity, and environmental sustainability (Ke, 2011).

NGOs are expected to work to bring about social change for better general welfare of the population in the areas of human resource development and advocacy in addition to mainstreaming welfare-like service. Their work then was guided by foreign funds that not only provide the necessary resources to implement activities, but also facilitate the important technical support to help transfer and check on new ideas, concepts and practices (Khus, n.d.).

### **Number**

Since 1990s, NGOs have mushroomed in Cambodia. The number of NGOs varies from years to years. The study on “Image of Civil Society Organizations Perceived by Cambodia Public” says that at the end of 2018 there were 5,523 organizations in Cambodia, including 2,297 associations (Sor and Yem, 2019).

### **Major NGO Networks**

NGO networking are slowly developing in Cambodia. Federation of Ponleu Khmer was established in 1993. Ponleu Khmer was an umbrella of Cambodian organizations, but the concept and core capacity for the movement was based on expatriate involvement. In 1995, as the responsibilities were transferred to local staff and participants, great misunderstandings started to arise. Simply put, many Cambodian organizations and institutions were at an extremely nascent level, which may at first receive substantial boost from an expatriate coordinator or advisor; however, the actual understanding of the regular local participants and staff is still very low. Then, coalitions and network working on common issues emerged during 1997 to 1998. COMFREL, COFFEL, and NIFEC were networks that helped coordinate the national election in 1998. Another example is the Action Committee working on Human Rights, etc. Although there is progress with donor funding and technical support Cambodia CSOs have a long way to go in terms of being able to actually self-direct and control its own networking destiny. Following are some NGO networks that emerged between 1997 to 1998:



- Committee for Free and Fair Election (COMFREL) is a group of 13 organizations working in the area of election education and monitoring.
- Coalition for Free and Fair Election (COFFEL) meets every first Friday of the month to discuss election-related issues. COEFFEL is in the process to reorganize itself.
- Neutral and Impartial Committee for Free and Fair Election in Cambodia (NIFEC) is comprised of five organizations working in the areas of art and education on human rights and election related activities.



- Cambodia Human Right Action Committee (CHRAC) works in the area of human rights, democracy and law education, women's rights, and monitoring and investigation of human rights abuses.
- STAR Kampuchea (SK) is a coordinating network that supports 32 member organizations. SK works in the areas of advocacy and capacity building, democracy and popular participation. Together with their partner organizations, SK implemented activities throughout the years drawing attention to issues related to rule of law and advocacy in the process of law making. (Thida, no date, p. 11)

There are also national networks (e.g., CCC, NGO Forum) and provincial networks. These networks focus on various activities such as health, education, land, forestry, water, and IP rights. They also provide services to NGOs.

### ***Types and categories of organization***

The types of local organization are classified as follows:

- Group I: These organizations are defined as being registered and operating only in Cambodia. These organizations are mainly funded by international organizations with usually a small portion of funding coming from multilateral or bilateral agencies as well as from income generating activities. They are managed by strong, central Cambodian management with or without expatriate technical assistance.
- Group II: These organizations are similar to Group I, however, their headquarters and activities are mostly located and implemented at the provincial level.
- Group III: These are community-based organizations at the grass root level that get sporadic funding support from international organizations. They are operating nationwide or at the provincial level and are not registered with any ministry.

The participants in the validation workshop on 17 August 2022 assumed that about 20 Governmental-NGOs (GONGOs) exist and provide favors to the government or political party. These GONGOs may have received funds from the political parties. However, the participants could not identify the names of these GONGOs.

NGOs also are also divided in the following categories:

- The democracy/human rights organizations are those groups that monitors human rights abuse, and promotes democracy through policy and other advocacy work.
- The development organizations are involved with education, humanitarian activities, economic/ income generation activities, health education, and rural development work. The farmers' organization is also included in this category.
- Finally, there are organizations providing support services to other NGOs such as training and other capacity building exercises and activities such as organizational development work, advocacy, network development, and linkage (Thida, n.d.).

### ***Roles, services, reach***

Since 1992, when the United Nations Transitional Authority in Cambodia (UNTAC) came in Cambodia, there has been a large non-governmental organization (NGO) presence. NGOs became an important force by contributing to development efforts in the country ranging from basic service delivery roles to more sensitive areas, including advocacy, human rights, democratic development environmental protection, etc. (B2B, no date, #44). In terms of reach, NGOs can be found across the country.

### ***Main sources of funding***

Funding support to local organizations come mostly from international organizations. Other sources of funding include multilateral sources, private donations, and income generation activities. Total disbursement for funding to local NGOs in 1998 is 15 percent higher than in 1997. The total disbursement of aid in 1998 totaled 82,858,639 US Dollars, of which nine percent went to local Cambodian NGOs, and one percent to membership organizations. Sources of funding came from private donors, religious organizations, philanthropic organizations, and other NGO funding sources. Total projects recorded were 511, of which 29 percent were implemented by local organizations (Khus, n.d.). NGO Funding has gradually decreased since 2015, dropping by about 14 percent in 2015, and 15 percent in 2016. The aid from major donors including Japan, South Korea, France, United States, Asian Development Bank, and the United Nations Development Programme dropped from USD 970 million in 2014 to USD 830 million in 2015. Foreign aid may continue to decrease if the Cambodian government still shows no interest in promoting democracy in Cambodia (Ker, 2018).

In the validation workshop conducted last 17 August 2022, the 32 participants raised about the unfairness in term of health insurance, per diem, accommodation or other benefits, even though staff of local NGOs and donors have a same mission to help the poor.

## **Legal and Policy Environment of Developmental/Rural Development NGOs**

### ***Overview of Registration of Developmental/Rural Development NGOs***

Based on the LANGO, Article 6: (#45) “Domestic associations or non-governmental organizations shall be required to register with the Ministry of Interior by completing the following documents:

- Application forms for registration, two copies;
- A letter stating the address of the central office of the domestic association or nongovernmental organization issued by the commune or Sangkat chief, one copy;
- Profiles of each founding members with a recent 4x6 size photograph, two copies; and,
- Statutes signed by the president of the domestic association or non-governmental organization, two copies.”

Article 9 states that “a domestic association or non-governmental organization shall become a legal entity from the date it is registered by the Ministry of Interior (MoI). The MoI shall copy the registration documents of the domestic association or non-governmental organization to the relevant Ministries/institutions as necessary” (LANGO Article 9).

The participants in the validation workshop conducted on 17 August 2022 said that some articles of LANGO seems to put pressure on NGOs and to limit NGO space. For example, when implementing the project, the local authorities can come to inspect without informing the NGOs prior to the visit. The participants are also concerned with the “independence and the existence of NGOs” if most NGOs face funding challenges and at the same are not allowed to do [politics] which the LANGO does not clearly specify it.

### ***Obligations for registered organizations***

Article 25 states that “a domestic non-governmental organization shall submit a copy of its activity report and annual financial report by not later than the end of February of the following year.” In practice, NGOs or associations submit their annual activity report together with the financial report to the MoI and the Ministry of Commerce (MoC).

“A foreign non-governmental organization shall submit a copy of its annual activity reports and financial status of the original documents sent to the donors to the Ministry of Foreign Affairs and International Cooperation and Ministry of Economy and Finance within 30 (thirty) days from the date on which they were sent to the donors” (LANGO, 2015).

### ***Overview of Accreditation Systems of Developmental/Rural Development NGOs***

The Cooperation Committee for Cambodia (CCC) as the longest established and the largest membership based organization in Cambodia has introduced the **NGO Governance and Professional Practice (NGO GPP)** in 2004. GPP is an independent voluntary-based certification system. The Code of Ethical Principles and Minimum Standards for NGOs in Cambodia was developed in 2005, aiming at promoting professionalism and good practices for NGOs operating in Cambodia. The NGO GPP helps NGOs in Cambodia to operationalize their organizational policies and meet the GPP standards. The NGO GPP also supports NGOs who want to become the role model in good governance and professional practices. Most importantly, NGO GPP serves and guides certified NGOs to maintain their adherence to the standards, transparency and accountability.

Based on a call interview with a staff of the CCC in charge of NGO GPP on 29 August 2022, from 2007 to 2019, some 230 NGOs applied to CCC for NGO GPP certificates. Sixty (60) NGO applicants were awarded with GPP certificates. In 2019, CCC revised the GPP standard and system. CCC launched the new GPP standards and system in 2021. This time, five (5) out of the 14 NGO applicants received GPP certificates.

In the same validation workshop, the participants said that NGO GPP [promoting good governance] degrades the reputation of small NGOs, NGO activists or local NGOs. The GPP is dividing NGOs in fund competition as small NGOs may be looked by donors that their financial management is weak and thus affect their chances of mobilizing resources. In contrast, small NGOs have to formulate their financial management policy or related financial regulations to register with the Ministry of Interior (Mol) or before accepting the grant from donors. They added that the NGO GPP seemed applicable to some donors only.

### ***Funding for Developmental/Rural Development NGOs***

NGOs in Cambodia received external funding with over USD 1 billion yearly. There are two types of the foreign aid: humanitarian and developmental. Each type can be delivered in different ways.

- Humanitarian aid is known as emergency aid, which is provided for disaster relief or emergency cases (e.g., floods and outbreaks of infectious diseases).
- The development aid is defined as a fund that is given by governments and other agencies to a developing country in support of its economic, environmental, social, and political progress. Development aid can vary in forms including official development assistance, earmarked assistance military aid, technical assistance, grants and commodity import program, trade agreement, and development loan.

In 2004, Cambodia received a total aid package of USD 550 million. By 2012, that number increased to USD 1.38 billion and in 2016, the country received USD 729 million in official development assistance. By 2018, Cambodia has received an accumulated foreign aid assistance amounting to USD 20.68 billion since the early 1990s. China is a big contributor to this increase. Other bilateral sources of aid are Japan, Australia, United States of America, Korea, and Germany. Multilateral sources include the EU, Asian Development Bank, and the UN (B2B Cambodia, n.d.).

### ***Tax-exemptions for donors and recipients of grants***

Article 20 of LANGO states that “an association or non-governmental organization, which has registered or signed the memorandum of understanding, shall be subjected to the existing taxation regime law, and receive incentives and enjoy exemptions in accordance with the existing laws and provisions.”

### ***Accountability Mechanisms of Developmental/Rural Development NGOs***

NGOs in Cambodia needs to be accountable to various actors, including donors, government and communities they serve. However, NGOs tend to be more accountable to their donors “upwards” more than the communities they serve “downward.” The accountability is a challenge among different types of NGOs (Walsh and Lenihan, 2006).

## ***Obstacles to good NGO management***

NGOs face many problems in their management due to weak or non-existent structures. “NGOs operate in the environment of the developing countries is often characterized by weak social structures (in terms of government, infrastructure, and civil society), while NGOs themselves, particularly the smaller and newer organizations, are inclined to have weak internal structures” (Walsh and Lenihan, 2006). However, it is observed that the organizational structure of NGOs is more transparent and accountable than their government counterparts. The Cambodian NGOs represent an effective, reliable and functioning (Khus, n.d.).

## **Overall assessment of legal framework**

NGOs in Cambodia are highly valued by the citizens since they help and support people without discrimination and treat with their community fairly. Some NGOs, especially human rights NGOs provide legal support to the victims, offer recommendations, and sometime criticize government officials who abuse human rights and violate the laws and treaties. These NGOs are noticed by the government that they support the



opposition party. These NGOs actually support the vulnerable people whose land are grabbed without appropriate compensation and those who are evicted and transferred from one place to another without providing adequate support. These kinds of illegal activities have been criticized by NGOs.

In 2008, the Prime Minister said that NGOs are out of control and that they just attack the government in order to raise financial support. In order to control NGO activities and monitor the funding sources of NGOs, the Prime Minister also announced that the government would strictly regulate the operations of NGOs. He also said that the law is one of three high-priority pieces of legislation for the government’s current five-year term, along with a new penal code and a much-anticipated anti-corruption law delayed since the 1990s (Ke, 2011).

The adoption of the LANGO is a serious attack on Cambodia’s vibrant and young civil society. If the Law is enacted and implemented in the current form, the Cambodia people will feel its disastrous impact for many years to come (FIDH, 2015).

## CHAPTER 3: Political Environment of Government and Developmental/Rural Development NGO Relations

NGOs are recognized as a group that play significant role for Cambodia society. They work closely with the vulnerable people in remote areas through the provision of legal services, and conduct of capacity building, and other important activities. The Royal Government of Cambodia (RGC) has recognized the role of NGOs as an agent for and a partner in development in the country. However, the relationship between RGC and NGOs (particularly human rights NGOs) became tense when the Cambodian People Party (CCP) won an election majority in 2008. Because the State feared that those NGOs may obtain funds or donations from terrorist groups during his term, the Prime Minister sought the enactment of a draft LANGO by the National Assembly in order to control or manage NGO activities. “Most NGOs, including development and human right NGOs, did not favor this law because they perceived it as a tool to strictly control their activities” (Ke, 2011).

### **Rights to freedom of expression, assembly and unrestricted mobility**

Article 1 of LANGO states that this law aims at safeguarding the right to freedom of establishing associations and non-governmental organizations in the Kingdom of Cambodia in order to protect their legitimate interests and to protect the public interest, as well as to promote partnership cooperation between associations and non-governmental organizations (on the one hand) and the public authorities (on the other). However, OHCHR commented that It would be helpful for the law to set out the specific ways in which this freedom is to be safeguarded and the ways in which partnership and cooperation would be promoted.

Article 3 of LANGO says that “this law applies to associations and non-governmental organizations that conduct activities within the Kingdom of Cambodia, except where regulated by provisions of a separate law.” The OHCHR understands Article 3 to exempt community-based organizations from the scope of application of the present law, which it welcomes. However, it supports the view that registration by associations and NGOs should not be compulsory.

### **Rights to information and participation and other rights**

On 28 September 2021, a group of civil society organizations urged the government to revise the draft Law on Access to Information, especially an article that states confidential information can be withheld in certain unspecified cases. However, the Information Ministry has maintained that the draft will move ahead without further revision. A group of NGOs that include the Transparency International Cambodia (TI Cambodia), Cambodian Journalists Alliance (CamboJA), Advocacy Policy Institution (API), and the Cambodian Centre for Independent Media (CCIM) requested that the ministry should replace or delete some articles from the draft (Camboja News, 2021). Among those articles were:

- Article 20.7, which says that public institutions may withhold “other confidential information as stipulated in the prohibition provisions,” which the NGOs said is “overly broad and lacks specificity.”
- Article 15.4, which requires 40 days to pass before a repeat request can be made for a piece of recently released information.
- Article 25, which is meant to protect whistleblowers.
- Article 20, which details how confidential information can be obtained, but that the phrasing of Section 7 would allow officials to arbitrarily deny information requests.
- Article 20.7 which is unclear on what confidential information would be prohibited for access. TI Cambodia Director Pech Pisey said the Access Information Law is important because it will give citizens the power to urge the government to be accountable and transparent when it comes to providing services and eliminating corruption.
- Article 25 would not protect whistleblowers who reveal information on crimes, and would instead only protect those who file a complaint to a public institution or court over misconduct by an officer in charge of information.

Access to information builds trust in government institutions, allowing citizens to fulfill their fundamental rights, make informed decisions, and participate in policy-making.

In July 2020, a joint report by the Cambodian Center for Human Rights, ADHOC, and the Solidarity Center analyzed the state of fundamental freedoms in Cambodia. It showed the ongoing restrictions of the freedom of association and freedom of expression between April 2019 and March 2020. The report documented 245 cases of restrictions and 103 incidences of violations of freedom of expression, including 166 summonses and 99 arrests for the exercise of free speech.

“Online dissent and criticism are consistently curtailed. Almost half of all recorded violations of freedom of expression are related to online expression, including 48 arrests” (Khuon, 2020).

### **Partnership and coordination mechanisms**

NGOs in Cambodia have started its operation since the fall-down of Khmer Rouge regime in 1979. They have grown rapidly since the Paris Peace Accord Agreement which was signed by the Cambodian leaders in 1991. NGOs are required to coordinate closely within individual groups and amongst broader stakeholders. However, NGO coordination efforts have encountered a series of challenges. “These include cultural, political and institutional challenges and poor NGO coordination between the national and provincial levels. In particular, these challenges include: a) the absence of a collective voice, b) slow progress on NGO self-regulation, c) the fragmentation and overlapping of NGO projects, d) a poor relationship and partnership with the government e) little understanding of aid effectiveness, and f) poor engagement in the aid coordination mechanisms. Thus, the NGO coordination efforts are relatively loose although progress has been made since the 1990s” (Chum, 2010).

The relationship of the government and NGOs is observed that it is influenced by strong cultural belief of leader-centered and instruction oriented. This relationship is mostly complimentary and mutually beneficial, even though sometimes, there is tension between them. The friction results from a difference in concept, practice and technical support. The Cambodia government embraces the highest authority concept that functions primarily on personal relationships and nepotism. On the other hand, NGOs are most influenced by the foreign aid and support for organizational change, which tend to work in cooperation with different parties (i.e., NGOs who receive fund from donors must follow the requirements set by the funding agency) (Khus, n.d.).

## Overall assessment

Across the globe, civil society organizations have been coming under increasing pressure in recent years as a result of restrictive NGO laws, limitations on funding, and increased government interference. Since 2015, new legislation, including laws regulating NGOs, trade unions and political parties, have had a chilling effect on Cambodia's vibrant civil society, while human rights defenders, labor activists and opposition politicians have been subjected to criminal charges and imprisonment. Recent months have seen a new escalation in restrictions on fundamental freedoms, as a number of independent media outlets have been forced to close.

## CHAPTER 4: Conclusion and Recommendations

### Conclusion

Cambodian civil society organizations emerged since the rebirth of the Cambodian democracy in 1993 and during the UNTAC presented in Cambodia for peace building to end a more decade of civil war, following the signing of the Paris Peace Accord and the setting up of national elections. Gradually, CSOs became vibrant as the democratic space in Cambodia has expanded prior to introduction of the Law on Peaceful Demonstration in December 2009. CSOs have played significant role and implement different projects such as “promoting human rights (women’s and children’s rights), providing and delivering humanitarian aid, raising awareness about current political and social issues, providing support to marginalized groups, advocating for positive social change, fostering accountability and transparency, and monitoring and influencing the government to shape policies and laws” (Ker, 2018). “Civil Society is defined as individuals and groups who voluntarily engage in forms of public participation and action around shared interests, namely the maintenance of peace and security, in realization of development, and the promotion and respect of human rights” (UN-OHCHR, 2014). The Cambodian CSOs cover all 25 provinces and cities in the country (i.e., their programs and activities are implemented at national, provincial, district, commune and village levels). For the CSO networks, they focus on human rights, land, natural resource, health education, IP rights, etc. at the national and provincial levels. Based on their policies, provincial NGOs elect their steering committee composed of the chair, secretary and other members to lead the networks.



NGOs is regulated by the Law on Association and NGOs (LANGO), was legislated by the National Assembly on 15 July 2015. The LANGO is used as a tool to control over CSOs, grassroots groups, and independent human rights organizations. CSOs and the donor community have heavily criticized the adoption of LANGO, as they perceived that the said law seriously attacks Cambodia's vibrant and young civil society.

NGO networking is slowly developing in Cambodia. The Federation of Ponleu Khmer was established in 1993. Ponleu Khmer was an umbrella of Cambodian organizations, but the concept and core capacity for the movement was based on expatriate involvement. In 1995, as the responsibilities were transferred to local staff and participants, great misunderstandings started to arise. COMFREL, COFFEL, and NIFEC were networks that helped coordinate the national election in 1998. NGOs are required to be transparent and accountable to their community and donors. Hence, the Cooperation Committee for Cambodia (CCC) has introduced the NGO Governance and Professional Practice (NGO GPP) in 2004 as an independent voluntary-based certification system. The Code of Ethical Principles and Minimum Standards for NGOs in Cambodia was developed in 2005, aiming at promoting professionalism and good practices for NGOs operating in the country.

Related to legal framework, Article 1 of LANGO states that "this law aims at safeguarding the right to freedom of establishing associations and non-governmental organizations in the Kingdom of Cambodia in order to protect their legitimate interests and to protect the public interest, as well as to promote partnership cooperation between associations and non-governmental organizations (on the one hand) and the public authorities (on the other)." However, most of NGOs expressed that LANGO is developed to limit their right in performing their role. Likewise, on 28 September 2021, a group of civil society organizations appealed to the government to improve the draft Law on Access to Information on particular articles (e.g., confidential information can be withheld in certain unspecified cases even though the Information Ministry has maintained that the draft will move ahead without further revision).

Across the globe, civil society organizations have been coming under increasing pressure in recent years as a result of restrictive NGO laws, limitations on funding, and increased government interference. In Cambodia, increasing restriction of civic and democratic space is presenting new challenges for those who work in promoting and protecting human rights in the Kingdom. Since 2015, new legislation, including laws regulating NGOs, trade unions and political parties, have had a chilling effect on Cambodia's vibrant civil society, while human rights defenders, labor activists and opposition politicians have been subjected to criminal charges and imprisonment. Recent months have seen a new escalation in restrictions on fundamental freedoms, as a number of independent media outlets have been forced to close. On 3 September 2017, the opposition leader was arrested on charges of treason. To dissolve the main opposition party, legal proceedings were filed as hearings are ongoing to date.

## **Recommendation towards effective change agents of governance and democracy**

The issues brought out in this paper are intended to stimulate and generate broad discussion among the NGO community in Cambodia. These issues are collected from various documents through desk review, interview and validation workshop. The recommendations are as follows:

### ***Coping strategies of Developmental/Rural Development NGOs***

- Donors should form a common mechanism for funding NGOs. Local NGOs now are facing fund shortage due to COVID-19 and the policy change of the donors.
- Donors need to commit long-term support and development. Cambodian NGOs cannot develop with short-term funding. In addition, donors should also help cover the core cost of supporting a program.
- Capacity building should be the first priority for NGOs to achieve their set goal(s). The capacity building of NGOs is necessary and critical. Donors and international NGOs can better assist the development of Cambodian organizations by sharing tools and models for development.
- International NGOs should not compete with local NGOs on resource mobilization, but rather create a consortium with local NGOs to raise fund.

### ***Actions to address the legal framework and political issues affecting NGO operations***

- Establish more frequent and productive dialogues between donors and local NGOs. Awareness and understanding are key elements that need to be strengthened both from perspective of donors as well as from local NGO point of view.
- Support and strengthen the existing forum for dialogue between government and NGOs at the local and national levels to foster dialogue, understanding and cooperation.
- The good work and positive effect that NGOs have upon society should be recognized by the RGC.
- NGO should be given reasonable economic incentives to encourage and support the growth of the NGO sector.
- The government should lobby the United Nations Resident Coordinator/UNDP in Cambodia and UNESCAP to support the development and implementation of the “Cambodia CSO/Government Road Map to SDGs 2021 to 2030.”
- The level of distrust among NGOs and government is still an issue, which to some extent can prevent meaningful dialogue and collaboration in working together to help the poor. This demand robust discussion among NGOs and between the government and NGOs -- focusing on possible restructuring existing working relationship and exploring for new structure of working relationship and collaboration.
- Nine (9) articles of LANGO should be amended. For instance, getting permission for changing office of an NGO should be decided at the provincial level or Khan Level and not by the MoI.
- Cooperation between local authorities and NGOs should be improved, being indispensable partners.
- The donors should not require NGOs to execute an MoU or have the supporting letter from the relevant authorities or the Ministry. This puts a burden on NGOs as at times the local authority or

ministry does not issue the supporting letter. In this case, NGO could not access funding as it does not meet the said requirement.

- Donors should treat NGOs equally, regardless of size (big or small).
- The recommendations raised by NGOs should be discussed and acted upon by government.
- Donors should consider to provide budgetary support for administrative and personnel items. Some donors provide only fund for activities; but how can NGOs operate without salary and administrative support?
- Big donors should consider supporting small NGOs. If they think small NGOs cannot manage fund, they should provide consultant to help the small NGOs.
- The requirement for a certain contribution for the project creates a problem for small NGOs. NGO could not find contribution for any sources as it is a not-profit institution. ■

#### List of Acronym

ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CCC	Cooperation Committee for Cambodia
CCHR	Cambodia Center for Human Rights
CHRAC	Cambodia Human Right Action Committee
COFFEL	Coalition for Free and Fair Election
COMFREL	Committee for Free and Fair Election
CSO	Civil Society Organization
GBPS	Good Governance for Better Public Service
ICNL	The International Center for Not-for-Profit Law
IP	Indigenous People
LANGO	Law on NGO and Association
MoC	Ministry of Commerce
MoI	Ministry of Interior
NGO	Non-Governmental Organization
NGO GPP	NGO Governance and Professional Practice
NIFEC	Neutral and Impartial Committee for Free and Fair Election in Cambodia
SK	STAR Kampuchea
SNC	Sustainable Natural Resource Management and Climate Change
UN- OHCHR	UN Office of the High Commissioner for Human Rights
UNTAC	United Nations Transitional Authority in Cambodia
USD	United States Dollar
WMD	World Movement for Democracy

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Sincerely yours,

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The views contained in this document are those of the author, and do not necessarily reflect those of IDEALS and FFA.

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