

CAMBODIA

**PROPOSED LAW ON
ASSOCIATIONS AND NON-
GOVERNMENTAL
ORGANIZATIONS:**

A WATERSHED MOMENT ?

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CAMBODIA'S PROPOSED LAW ON ASSOCIATIONS AND NON-GOVERNMENTAL ORGANIZATIONS:

A WATERSHED MOMENT FOR CAMBODIA?

On 12 December the Cambodian government released the fourth draft of its proposed Law on Associations and Non-Governmental Organizations (LANGO) and scheduled a consultation on the law for Monday 19 December 2011. Many of Cambodia's NGOs, formal and informal civil society groups, and international NGOs working in Cambodia are opposed to the law, questioning its necessity and the motives behind it. They perceive the LANGO as a threat to the freedoms of association and expression protected under Cambodia's Constitution and international human rights treaties to which Cambodia is a party.

This may be a watershed moment for Cambodia.

Looking back, international NGOs played a major role in providing humanitarian relief following the fall of the Khmer Rouge regime in 1979, in support of the Cambodian government's tremendous efforts to reconstruct the country while conflict continued. Throughout the 1980s, as Cambodia faced western trade embargos, a number of international NGOs advocated for the external assistance that the country so desperately needed. After bilateral and multilateral donors took over large-scale humanitarian assistance programs, particularly during the UN Transitional Authority in Cambodia (UNTAC) period, many international NGOs working in Cambodia shifted their activities to community development work.

The UNTAC period saw the re-emergence of domestic civil society in Cambodia. UNTAC was established to ensure the implementation of the 1991 Paris Agreements, to end the Cambodian conflict that had continued since the fall of the Khmer Rouge regime. Its mandate included promoting respect for human rights, maintaining law and order, repatriating Cambodian refugees, rehabilitating essential Cambodian infrastructure, and organizing free and fair general elections. It helped to open up Cambodia and promoted the growth of civil society, with numerous NGOs established at the national and provincial level during that period, and professional associations and independent trade unions following thereafter. The mandate ended with the formation of a new government and the promulgation of a new Constitution for Cambodia, which includes human rights provisions in support of

civil society, including freedom of expression and association.

Domestic NGOs in Cambodia have since played a crucial role in the ongoing reconstruction and development of the country, complementing the significant efforts of the government to alleviate poverty through the delivery of humanitarian relief, social services and community development projects. Cambodian NGOs have also conducted independent research and advocacy, including on the human rights situation, and in doing so have played a watchdog role in a country where the political opposition has weakened and much of the media remains politically-controlled. As then UN High Commissioner for Human Rights Louise Arbour stated in 2006: "The professionalism and commitment of non-governmental organizations is a remarkable asset for the development of this country and one that needs to be safeguarded and supported."

Cambodian civil society has become more diverse, widespread and vibrant. Informal people's groups have emerged throughout the country, often in the context of land conflicts or the destruction of natural resources, and they are taking action to claim their rights and contribute to more equitable local and national development. Amnesty International's recent report – '*Eviction and Resistance in Cambodia*' – highlighted the role of women in organizing communities to peacefully resist forced evictions. Some of these informal groups, sharing common goals such as natural resource protection, have connected with each other in informal grassroots networks. For example, grassroots networks have developed to protect Prey Lang forest. Constituent or membership groups – such as those representing farmers and fisherfolk – have strengthened and are linking up. Informal groups and their networks are connecting with these constituent groups, and have received technical support and assistance from longer-standing NGOs working at the national and provincial level. Indeed, some NGOs have adapted their programmes to focus on empowering these new groups. Networks of diverse civil society groups - informal and formal – are sharing ideas and tactics, and undertaking joint action to improve their lives and contribute to the development of the country. More and more, Cambodians are trying to exercise their constitutional rights to freedom of expression and association, and – as Article 35 of the Cambodian Constitution provides – participate in the "political, economic, social and cultural life of the nation."

The Cambodian government has said that the LANGO is needed to regulate this increasingly vibrant civil society, claiming that it will help prevent corruption, crime and terrorism. Cambodian NGOs point to laws in place that already deal with these concerns, while a legal framework for the registration and operation of non-profit entities is included in the new Civil Code.

Many NGOs in Cambodia are concerned that the law's purpose is to control those civil society groups that are critical of the government or which promote alternative development models that threaten the vested interests of powerful elites. They see the law as another step in the legislative assault against freedom of expression, which has included a problematic penal code, demonstration law and a proposed trade union law. They are concerned that the LANGO is aimed at undermining the growth of the more informal, vibrant civil society that is emerging. The Cambodian League for the Promotion and Defense of Human Rights (LICADHO), a Cambodian NGO, has described the previous draft of the LANGO as threatening "the very existence of independent civil society in Cambodia, perceived by many observers as one of the few remaining positive legacies of UNTAC." Indeed, one senior member of the Cambodian government did reportedly state: "[t]oday so many NGOs are too freely speaking and do things without framework. When we have a law we direct them."



A 230 ft long petition attached to blue check *kramars* representing human rights defenders and signed by more than 10,500 community members is unfurled outside the National Assembly building in Phnom Penh on 20 December 2011. The petition was collected in 24 provinces around Cambodia on 10 December, International Human Rights Day and called for the proposed Law on Associations and Non-Governmental Organizations (LANGO), the Trade Union Law and the Agriculture Cooperatives Law to be scrapped. © CLEC Dec 2011

Some of Cambodia's development partners doubt the utility of the law and are concerned about its potential malevolent impact. Flynn Fuller, the United States Agency for International Development (USAID) Cambodia Mission Director, stated: "USAID remains concerned about the necessity of the draft NGO law and the related implications for civil society organizations to operate freely in Cambodia." Professor Surya Subedi, the UN Special Rapporteur on the situation of human rights in Cambodia, has said that the law "may hamper the legitimate work of NGOs in the country".

The fourth draft of the LANGO contains some improvements compared to previous drafts, though the law remains vague and confusing in parts and still contains a number of worrying provisions. For example, the definition of "Community-based organization" is vague, meaning that any informal group could be obligated under the law to inform the authorities about their objectives. There appears to be no opportunity for a registered organization to appeal a decision by the Ministry of Interior to de-register it for failing to meet certain administrative requirements. Further, an understanding reached with the Ministry of Foreign Affairs to enable an international NGO to work in Cambodia may be terminated should its activities "jeopardize peace, stability, public order or harm the national security, national unity, culture, customs and traditions of the Cambodian national society," a provision which is worryingly vague and open to abuse.

However, the main reason that much of Cambodian civil society, international NGOs and a number of Cambodia's development partners are so concerned with the LANGO is because of the context in which it is being proposed. The year has seen the repression of civil society, with a continued crackdown on freedom of association and expression. Threats against some NGOs critical of the impact of a railway redevelopment project on communities who had to resettle, led to the official suspension of the local NGO Samakhum Teang Tnaut (STT). Subsequently, the Cambodian government issued warnings to two other NGOs, Bridges Across Borders Cambodia and NGO Forum on Cambodia. In September, armed police disrupted attempts by local NGOs the Cambodian Center for Human Rights (CCHR) and the Natural Resource Protection Group (NRPG) to hold private training meetings in Sandan district, Kompong Thom province. Conditions were placed on future human rights meetings in the province.

As grassroots communities and activists increasingly mobilized to hold meetings and protests on human rights-related issues, the authorities attempted to stop them. Around 300 mostly Indigenous people living on the edges of Prey Lang forest travelled to Phnom Penh in August, to distribute leaflets about the destruction of their traditional land and restrictions on their access to the forest because of mining and agro-industrial concessions to companies. More than 100 of them were arrested and briefly detained without charge, as the police claimed that the leaflets could “disrupt social order”. Just over a week ago, many Human Rights Day celebrations organized throughout the country by informal people’s groups and individual activists were disrupted by local authorities, while two celebrations were prevented altogether. It is not surprising then, that the LANGO is seen as another tool to restrict freedom of expression and association, and give a veil of legislative legitimacy to the repression of civil society in Cambodia.

In this repressive climate, concerned about some of the law’s vague and restrictive provisions and the motives behind it, civil society groups have mobilized to oppose it. NGO coalitions and individual NGOs have united against the law, joined by a groundswell of support from informal groups throughout the country and international partners. A joint statement against the earlier draft of the law gathered more than 670 endorsements from NGOs and other groups locally and internationally. Online social media has been used to draw attention to civil society’s concerns. Indeed, the strength and organization of the opposition movement against the LANGO reflects the development of civil society in Cambodia that it is trying to protect.

This then is why the LANGO may be a watershed moment for Cambodia, not simply because of its content, but because of what it has come to represent: if it is enacted, it will be perceived by many as an assault on civil society.

The Cambodian government faces a decision. Will it listen to the broad consensus among active independent Cambodian civil society, international NGOs and Cambodia’s development partners, and overhaul the law or, perhaps, scrap it completely? Or will it ignore these concerns, pass the law in its current form and be perceived as attempting to stifle an increasingly vibrant and strong civil society?

The decision that the Cambodian government makes, and the corresponding message that this will send to the Cambodian people and development partners, may have a significant impact on the future direction and development of the country. It will indicate whether the government seeks to listen to and trust its citizens, viewing civil society as a strong asset for the country’s development; or whether the government’s already antagonistic relationship with civil society will deteriorate further, risking growing alienation and discontent. Furthermore, at the end of the year marking the 20th anniversary of the Paris Agreements, with Cambodia set to chair ASEAN in 2012 and as it lobbies for a non-permanent seat on the UN Security Council, the decision on the LANGO is likely to affect Cambodia’s reputation internationally at an important time.