

IS AN NGO LAW IN CAMBODIA **JUSTIFIED?**

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LICADHO

CAMBODIAN LEAGUE FOR THE PROMOTION
AND DEFENSE OF HUMAN RIGHTS

Cambodian League for the Promotion and Defense of Human Rights (LICADHO)

LICADHO is a national Cambodian human rights organization. Since its establishment in 1992, LICADHO has been at the forefront of efforts to protect civil and political and economic and social rights in Cambodia and to promote respect for them by the Cambodian government and institutions. Building on its past achievements, LICADHO continues to be an advocate for the Cambodian people and a monitor of the government through wide ranging human rights programs from its main office in Phnom Penh and 12 provincial offices.

LICADHO pursues its activities through two program departments:

Department of Monitoring and Protection:

- **Monitoring of State Violations and Women's and Children's Rights:** monitors collect and investigate human rights violations perpetrated by the State and violations made against women and children. Victims are provided assistance through interventions with local authorities and court officials.
- **Paralegal and Legal Representation:** victims are provided legal advice by our paralegal team and in key cases legal representation by our human rights lawyers.
- **Prison Monitoring:** researchers monitor 18 prisons to assess prison conditions and ensure that pre-trial detainees have access to legal representation.
- **Medical Assistance:** a medical team provides medical assistance and referrals to prisoners and prison officials in 12 prisons and victims of human rights violations.

Department of Communication and Advocacy:

- **Community Training, Education and Advocacy:** advocates raise awareness to specific target groups, support protection networks at the grassroots level and advocate for social and legal changes with women and youth.
- **Public Advocacy and Outreach:** human rights cases are compiled into a central electronic database, so that accurate information can be easily accessed and analyzed, and produced into periodic public reports (written, audio and visual).

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IS AN NGO LAW IN CAMBODIA JUSTIFIED?

In recent years, senior Cambodian government officials including Prime Minister Hun Sen have stated the government's wish to have a *Law on Associations and Non-Governmental Organizations*, commonly referred to as the "NGO Law". In late September 2008, the Prime Minister announced that the NGO Law would be one of three priority laws to be completed. But while these officials have claimed a need to address crime and corruption on the part of NGOs, a brief examination of the reasons they put forward suggests that the reverse is actually true - in reality, this proposed legislation is intended to *restrict the lawful activities* of Cambodian civil society organizations.

CRIME

"Some civil society groups perform illegal activities, but how can we control them if we do not have a law?"¹

- Prime Minister Hun Sen

Cambodia already has a substantial body of law to deal with illegal activity, including a penal code, a recently-revised criminal procedure code, and numerous other laws and sub-decrees. A revised penal code has been pending for many years, and should be a far greater priority for the government than laws controlling NGOs. The Cambodian government has provided no explanation as to why any illegal activity on the part of NGOs could not be dealt with under existing legislation.

TERRORISM

"Terrorists might settle in the Kingdom under the guise of NGOs."²

"We are concerned that their [NGOs'] funding could come from terrorist groups."³

- Prime Minister Hun Sen

In December 2004, convictions were secured under existing Cambodian law for six men accused of involvement in a bomb plot, and some of whom were linked to a foreign-funded Islamic school - a case which the Prime Minister has cited in connection with the NGO Law. These convictions, however, have been widely criticised as groundless; no other such cases have been since been reported; and there is no indication as to how an NGO Law would have contributed to the process of justice.

In April 2007, Cambodia updated its existing anti-terror legislation by passing a comprehensive Law on Terrorism, which gives the authorities substantial powers to deal with the problems of both domestic and international terrorism. Amongst other provisions, the 2007 Law contains detailed provisions for dealing with funding of terrorist activities, including lengthy prison sentences for offenders. Again, the Cambodian authorities have provided no explanation as to why these issues need to be additionally addressed through a law on NGOs. Rather, they have extolled the new terrorism law as expedient and comprehensive.

*"The [new anti-terror] legislation is of international standard. The spirit of all [U.N.] conventions against terrorism is included in it."*⁴

- **Interior co-Minister Sar Kheng**

As there appears to be no need for additional legislation in order to prosecute terrorists and other criminals, is the fear of terrorism merely being used to push through an unwarranted law?

TRANSPARENCY

*"Every NGO wants the government to have transparency but NGOs themselves don't have transparency. Which source does the money come from? What and where do they spend the money to?"*⁵

- **Prime Minister Hun Sen**

The Prime Minister's acknowledgement of civil society criticism is welcome, but his attacks on NGO transparency are disingenuous. Most NGOs operating in Cambodia are already far more transparent than the government, particularly in terms of funding received, spent and reported.

NGOs receive money from various local, international and private funding sources. Under contractual agreements, memoranda of understanding and bylaws, NGOs are required to produce financial and narrative reports and undergo financial audits and program evaluations to funding sources on a regular basis. Some NGOs have also applied to meet the required criteria under the NGO Code of Ethical Principles and Minimum Standards and the NGO Voluntary Certification System, which covers governance, accountability and transparency.

Many NGOs also provide information about program activities and financial status through web sites, documents and the news media to other stakeholders such as government ministries, beneficiaries, partners and the general public. The Cambodian authorities – recently ranked as the 166th most corrupt amongst 180 countries – have much to learn from this level of transparency.⁶

CONTROL

"Some NGOs rock the boat..."⁷

- CPP MP Cheam Yeap, on the need for the NGO Law

"[The Law] is a big thing for them [the NGOs]. What they have, where they've received financing from, where are their resources, how many millions do they spend in a year, what have they spent it on, doing politics or whatever..."⁸

- Ministry of Interior Spokesman Khieu Sopheak

"Today, so many NGOs are speaking too freely and do things without a framework. When we have a law, we will direct them."⁹

- National Assembly President Heng Samrin

These quotes provide a clear indication of the government's true motivation in passing an NGO Law: nothing to do with crime, terrorism or transparency, but everything to do with political control.

The recent experiences of many other countries which – like Cambodia – lack independent judiciaries and other institutions, have shown that NGO Laws are regularly used to stifle criticism of the government by civil society, through such means as restrictive registration requirements and even criminal prosecution. Sure enough, previous drafts of the Cambodian NGO Law have contained numerous problematic provisions, some of which violate the rights to freedom of association and expression guaranteed under the Constitution and international law – such as provisions for NGOs to be suspended or dissolved if they are deemed to have conducted activities for undefined "political interests".¹⁰

The Cambodian authorities have failed to justify the NGO Law on the grounds of security or anti-corruption; it is time for them to focus on necessary legislation rather than restrictions on civil society.

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¹ Cheang Sokha & Vong Sokheng, *NGO Law Key To Security: PM*, The Phnom Penh Post, 17 February 2009

² *Hun Sen Critical Towards NGOs*, CambodiaSoir.info, 29 September 2008

³ *Gov't's proposed NGO regulation law overkill: civil society*, Phnom Penh Post, 1 October 2008.

⁴ *Cambodia hopes for passage of anti-terrorism legislation before year's end*, Associated Press, 25 August 2005

⁵ *Samdech Hun Sen: Global Witness's Comments are a Crazy Action*, Kampuchea Thmei, 17 February 2009

⁶ *Corruption Perceptions Index*, Transparency International, 2008

⁷ Emily Lodish & Neou Vannarin, *Premier's Call for new NGO law alarms NGOs*, The Cambodia Daily, 29 September 2008

⁸ Taing Sarada, *NGOs Worry Over Intent of New Law*, Voice of America, 31 March 2009

⁹ Kay Kimsong, *Some NGOs See Gov't Control in Proposed Law*, The Cambodia Daily, 16 June 2006.

¹⁰ See *NGO Laws & Crackdowns On Human Rights Defenders*, LICADHO Briefing Papers, September 2006 & November 2008