

Civil Society Day

Draft Background Paper for Discussion on “Enabling Environment for Civil Society”

19 March 2019, Phnom Penh

INTRODUCTION

Since 1990s, mushroom of CSOs in Cambodia, thousands of civil society have established and operated. Over 5,000 registered local NGOs and associations, and hundreds of foreign organizations. On the other hand, the grassroots organization, CBO group estimated of about 25 000 scattering across Cambodiaⁱ. However, those not all active, and working in different fields, strategy and approaches in dealing with good and service delivery, rights based to development and policy engagement, and so on.

Reflecting on the current development trends, there had been many change from social, political, economic that affect to civil society development such as civic space through imposing many different legal and policies such as LANGO. The fluctuation of tension from political parties had been affecting to civil society operation. The change of Cambodia economic status from a poor to a low middle income country affect to funding status for civil society. Global development and its localization of Sustainable Development Goal is a new direction of development for another next fifteen years (2016-2030). And the role of private sector taken part to be more potential and engagement, and may others.

This paper is prepared for the kick up breakout discussion session on Enabling Environment for Civil Society, which is used as the background for discussion at the Civil Society Day, which conducts on 19 March 2019. The discussion focus on the question: 1) What is the status of Enabling Environment for Civil Society? 2) What are the key challenges facing Civil Society? And 3) What are the key recommendation to make better the Enabling Environment for Civil Society?

Please keep all your ideas, suggestions, and any propose mechanism for our discussion in the event with the speakers who coming from different fields of works. Therefore, it is expected that we can generate all those inputs for working together to improve the situation in Cambodia context.

ENABLING ENVIRONMENT CONTEXT FOR CSOs IN CAMBODIA

Enabling environment is an important issue of the new development trend to be noted since an effort of commitment to strengthen independent development for civil society (CSOs) in Busan Partnership for effective development cooperation in 2011. It highlighted the vital role of CSOs in enabling people to claim their rights (based approaches), in shaping development policies and partnerships, and in overseeing their implementation (CPDE, 2013)ⁱⁱ. Moreover, CSOs provide services in complementary to the states. Recognizing these important roles, it is

critically important to look on space for CSOs exercise their role in development, especially their enabling environment space to maximize their contribution, and encourage for their practice that strengthen accountability for effectiveness development.

Following to CIVICUS, there are 10 dimensions of CSO enabling framework for civil society including (1) formation, (2) operation, (3) access to resources, (4) expression, (5) peaceful assembly, (6) government-civil society relations, (7) civil society organizations' cooperation and coalition, 8) Internet freedom, 9) Taxation and 10) Access to informationⁱⁱⁱ. Those dimensions could reflect on ground within those related legal and other regulation frameworks as well as the real implementation or practices that impact on civil society.

Generally, enabling environment for development partnership between government and CSOs sectors is a key to potentially speed up the growth and achieved all commitments in policies and other development agenda. However, it is viewed that that this environment had been deteriorated since 2015 though certain mechanism developed and initiated. This somehow fluctuates which affecting by political, social, economic factors as well as other international agenda. The assessment from national study of enabling environment commissioned by CCC focused on the regulatory framework and the implementation for CSOs operating in Cambodia showed the limitation, and has many areas need to take into consideration. The relationship between government and CSOs need room for improvement on mutual trust, confident, respect, and reciprocity. Whilst among CSOs itself is increased but the depth cooperation is generally low^{iv}.

Common concern and challenges facing civil society

Legal Environment:

Cambodia are regulated by the Constitution of Cambodia, the Cambodia Civil Code of 2007, LANGO in 2015, and various regulations and prakas (proclamations) including Trade Union Law in 2016, labor law, the Law on Taxation, and so on governing civil society in Cambodia. From positive point of view, there certain areas having benefits from having the laws governing CSOs such as improve social welfare of employment status of civil society and reduce malfunctions of certain civil society organizations. In contrary, the poor understanding and uncommon implementation of the laws affecting civil society operation. Following a research study explored that since 2015, civil society dramatically deteriorated the legal environment^v continues to be regulated by several laws and regulations, and looking at the legal environment index for sustainability of CSO have deteriorated 0.8 from 4.1 in 2014 to 4.9 in 2017^{vi}.

This have been observed that since 2013 national elections, numerous laws were enacted without meaningful public participations and consultations. Most of these laws are viewed as entail restrictions on the capacity to act for NGOs, social movements, environmentalists, journalists, lawyers, bloggers and critical professional associations who want to contribute to the development of Cambodia including actualization of international human rights

instruments and UN's Sustainable Development Goals. These related legal environment raised civil society:

- LANGO 2015 restrict freedom of association and assembly and many specific means of intimidation such as the registration rules and the regulations governing reporting obligations, reporting of bank account, and disclose foreign funding and so on. The broad provisions say “forbids all activities that endanger the peace, stability, public order, culture or traditions of the country, activities that may oppose public order, security, national interest, and sovereignty”, and restrict or ban political activities, and be neutrality.
- Moreover, Trade Union Law 2016 with some controversial provisions particularly violating the freedom and rights of workers to associations.
- The Law on Election of Member of National Assembly (LEMNA) 2015 with provisions that ban civil society organizations to engage in electoral process, especially pre, during and post-election campaigns.
- The law on Telecommunications 2015 with provisions that violate individual privacy as well as provides the authority to companies to cut off internet connections of customers.
- Three laws related to Judiciary reforms passed in 2014 with provisions to control the independencies of the judicial system as human resources, administration, and budget are under the control of the Ministry of Justice.

The Royal Government of Cambodia has been pushing hard for becoming a prosperous upper middle income country by 2030. Unfortunately over the last few years, dozens of drastic actions against civil society actors have occurred: against non-governmental organizations (NGOs), social and environmental activists, women's rights activists and human rights advocates as well as media sector. The recent development i.e. having CSO government meeting, and other partnership build is a sign of a good progress to deal challenges, and hope it is continue to promote and guarantee.

Cooperation and Partnership:

There are many levels of CSOs coalition/networking, and more generally based on geographical criteria (local, provincial, national networks) or sector of activity, with a diverse range of roles and objectives, from the most common of exchanging information and coordination to the more demanding roles of learning, or advocacy and policy dialogue. If the way in which these networks are organized is quite developed, their roots are narrow (Merla 2010). At least, umbrella and network organization in Phnom Penh such as CCC, NGO Forum, HACC, NEP, etc. and approximately 20 provincial NGO networks. The cooperation among CSOs is increasing, but the depth of cooperation is generally low. Further, the extent of cooperation varies considerably by sector – some sectors enjoy high levels of cooperation. Other sectors, even those that host multiple coalitions appear to have low levels of cooperation. Cross-sectoral cooperation is generally low, and umbrella groups have not enough mechanisms response to diverse clients^{vii}, and don't have clear mechanism going together to address emerging issues collectively.

Moreover, further look at the cooperation and partnership with government and other stakeholders still not activated. There are curtailed formally established officially give voices

through some government mechanism such as in most seats of the 19 Technical Working Group (TWGs), but some have limited capacity and cannot effectively interact in policy dialogue, while others fail to properly represent their sector. It is needed to build their own capacity and improve coordination to be more effective^{viii}. The genuine and strong partnership is underway that need improvement.

Strategy and approaches of working:

Different types of CSOs ranking from foreign organization, local association and NGOs to grassroots organizations at the community based. Those have different strength and approaches of working. The FNGOs present in Cambodia have their own projects in the country and provide funding to local CSOs. It is generally accepted that FCSOs are very influential in setting agendas and providing resources for development projects, since local CSOs have to depend heavily on funding from international donors^{ix}. This reflects the accountability and cooperation among civil society, which some organizations gave more accountable to their donors rather than their beneficiaries and it also take more competitive for funding rather than cooperation. Though some joint partnership/project agreement but mostly build on short term process rather than a long strategic partnership. This reflects the roles of FNGOs and LNGO to better address both long term and short term issues.

KEY SUGGESTIONS

- **Improve Enabling Environment for CSOs (legal status and implementation):**
 - There should have clear guideline for implementation of certain procedure to avoid different interpretation and needs in law implementation.
 - It is another important pre-requisite that civil society will be operating in an enabling environment which could maximize their potential to participate in the development and speed the country growth. Beside the legal environment, other interrelated condition should be promoted and support such as financial, informational, political, and cultural as well as organizational - that impact on the capacity to engage fully in development processes in a sustained and effective manner.
- **Improve the collaboration and working approaches among CSOs.**
 - Strengthen sub-national CSOs network, especially at the provincial level given its strategic importance in information sharing and relationship with the provincial administration to achieve their development objectives.
 - Moreover, civil society organizations not just play their roles at sub-national, and country level but at the global level, therefore, it could be learn and share of experiences as well as having better implementation to achieve the international development agenda such as SDGs, promote human rights and democratic development.
- **Inclusive Partnership at All Levels:**
 - It is worth to seek to influence and ensure these 'spaces' are inclusive and functioning effectively. Civil society should actively engage in policy debate with government, development partners and private sector.

- Strong commitment and genuine partnership should be promoted and encourage through regular conduct of review of challenges and issues together. The notification of having annual and semester meeting among civil society and government is way forward to achieve this goal. Moreover, this similar modality should be having participated from the private sector.
- Encourage greater and more frequent information sharing between CSOs and authorities in order to enhance and maintain trust, as well as improve sustained development. Hoping after having the access to information law will help the seek and share of information for this needs and having better understanding.

REFERENCES FOR READING MATERIALS

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 - ^{iv} CCC (2013), Assessment of the enabling environment for civil society, Country Report Cambodia.
 - ^v 2015 CSO Sustainability Index for Asia http://www.ccc-cambodia.org/en/download?file_id=2188&action=view&view_file_id=15446027715c10c4939f55d3.74769078
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