

## Draft

# Civil Society Organisations Enabling Environment (EE) and Inclusive Partnership (IP) Cambodia

Commissioned by the Cooperation Committee of Cambodia (CCC)

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This output will contribute to CSOs’ as well as CCC’s on-going efforts to improve the civil society sector across Cambodia in furthering the Cambodia’s development. It is hoped that this document will be used for guiding improvements in contributing to creating a more enabling environment and promoting more inclusive partnerships pertaining to the activities of CSOs, the Cambodian government and other key development stakeholders in Cambodia.

## LIST OF ACRONYMS

ADHOC	- Cambodian Human Rights and Development Association
ASEAN	- Association of Southeast Asian Nations
BfdW	- Brot fur die Welt (“Bread for the World”)
BoD	- Board of Directors’
CBOs	- Community Based Organisations
CCC	- Cooperation Committee for Cambodia
CRDB/CDC-	Cambodian Rehabilitation and Development Board /Council for the Development of Cambodia
CMDGS	- Cambodian Millennium Development Goals, the localised development framework applied between 2000-2015
CNRP	- Cambodia National Rescue Party
CoM	- Council of Ministers
CPP	- Cambodian People’s Party
CSAF	- Civil Society Alliance Forum
CSDGs	- Cambodian Sustainable Development Goals, the localised development framework to be applied from 2016-2030
CSF	- Civil Society Fund
CSOs	- Civil Society Organisations
CIVICUS	- “Is a global alliance dedicated to strengthening citizen action and civil society around the world.”
D&D	- Decentralisation and De-concentration
DCPS	- Development Cooperation and Partnership Strategy
DP	- Development Partner
EBA	- “Everything But Arms” is the colloquial term give to the EU’s Generalised Scheme of (Trade) Preferences (GSP), providing duty and quota-free access for almost all products (as the programme’s name indicates, excluding arms and ammunition) <sup>1</sup>
EE&IP	- Enabling Environment and Inclusive Partnership
EENA	- Enabling Environment National Assessments (an initiative of CIVICUS)
EU	- European Union
FAO	- Food and Agriculture Organisation of the United Nations
FDI	- Foreign Direct Investment
FFMP	- Fundamentals Freedom Monitoring Project
FGDs	- Focus Group Discussions
FNGO	- Foreign Non-Government Organisation
GDP	- Gross Domestic Product of the country
HACC	- Health Action Coordinating Committee
ICNL	- International Center for Not for Profit Law
ISAF	- Implementation of the Social Accountability Framework
KAPE	- Kampuchea Action for Primary Education
KIIs	- Key Informant Interviews

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<sup>1</sup> <https://www.un.org/ldcportal/preferential-market-access-european-union-everything-but-arms-initiative/>

LANGO	- Law on Associations and Non-Governmental Organisations
LDC	- Least Developed Country
MIH	- Ministry of Industry and Handcrafts
MoA	- Memorandum of Agreement
MoEF	- Ministry of Economy and Finance
MoEYS	- Ministry of Education Youth and Sports
MoFAIC	- Ministry of Foreign Affairs and International Cooperation
MoI	- Ministry of Interior
MoPT	- Ministry of Posts and Telecommunications
MoU	- Memorandum of Understanding
MPD	- Multi-Dimensional Poverty Index
NGO	- Non-Governmental Organisation
NSDP	- National Strategic Development Plan
ODA	- Overseas Development Assistance
OOF	- Other Overseas Financing
OHCHR	- (the United Nations) Office of the High Commissioner for Human Rights
PESTLE	- A Political, Economic Social, Technological, Legal and Environmental, framework used for the overview analysis
RSIV	- The Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase IV
SAAS	- Software As a Service application
SDG	- Sustainable Development Goals
SIDA	- Swedish International Development Cooperation Agency
SNA	- Sub National Authorities
STEM	- Science, Technology, Engineering and Mathematics
TI	- Transparency International
TWG	- Technical Working Group
UN	- United Nations
UNDP	- United Nations Development Programme

## EXECUTIVE SUMMARY

### Background

The Cooperation Committee for Cambodia (CCC) with support from the European Union and Brot fur dei Weld (Bread for the World) commissioned a study in 2018 to explore changes in the enabling environment in the country since previous national research in 2013 (as part of a global initiative of CIVICUS) and subnational research in 2015. The scope of the current study was also expanded to look at inclusive partnerships as a mechanism for advance.

The study was initiated in 2018, where a consultancy was commissioned to develop a methodology to gather inputs for the study. They proposed a mixed methods approach, involving a sampled representative survey of civil society organisations (CSOs) from in a range of membership organisations (CCC, NGO-Forum, HACC and NEP) to gather quantitative information. This would be augmented by a range of qualitative methods such as key informant interviews (KIIs), focus group discussions (FGDs), case study development, and secondary sources review. Tools and guides were developed adapting the Enabling Environment National Assessment (EENA). Those dimensions chosen for review were (a) Formation and operations; (b) Freedom of expression; (c) Peaceful assembly, and association; (d) Taxation; (e) Access to resources; (f) Access to information; (g) Relations between authorities and CSOs; to which was also added (h) Inclusive partnership.

About 400 CSOs were initially developed into population for the survey in the hope of getting 150 respondents. In the end only 67 CSOs responded, this formed the sample and responses obtained were data entered, cleared and analysed. The surveyed data was used in KIIs and FGDs to engage in discussions with engaged stakeholders. Based on the analysis and responses a draft report was prepared and submitted. Later a separate team was engaged in June 2019 to review and finalization of the report.

### Civil Society Context

The study focuses on registered civil society organisation (CSOs) and does not cover the far broader network of informal community based organisations, (CBOs). According to the Deputy Prime Minister, there are (December 2018) reported a total of 5,523 associations and non-governmental organisations, (NGOs, 3,226) and associations (2,297) who have provided files and registered with the Ministry of Interior (MoI)<sup>2</sup>.

### Country Context

A PESTLE (Political, Economic, Social, Technological, Legal, and Environmental) framework was used to briefly describe the evolving country context.

Cambodia has gone, and is going through a turbulent period since the last enabling environment assessments in 2013 and 2015. This has seen civic space shrink dramatically, and a return to autocratic practices by the government. Rights, advocacy groups, critics of the government and the media have been targeted, resulting in a number of groups /firms being forced to close, and individual being prosecuted.

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<sup>2</sup> Sar Kheng, deputy prime minister and minister of MoI, speech at the Partnership Forum between Government and NGOs on 17th January 2019.

## **Findings**

Below is a summary of the key findings, together with recommendations for each key stakeholder group.

### **1) Formation and Operations**

The 2015 Law on Association and Non-Governmental Organisation (LANGO) is now the overriding legislation influencing the formation of Civil Society Organisations and the recognition of foreign organisation wishing to operate in Cambodia. It requires all local organisations to register with the Ministry of Interior in Phnom Penh and is currently a centralised (and time consuming) process.

On paper the registration (the approval component) process is meant to be completed within 45 days, if all required documentation can be submitted or within an additional 60 days if additional information is sought. However it frequently takes far longer with six months to one year being mentioned by CSOs who have gone through the process. Officials involved in previewing applications, often require applicant organisations to reformat and rephrase documents including organisational statutes in a particular way, and these demands have to be adhered to before formal submission for approval, and these demands apparently causes delay. It was also reported that “fast tracking” of applications can be achieved on payment of unofficially fee. Over half of survey CSOs (50%) believed the CSO registration process is difficult.

In terms of CSO operations, the scope of the LANGO is quite limited, it imposes requirements to submit annual activity and financial reports or copies of reports submitted to donor, as well as copies of project agreements. Non-compliance with these requirements could result in suspension or closure. LANGO also states that domestic association or NGOs (and similar clauses apply to registered foreign organisations) 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” can be closed. But how these are and can be interpreted remain unclear, If accuse of breaches of these there is a right of appeal.

### **2) Freedom of Expression**

While protected by international Law and the Constitution the ability to freely express one view is now considered to be curtailed. As there are now numerous examples of people being prosecuted for expressing dissenting views. Over half of the surveyed CSOs (58%) believed that conditions for freedom of expression had deteriorated when compared to 2015. Nearly three quarters of CSOs (73%) believed that there personnel felt restricted in what they could say. The on-going suppression of freedom of expression and other rights is beginning to be seen as the status quo and affecting how CSOs operate. As over a third of CSOs are satisfied (37%) with the current enabling environment, as many CSOs work on social and other non-confrontational sectors and issues. While just under a third of CSOs (31%) are dissatisfied with the changed enabling environment.

### **3) Peaceful Assembly/Freedom of Association**

While protected by the Constitutions, 59% of CSOs believed that freedom of assembly had been increasingly restricted. 64% of CSOs reported experiencing some form of restrictions imposed by public authorities on their organising public or peaceful gatherings. Initially local authorities in some part of the country required CSOs to obtain approval for holding events and these requirements spread to other part of the country.

In October 2017, MoI issued a statutory instruction requiring NGOs to “notify” local authorities in advance of activities and this notification was more often than not interpreted by local authorities as requiring their permission. While this was considered an administrative restriction, most CSOs worked around it, though it had sector implications. CSOs working on social issues/services, livelihoods etc...had no problems in undertaking activities or organising events in communities. Those working on right and advocacy issues or identified (by authorities) as being critical, often could not get the “permissions”, or they would not be given the go ahead, so couldn’t or wouldn’t go ahead with activities in communities for fear of confrontations or reprisals.

### **4) Taxation**

Up till recently, application of the national tax system has been often lacklustre and deficient, in that groups could get away with not paying tax. However as the economy had boomed and institutional capacity have improved, the government has been progressively expanded its tax base. CSOs were first considered liable to some form of taxes (usually salary tax) in the 1997 Tax Law. In 2018, a new Prakas (#464) specifically targeted NGOs requiring, all to register with the tax department. The Prakas also highlight the existence of tax exemption on income, which would now need to be applied for.

While it was evident that CSOs didn’t understand the tax framework, there was also evidence that government had use the tax system as a weapon to intimidate CSOs. In 2017 the Cambodia Daily newspaper was forced to close as following a tax appraisal it was found to owed US\$6 million in back taxes. Other critical media bureaus (Radio Free Asia-RFA and Voice of America-VoA in Cambodia) were also target in 2017 for non-compliance with the tax regime and were forced to close their country offices. Additionally a number of local rights NGOs were investigated for tax compliance. It became clear that a message was being sent to long running CSOs that if they were critical there tax histories would be investigated and possible used against them.

### **5) Access to Resources (incl. the private sector)**

While global resources made available for development assistance appear to be declining, available figures for Cambodia (OECD and CRDB/CDC) appear to indicate a relatively stable aid flow. Though the nature of aid has changed over time, likely resulting from Cambodia commendable growth and development, roughly half of the aid flow is considered concessional.

CSOs have been securing roughly a fifth of all aid coming to Cambodia averaging ~ US\$200-220 Million per annum being generated from their own sources, to which can added resources mobilised from development partners, and it is predicted that CSO levels will remain in this range till 2025.

However there is a general perception among CSOs that access to (financial) resources is decreasing. Due to their dependence on “short-term, project-based donor funding”, and “not having access to general organisational support”. This perception is compounded by the observed concentration of CSO funding into a limited number of organisations. CRDB/CDC reports that just 25 or 460 organisation who voluntarily reported to CDC secure an average of 52 percent of all reported CSO funding. Though it should be noted that these larger (mostly international NGOs) often channel secured resources into other CSOs.

Other resource streams are reported to have great potential (from the private sector and possibly from the government in the future) but little is known about the scale of such support in country. Other sources of resources could be generated from social enterprises but these bring commercial taxation issues.

What is evident is that the majority of CSOs, are challenged in accessing and securing resources. They generally lack the capacities, skills and networks to compete with larger mainly international NGOs.

## **6) Access to Information**

Cambodia is considered an information communication telecommunication (ICT) savvy country with the rapid uptake of internet usage and mobile phone penetration. With internet usage jumping from 300,000 in 2010 to over 4 million users four years later! While mobile phone ownership is reported to be 92 per 100 persons. So mobile devices have enable users to access the internet, which has become one of the public main sources of information.

However, Cambodia continues to lack an Access to Information (A2I) Law which has been drafted but remains unapproved. This sets out a possible framework to enable citizen to access information they need. The country also lacks a cybercrimes law. The CSO survey for the study found that, over a third of CSOs (36%) believe access information from state at national levels was difficult and relied more on personal contacts than from an open access system.

However it has been observer that since 2015 internet users have been targeted by government for being critical of government with at least 13 individuals charged with offences including under the recent adopted (2018) Lese-Majestre law, while most were charged under the very ambiguous defamation and incitement article of the criminal code, which have been arbitrarily used to suppress critic freedom of speech.

## **7) Government Authorities and CSOs Relationships**

This dimension was difficult to qualify as CSO responses to it were so diverse, also there are multiple factors that influence this dimension. Most CSOs have some operational relationship with authorities, this is frequently at commune and district levels, where CSOs often engaged and involved representatives of local authorities. As they are often the designated focal points for multiple development activities for example women and children committees, disaster management committees, etc..., most frequently at commune and district levels but also at provincial levels.

However many consulted CSO personnel believed that there was often ‘a cooling’ in relations with engaged local authorities and official during the period of the review which they associated with the increasing apprehensive political environment.

## 8) Inclusive Partnership (private, govt., CSO)

There are multiple partnering and coordination mechanisms at national level. These are generally focused on partnering and coordinating development partner inputs with government. The most commonly known ones are the now 21 technical working groups (TWG). While most are active, some are inactive, but it is hard to identify the cumulative impacts of their activities as they are fragmented. Stakeholder consulted indicated that the TWGs are generally high level coordination mechanism. They do not generally engage in policy interventions or implementation. There is CSO representation on some of the TWGs, mainly those engaged with social sector (education and health, etc.).

### Conclusions

Cambodia country' context had been significant changed since 2015 from legislative, social, economic, as well as political aspects and those impacts to CSOs' enabling environment. Under democratic development, numerous international and national observers and stakeholders have highlighted the deteriorating rights situation in Cambodia, with the decline accelerating in the period under review from 2015-2019. Some predated this decline to 2013, when the then newly established opposition party the Cambodia National Rescue Party (CNRP), quickly captured 44% of seats in the national assembly. This gain by the opposition shocked the governing party who began retaliated by initially harassing the opposition party leadership and later groups and individuals identified as critics of the government, including CSOs. In 2017 following subnational local council elections which saw the opposition secure a tenfold increase in number of Communes chief position. The governing party reacted to this by arresting the leader of the opposition in September 2017 and securing a verdict from the Supreme Court which dissolves the CNRP in November 2017. Just prior to this neutralising the opposition, the governing party targeted, intimidated and shuttered critical group media outlets and CSOs, and this harassment was partly based around a strict imposition of the tax regime and claims for back tax to 1997.

These new registration processes and reporting requirements significantly influenced the first dimension of the adapted enabling environment framework on "**formation and operations of CSO**". It was reported that CSOs attempting to register are often required to revise their documentation and statutes to contain text required by MoI official, Additionally the duration of the registration process is far longer than that mentioned in the LANGO. Some CSOs reported being asked for unofficial payments to facilitate and fast track registration. Since its introduction MoI has targeted some CSOs about compliance with their reporting requirements, non-compliance can result in suspension or closure and these compliance requests increased dramatically in 2017. The majority CSOs and NGOs consulted felt that the formation and operational requirements made life more difficult for CSOs.

Parallel with formation and operational issues, "**freedom of expression**" has increasingly being stifled since 2015. 58% of CSOs consulted perceived the constitutional protected right to freedom of speech had been stifled, and that CSO personnel were (far) more caution in what they said since 2015 because of intimidation.

Other fundamental and constitutional protected right have also shrunk. The third dimension explored related to "**Peaceful Assembly/Freedom of Association**". While insights into this varied considerable across CSO respondents, depending on such factors as location and sector

of activities. As less contentious sectors (education and health etc.) suffered less. During the review period government applied institutional requirements (in October 2017) which hindered freedom of association. Though these requirements were withdrawn in October 2018. CSO's also highlighted the continued lack of **"access to information"**, as CSOs and the public are still challenged obtain basic information. It became evident during the review period that the **"taxation"** was **"weaponised"** and applied as a tool for intimidating and controlling CSO and the media.

Feedback on **"government authorities and CSOs relationships"** also varied as reported experiences were diverse. The majority of CSOs reported a decrease in the nature of their relations with authorities and this decrease was greater at national levels than subnational levels. But all CSOs' reported having some form of relation with government authorities. As many CSOs were aware that issues with their relationships were imposed from above, and may have not reflected the realities of the relationships.

The majority of CSOs reported have limited resources to delivery and or expand on the mandates, and **accessing additional resources** was more difficult than before. This was due to a combination of increasingly complex application procedures, greater competition, a lack of capacity to secure funds, and more limited/ eligible funding available

## **Recommendations**

Recommendations are dispersed throughout the document as suggestions for each dimensions of the enabling environment and inclusive partnership analytical framework.

### **1. Formation and Operations**

Because of reported irregular and ad-hoc procedures being applied by personnel at MoI, which appear to prolong NGO/ Association registration. It is recommended that (i) NGO and Association registration be moved online and partly decentralised through the "one window service offices" in the provinces which would issues the letter/ 'permits' to operate. (ii) To better benchmark the application process to make it more transparent; (iii) Develop a CSO registration guidebook and training, detailing and clarifying registration and compliance requirements; (iv) Develop further trainings and materials targeted at local authorities to better inform them about the scope and provisions of the LANGO. (v) Engaged with other responsible line ministries to seek clarifications and improvements in the relevant legal instruments on NGO registration and operations.

### **2. Freedom of Expression**

Protecting and defending the right of the expression of freedom, can only be achieved by ensure all CSOs are vigilant to monitor incidents and practices which may curtail citizens' and CSO rights. To support this role(s) it is recommended that; (i) CSOs should establish a platform to better engage government on freedom of expression issues; (ii, & iii) CSOs should initiate campaigns to better inform CSOs and the public to demand for revisions/ revocation of the legal instrument curtailing freedom of expression; (iv) To support these activities, CSOs need to better document and correlated cases of rights abuses and suppression; (v) Align activities with the adopted localised CSDG (goals 10 and 16).

### **3. Peaceful Assembly/Freedom of Association**

Closely associated with freedom of expression, is freedom of association, which also needs to be monitored and protected by civil society. To contribute to this it is recommended that (i) CSOs, other actors and stakeholders improve the dissemination and adherence to the legal framework by all officials at national and subnational levels including by local law enforcement officers; this can be achieved by (ii) Expand capacity building activities to increase understanding of the laws and rights by officials, CSO and the public; to support this; (iii) Government needs to be encourage to establish an accountability and redress system to track misunderstanding and abuses of rights and the legal framework; and (iv) this also requires improving independent monitoring of rights abuses.

### **4. Taxation**

It is apparent that many CSOs lack an effective understanding of their tax requirements and obligations and of the related evolving regulatory framework. Of greater concern, was the “weaponisation” of the tax and legislative systems by government during the period under review (2015-2019 to intimidate targeted civil society organisations whom they deem a threat? It is necessary for CSOs to support each other, but also to ensure that others CSOs comply with the laws of the land. It is recommended that CSOs (i) Continue to roll-out learning and capacity development activities to improve understanding of the need to comply with the evolving tax code for CSOs; (ii) Develop and maintain a tax guide and cloud based resources/ library on CSO compliance with evolving tax laws and regulations; (iii) Advocate for the impartial application of the tax law to all sections of society. (iv) Monitor the application and experiences of CSOs with the Tax office to ensure they are fairly treated; (v) Advocate for a tax amnesty, and maximum retrospective application of tax law requirements for all sectors. (vi) Improve public understanding of the application of tax revenues through transparent and “open budget initiatives”.

### **5. Access to Resources (including the private sector)**

One of the most frequently raise concerns of national CSOs is access to (financial) resources; while this is a challenge for all organisations globally, it is evident, that national CSO feel particularly challenged. Many feel that availability of resources has declined, but evidence, indicates that while donor committed resources fluctuate it is predict that they will remain fairly even for the foreseeable future. It is recommended that (i) CSO representative groups need to advocate for improved distribution of funds through CSOs, aligned with national development objectives and priorities (ii) CSOs need to increase capacities to better access resources; (iii) Improve donor, government and private sector engagement to leverage national development objectives, LDC graduation CSDG commitments and explore the potential for CSO funding to contribute to these from these sources. (iv) Request potential donors to independently assess the cost and benefits of establishing and supporting a multi-donor/ basket CSO trust fund. To see if it will provided value for investment against other possible funding options.

## **6. Access to Information**

To enable informed decision making people need access to information, Cambodia has been developing an Access to Information –A2I Law for some years, while it progressed was stalled by the various elections, it is reported to be back on track, through CSOs still have concerns about its progress. To advance this the study recommends that (i) Government needs to develop an A2I framework to contribute to the government’s commitments to open government; (ii) There is a need to improve subnational access to information by making available geo-referenced data in electronic formats, in a timely manner to support local development processes, and make available institutional performance data to increase public accountability. This will need to be contributed to by (iii) build institutional capacities and adopting benchmarks to get information into the hands of the public in a prompt manner, and finally (iv) pushing forward with finalising and adopting the A2I law and the cybercrime laws.

## **7. Government Authorities and CSOs Relationships**

It was frequently commented upon that during the period under review that the enabling environment for CSO was stifled, and that relations between CSOs and local authorities cooled significantly. It now appears that relationships have turned a corner and are improving. It is recommended that actors and stakeholders, (i) Create an open-source cloud based mapping and documentation, geographical information system (GIS); (ii) that CSOs and local authorities at different sub-national levels holder periodic learning and sharing events; and (iii) improve local coordination mechanisms to build trust and understanding; and (iv) undertake joint capacity development initiatives.

## **8. Inclusive Partnership (private, govt., CSO)**

Partnerships have been identified as important mechanisms for future development as they can contribute to collaborative and synergistic approaches. Additionally the scale of future needs for development, far exceed the capacities of most individual stakeholders to achieve them alone, so encouraging and supporting inclusive partnership between governments, the private sector, and CSOs is needed.

To move inclusive partnerships forward it is recommended that stakeholders; (i) improve the transparency and accountability of existing and future partnering and coordination mechanisms to better inform the public by gathering and publishing information on what is planned and discussed and of the results of meetings held and of the impacts of agreed mechanism, (ii) Government and CSOs need to ensure the views and voice of subnational populations are heard to be better considered; (iii) Partnering and coordinating mechanisms need to increased representation of development stakeholder including CSO/representative groups. Which need to coalesce under umbrella networks to represent them; (iv) Government, development partners and others should consider establishing/ holding a unified multi-stakeholder development coordination forums, to better coordinate and enable partnerships for development, (v) There is a need build capacities and understanding of and on inclusive partnership approaches to all stakeholders, to begin to fast track and encourage convergence to enable partnership.

## INTRODUCTION

Civil Society Organisations (CSO) have played important roles since the early 1990s to initially partially fill and later to complement the gaps in development efforts in Cambodian society, and these roles have and are changing as the country has developed. Therefore the evolving enabling environment for CSOs is an important factor to facilitate CSOs to fully participate and contribute to national sustainable social and economic development, and environmental protection.

Cooperation Committee for Cambodia (CCC) initially conducted an enabling environment national assessment (EENA) in 2013 as part of a 22 country research initiative, it followed this up with a sub-national review of enabling environments in 2015 (2013<sup>3</sup>-2016<sup>4</sup>). The aim of these reviews was to assess the legal, regulatory and policy environment for civil society across different countries. The EENAs were designed to be locally-owned, rooted in primary data collected at the grassroots level, and validated by a consensus based, multi-stakeholder process and this approach was adapted for the sub-national review. They had the dual purpose of (i) strengthening the capacity of civil society to advocate for an enabling environment and (ii) improving CSO-government relations<sup>5</sup>.

The rationale for this study was to continue to assess the evolving enabling environment for civil society organisations in Cambodia as part of CCC governance and advocacy remit for CSOs. The scope of the study has been further expanded to explore the changing conditions, influences and needs for encouraging, creating, enabling, and sustaining inclusive partnerships to contribute to advancing national development. This assessment was initiated in 2018 but was later revised, and updated in 2019.

This study focuses on certain areas that need to be explored more, following the evolving legal environment brought about by changes such as the enactment of the Law on NGOs and Associations (LANGO); the application of Taxation and the Labour Laws, and other legal instruments. CCC wished to examine the changed and changing enabling environment and contexts for Civil Society Organisations, following the tumultuous socio-economic period between 2016-2019.

This study was supported by the European Union and Brot fur die Welt (“Bread for the World” -BfdW) to focus on the current enabling environment and inclusive partnerships among CSOs and in terms of CSO-Government Partnerships, as well as with other development stakeholders at national and subnational levels. The research used an adapted form of the multiple dimension CIVICUS CSO enabling framework mentioned above.

## AIMS AND OBJECTIVES OF THE RESEARCH

The aim of this study is to provide practical proof of the evolving enabling environment (EE) and inclusive partnership (IP) amongst CSOs and across other stakeholders in Cambodia . The specific objectives were:

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3 <http://www.ccc-cambodia.org/en/resources/ccc-publications-and-reports/publications/assessment-of-the-enabling-environment-for-civil-society>  
4 <http://www.ccc-cambodia.org/en/resources/ccc-publications-and-reports/publications/enabling-environment-at-local-level>  
5 <https://www.civicus.org/index.php/what-we-do/defend/civicus-enabling-environment>

- To assess the CSO enabling environment<sup>6</sup> in Cambodia and
  - Make clear recommendations for positive future impacts
  - Support these with additional findings of two case studies at national and subnational levels.
- To look for inclusive inter-sector partnerships opportunities through existing mechanisms/principles
  - And supplement these with two case studies in reflecting contributions for Busan Principles, SGDs, D&D, DCPS and ISAF at national and subnational levels.
- Draw conclusions and recommendations to improve enabling environment and inclusive partnerships.

## OVERVIEW OF CAMBODIA AND ITS CSO ENABLING ENVIRONMENT

This section applies a PESTLE (Political, Economic Social, Technological, Legal, and Environmental) framework/lens<sup>7</sup> to structure the overview. Efforts have been made to abridge and keep this brief on the issues covered, as they are looked at in-depth by other studies. As some points are also repeated and considered in the main findings of the study. The intention is to provide a brief overview, which may not capture issues (of concerns) to all groups due to brevity needs.

### Political

Cambodia has gone through a tumultuous political period over the last few years (2016-2019). Which has seen the undertaking of

- (i) Direct/ popular (by the people) elected local elections in June 2017 for subnational councils (at commune/ sangkats levels) for 11,670 council seats on the 1,646 councils across the country;
- (ii) Indirect elections for members to the Senate (the upper house of the National Assembly) in February 2018 with 58 of the 62 members elected<sup>8</sup>.
- (iii) National elections in July 2018, for the 125 seats in the lower house (parliament) of the National Assembly;
- (iv) Indirectly elected councils for provincial/ capital and district/ municipal and khan DMK) level councils, undertaken in May 2019.

#### PESTLE framework

- **Political** - What are the political factors that influence the country?
- **Economic** - What are the economic factors influence the country?
- **Sociological** - What cultural aspects to influence the country?
- **Technological** - What technological changes influence the country?
- **Legal** - What current and impending legislation may affect the country?
- **Environmental**- What are the environmental considerations affect the country?

<sup>6</sup> The key dimensions of CSO enabling framework of Civicus could be guide in this study including (1) formation, (2) operation, (3) access to resources, (4) expression, (5) peaceful assembly, (6) government-civil society relations, (7) civil society organisations' cooperation and coalition, (8) Internet freedom, (9) Taxation and (10) Access to information.

<sup>7</sup> PESTLE is considered an expanded variant of the PEST (political, economic, socio-cultural and technological) analysis framework, which were initially developed and applied in the business/ commercial sector. It is part of an external analysis approach when conducting a strategic analysis or doing market research. It is intended to provide an overview of the different macro-environmental factors to be taken into consideration. <https://pestleanalysis.com/what-is-pestle-analysis/>

<sup>8</sup> 58 members of the Senate are elected by the 11,670 commune councillors and 125 National Assembly members, with two members, nominated by the king and two by the national assembly.

However, the political environment in which these elections took place changed dramatically over the course of the last three years. The elections were undertaken in an environment of heightened political tensions. This can be backdated to the results of the 2013 national elections. When the Cambodian People’s Party (CPP), saw a significant decrease in the number of National Assembly seats won by them (68 seats)<sup>9</sup>. This was recognised as a big blow for CPP, which had seen the largest seat loss by a ruling party to date and secured their lowest share of seats since 1998<sup>10</sup>.

The recent 2017 local elections for 11,670 seat on 1,646 Commune Councils followed a similar results patterns in which CPP won a smaller majority with large gains by the Cambodian National Rescue Party CNRP (51% of the vote for CPP and 44% for CNRP)<sup>11</sup>. Observer have commented that despite efforts to suppress, intimidate/ create a “climate of fear”, and weaken those (wrongly) considered opponents of CPP and particularly CNRP for 3 years (2014 to 2017)<sup>12</sup>. The 2017 commune election results showed that this approach had failed.

Faced with such a serious and unprecedented challenge and threat to its position, the CPP felt they were left with no other alternative but do what has to be done to neutralise the CNRP. The decisive moment for this took place on September 3<sup>rd</sup> 2017 with the arrest of Kem Sokha then leader of the CNRP on charges of treason<sup>13</sup>. He was held in pre-trial detention for a year and only released on bail (on September 10<sup>th</sup> 2018) but placed under near house arrest by the bail conditions, where he remains in July 2019. Roughly, two months later the CNRP was dissolved by order of the Supreme Court of Cambodia on November 16<sup>th</sup> 2017<sup>14</sup> accused of “plotting to overthrow the government”<sup>15</sup> in power. The court decision ordered the disbandment of the political party and the banning of 118 of its senior officials from political activity for five years.

The existing seats (then) won and held by the CNRP in the commune councils (489 chief of councils and 5,007 council seats)<sup>16</sup>, were later redistributed by the National Election Committee (NEC) to other political parties<sup>17</sup>. This redistribution saw CPP take control of all 1,646 commune councils by holding 95% of the Commune Council seats. The changes that brought about the dissolution of the CNRP are considered (by some) to have returned ‘Cambodia to a one party state’<sup>18</sup>. The subsequent National Assembly elections in July 2018 were a clean sweep for CPP, winning all 125 seats, through 20 political parties contested the election, none secured sufficient votes in any constituency to win a seat.

In response and in the absence of any opposition in the National Assembly, the Government has formed the Supreme Consultative Council and appointed 30 representatives from 16 political parties as advisors to the government at the request of Prime Minister Hun Sen. The Supreme Consultative Council was established through a Royal Decrees signed by the King in early September 2018. However, its’ possible influence and inputs to government, policy,

9 The then emergent opposition (established 2012) the Cambodia National Rescue Party having won 55 seats.

10 [https://en.wikipedia.org/wiki/Cambodian\\_general\\_election,\\_2013](https://en.wikipedia.org/wiki/Cambodian_general_election,_2013)

11 [https://en.wikipedia.org/wiki/Cambodian\\_communal\\_elections,\\_2017#cite\\_note-5](https://en.wikipedia.org/wiki/Cambodian_communal_elections,_2017#cite_note-5)

12 APHR (2017) Death Knell of Democracy,- Attacks on Lawmakers and the Threat to Cambodia’s Institutions [https://aseanmp.org/wp-content/uploads/2017/03/APHR\\_Cambodia-MPs-Report\\_Mar-2017.pdf](https://aseanmp.org/wp-content/uploads/2017/03/APHR_Cambodia-MPs-Report_Mar-2017.pdf)

13 <https://www.rfa.org/english/news/cambodia/kemsokha-arrest-09022017163633.html>

14 <https://www.phnompenhpost.com/national-post-depth-politics/death-democracy-cnrp-dissolved-supreme-court-ruling>

15 Phnom Penh Post (17/11/2017) ‘Death of democracy’: CNRP dissolved by Supreme Court ruling

16 [https://en.wikipedia.org/wiki/2017\\_Cambodian\\_communal\\_elections#cite\\_note-5](https://en.wikipedia.org/wiki/2017_Cambodian_communal_elections#cite_note-5)

17 The CPP took 4,548 of the CNRP seats, Funcinpec Party were given 239, the Khmer National United Party 201 seats, the Cambodian Nationality Party 10 seats, With the Cambodia Youth Party, and the Cambodia Indigenous People Democracy Party being allocated three seats each, <https://www.khmertimeskh.com/93703/cnrp-commune-seats-doled/>

18 Hunt,L., A New Era for Hun Sen’s Cambodia? 17/8/2018, The Diplomat <https://thediplomat.com/2018/08/a-new-era-for-hun-sens-cambodia/>, & Strangio, S., (30/11/2017) Sebastian Strangio: Cambodia’s troubling return to de facto one-party rule, in Nikkei Asian Review, <https://asia.nikkei.com/Politics/Sebastian-Strangio-Cambodia-s-troubling-return-to-de-facto-one-party-rule>

legislation, and accountability and the Councils engagement with civil society remains unquantified and unqualified.

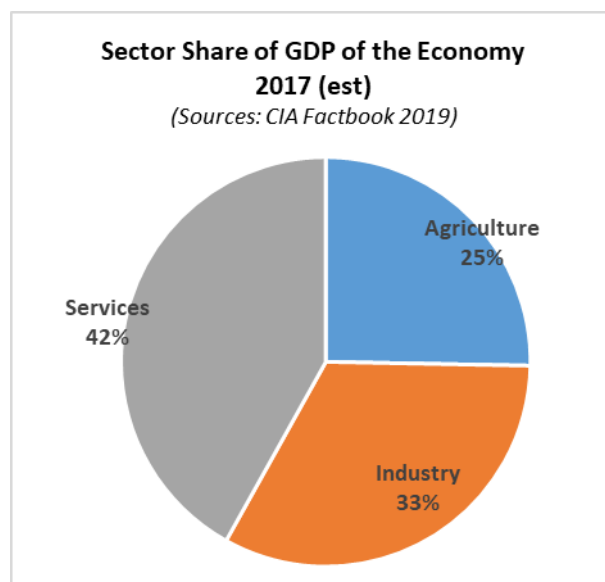
### Economic<sup>19</sup>

Cambodia has and is undergoing commendable significant economic improvement and transition, reaching (World Bank statistically defined) lower middle-income status in 2015<sup>20</sup>. Government's expressed vision is to achieve upper middle-income status by 2030 and high income status by 2050. However, it remains categorised as one of the 47 Least Developed Country (LDC) in the world by the United Nations<sup>21</sup> due to persistent social and economic vulnerabilities. Though it is report that the government intend to initiate the six year graduate process from LDC status in 2021.

The economy has sustained an average growth rate of 7.7% between 1995 and 2018, making it among the fastest-growing economies in the world. Economic growth in 2018, was estimated at 7.5%, compared to 7% in 2017 and is expected to remain robust over the coming medium term. In 2018, the overall Gross Domestic Product (GDP) of the country was reported at \$24.6 billion 10 times its' 1993 reported levels (US\$2.4 billion) and more than double its 2010 levels of US\$11.2 billion<sup>22</sup>.

The economy has and is transitioning 'primarily driven by rapid expansion of exports and robust internal demand, as well as a surge in Foreign Direct Investment. The agricultural share of the economy continues to shrink but has potential for considerable growth. While the industrial sector remains robust, and the services sector's share of the economy continues to grow.

According to the Ministry of Industry and Handicrafts (MIH) there are now 1,528 factories in Cambodia at the end of 2018. 922 – Almost two-thirds – are involved in weaving, bag, garment, and footwear manufacturers. The garment sector continues to be one key engine of growth, providing on average 635,000 jobs in 2017, at 643 factories. Exports totalled US\$8.02 billion in 2017 (up 9.5 percent from 2016), and made up 72 percent of Cambodia's total merchandise exports. Footwear exports grew by 14.4 percent year-on-year, to US\$873 million for 2017. 2018 saw 178 new factories opening, compared to 150 in 2017. Total income from production of both domestic and export products was about US\$13.17 billion in 2018 – an increase of 23 percent on 2017 (source Open Development)<sup>23</sup>. The European Union takes 46 percent of the sector's exports and the United States, 24 percent but exports to other markets



<sup>19</sup> Adapted from the Cambodia Economic Update May 2019  
<https://www.worldbank.org/en/country/cambodia/publication/cambodia-economic-update-may-2019>

<sup>20</sup> With a statistically average income above US\$1,025 based on the World bank's Atlas method,  
<https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>

<sup>21</sup> <https://unctad.org/en/Pages/ALDC/Least%20Developed%20Countries/LDCs.aspx>

<sup>22</sup> <https://countryeconomy.com/gdp/cambodia>

<sup>23</sup> <https://opendevelopmentcambodia.net/topics/industries/>

have been growing strongly. The risks from the threatened ending of the “Everything but Arms” (EBAs) status to the European Union are considerable.

Cambodia adds an average of 200,000 people to its labour force annually, but as the World Bank has warned, a growing labour force alone is not sufficient to attract and create jobs – especially with Cambodia's external competitiveness, which primarily relies on cheap labour, quickly being eroded<sup>24</sup>. Cambodia's high growth was built on the back of its low-cost labour, but this phase of the country's development is drawing to a close, and the country needs to rapidly make the transition from a low-skilled, labour-intensive growth model to a skills-driven one. Sustaining strong growth in the future will increasingly require the country to build a skilled workforce that can easily adapt to the technological changes sweeping the global economy<sup>25</sup>. This challenge is recognised by the government and has been integrated into the Industrial Development Policy which aims to upgrade Cambodia's industrial structure from labour intensive production to one driven by skills by 2025. If implemented in timely and effective fashion, this policy could promote diversification and sustained growth<sup>26</sup>.

## Social

Poverty and related social challenges have progressively fallen, but more still needs to be done as pockets of poverty and vulnerability persist particularly in rural areas. Various social indices for health, education and welfare have improved. Commendable progress was made by Cambodia towards many of the Cambodian Millennium Development Goals (CMDGs).

Additionally while a significant portion of the population have escaped poverty they remain extremely vulnerable<sup>27</sup>. The poverty rate has more than halved, from 53% of the population in 2004 to 20.5% 2011<sup>28</sup> and downward 13.5% by 2014<sup>29</sup> and “provisional estimates suggest that this is likely to have fallen below 10%” by 2018<sup>30</sup> as the economy has improved.

It is worth observing that the United Nations Development Program (UNDP) and the Oxford Poverty and Human Development Initiative (OPHI) developed and adopted analytical approach (2010)<sup>31</sup> for multidimensional poverty when applied to the Cambodian data set would indicate that Cambodia's composite multidimensional poverty (MDP) headcount<sup>32</sup> could be significantly higher at 35%.

24 Thomas, J., (July 2019) Cambodia's workforce needs help, The ASEAN Post <https://theaseanpost.com/article/cambodias-workforce-needs-help>

25 ibid

26 Furusawa, M (2017) The Cambodian Economy: Outlook, Risks and Reforms, <https://www.imf.org/en/News/Articles/2017/06/06/sp060717-the-cambodian-economy-outlook-risks-and-reforms>

27 World Bank. 2013. Where Have All the Poor Gone? : Cambodia Poverty Assessment 2013. Washington, DC. © World Bank. <https://openknowledge.worldbank.org/handle/10986/17546>

28 <https://www.worldbank.org/en/news/press-release/2014/02/20/poverty-has-fallen-yet-many-cambodians-are-still-at-risk-of-slipping-back-into-poverty>

29 Midterm Review of the 2013-2018 NSDP <https://www.google.com/search?client=firefox-b-d&q=NSDP%2C+midterm+review>

30 <http://www.kh.undp.org/content/cambodia/en/home/presscenter/pressreleases/2018/clarification--multidimensional-poverty-is-decreasing-in-cambodi.html>

31 Assessing multidimensional poverty – one index at the global level <http://hdr.undp.org/en/content/assessing-multidimensional-poverty-%E2%80%93-one-index-global-level>

32 The MDP approach is more complex analytic which looks at additional broader dimensions (education – 2 indicators, health – 2 indicators and living standards – 6 indicators) than the conventional food security and income based poverty line model adopted by governments, including Cambodia. At present the MDP approach is a supplementary approach (through adopted as a target for the Cambodian Sustainable Development Goals (CSDGs poverty target 1.2)) to complement national planning approaches involving the government and development partner agreed income poverty line model in use.

## Technological<sup>33</sup>

As mentioned Cambodia's medium and long-term visions is to become an upper-middle-income country by 2030 and a high-income country by 2050. The government also aims to "complete the transition into a digital economy" by 2023 (MoPT 2018). The country's journey towards this goal will be determined by its ability to master and leverage emerging digital technologies. Numerous references by government to the benefits and advantage of the Fourth Industrial Revolution ("Industry 4.0")<sup>34</sup> have and are being made as government see it as a means to provide Cambodia with opportunities to leapfrog its way into the future in at least two ways.

	<b>Cambodia's Advantage</b>	<b>Challenges to/for Cambodia</b>
First, technological trends will help move Cambodia towards a knowledge-based economy	With almost two thirds of the population under 30, a large proportion of the potential workforce will have grown up with digital technologies	However, the country will have to move fast if it is to reap the benefits of this demographic dividend.  However technological improvement will also have significant labour impacts in traditional sectors (agricultural and labour intensive industries) and the possible impacts of these could be significant for Cambodia
Second, the development of technology infrastructure will be a crucial determinant of Cambodia's future industrial diversification, productivity growth and competitiveness	Ongoing investment in infrastructures will enable Cambodia to move forward faster, innovating on approaches and technologies	Educational challenges persist, with considerable gaps in educational completion and attainment.  significant he gap(s) between the desired

33 CDRI (2019) Industry 4.0: Prospects and Challenges for Cambodia's Manufacturing Sector <https://cdri.org.kh/wp-content/uploads/Industry-4.pdf>

34 Industry 4.0 – "the 4th industrial revolution" – refers to the development of advanced technologies, such as 3D printing, robotics, biotech, quantum computing, enhanced communications networks and infrastructures (the Internet of Things) and new production management know-how

## Legal

Cambodia has an evolving legal system, its comprehensive 1993 Constitution<sup>35</sup> as amended, enshrines provisions to protect citizen rights and obligations. International law is also considered as a source of law in Cambodia according to a 2007 Constitutional Council decision. However, according to Article 26 of the Constitution, all the international treaties and conventions shall be signed and ratified by the King after approval by the parliament<sup>36</sup>.

In its preamble the Constitution states that “Cambodia into an “Island of Peace” based on a multi-party liberal democratic regime guaranteeing human rights and the respect of law”. It state (article 8) that the King is “protector of rights and freedom for all citizens and the guarantor of international treaties”. Article 31 states that “the Kingdom of Cambodia shall recognise and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, the covenants and conventions related to human rights, women’s and children’s rights”. The article goes on to state that everyone is equal before the law.

The United Nations Secretary-General has noted that the legal and institutional framework in Cambodia had undergone some notable changes in recent years. New laws contained provisions that could potentially restrict the freedoms of expression, association and assembly, particularly the Law on Associations and Non-Governmental Organisations, the long-awaited Trade Union Law and the Telecommunications Law. Additionally the UNs Special Rapporteur on the situation of human rights in Cambodia, has recommended to the government to repeal provisions of the Criminal Code that could be used to restrict the freedoms of expression, assembly and association in order to achieve greater compatibility with international human rights standards, decriminalising offences such as defamation<sup>37</sup>.

The Secretary-General stated that a number of judicial actions taken against the opposition and civil society organisations reflected structural deficiencies in the law enforcement and judicial institutions that had long been highlighted by human rights mechanisms, including the independence of the judiciary, lack of procedural guarantees resulting in overreliance on pre-trial detention, weak evidentiary bases for convictions, and impunity. A growing number of “Facebook cases” were being tracked in which postings on social media were being used as evidence of the commission of crimes.

## Environmental

While Cambodia is considered richly endowed with environmental and natural resources, these are under extreme pressure. Illegal logging, land and land use transitions, extractive industries continues to ravage the country’s resource base, with limited transparent qualifiable benefits to the economy. Total forest cover in Cambodia has decreased from approximately 72% in 1973 to 48% in 2014, while dense forest has decreased from 42% to 16% over the same period. The level of mixed forest cover (inclusive of some plantations) has stayed relatively stable over this period, being 30% in 1973 and 31% in 2014<sup>38</sup>.

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<sup>35</sup> Constitution of the Kingdom of Cambodia, access at <http://pressocm.gov.kh/en/archives/9539>

<sup>36</sup> Parliamentary Institute of Cambodia (2016) Legal and Judicial Reforms in Cambodia, [www.pic.org.kh/images/2016Research/20170505\\_Legal\\_Judicial\\_Reform\\_Eng.pdf](http://www.pic.org.kh/images/2016Research/20170505_Legal_Judicial_Reform_Eng.pdf)

<sup>37</sup> United Nations General Assembly (November 2018) Report of the Office of the United Nations High Commissioner for Human Rights- Compilation on Cambodia <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WG.6/32/KHM/2&Lang=E>

<sup>38</sup> <https://opendevelopmentcambodia.net/profiles/forest-cover/#>

Another aspect of Cambodia environmental vulnerabilities is land degradation, FAO reported that in 2008 43% (>7.8 million Ha) of Cambodia's land area was considered degraded land<sup>39</sup>. Of which, 4.45 million ha are categorised as highly erodible<sup>40</sup>. In 2010 55% of the rural population of the country was living on degrading agricultural land, which amounts to approximately 6.3 million people, and this figure had increased by 38% since 2001<sup>41</sup>. The risk from land degradation on agricultural productivity cannot be highlighted more, especially combined with Cambodia's climate vulnerabilities. Combined this pose significant risks to Cambodia's agricultural smallholder dependent households, bearing in mind that average land holdings in Cambodia are 1.6 ha in size<sup>42</sup> (with 890,000 agricultural households owning land holdings of less than one hectare, and 1.7 million with holdings less than four hectares), limiting households potential to transfer/ subdivide land holdings to family members, only 851 households have land holding greater than 50 ha<sup>43</sup>!

Cambodia is considered one of the most natural disasters and climate change vulnerable countries in Asia and globally<sup>44</sup>. It was ranked the eighth (most at risk) out of 171 countries in the World Risk Index in 2016<sup>45</sup>. While it's Disaster Risk Index in 2018 was 4.7/10<sup>46</sup>, the highest of its three immediate neighbours (Lao PDR, Thailand and Viet Nam). Its specific hazard and exposure risk factors, range from 4 for human created disaster events, to 9.5 for floods (INFORM 2018). As localised flooding and droughts are near annual events in parts of the country. So, Cambodia's climate vulnerabilities/ risks pose a significant threat to the agricultural dependent portion of the population, as well as posing increasing risk for vulnerable infrastructure.

Another emerging environmental challenge for Cambodia is linked to its rapid urbanising with figure ranging from 23.8%<sup>47</sup> to ~30%<sup>48</sup> of the population now living in urban areas. This is partly driven by the concentration of industries in and around urban areas driving urban economic concentration and the migration of mainly rural youth seeking higher paid employment. This rapid urbanisation has and is creating urban generated pollution problems, for solid waste management which is reported to be in the region of 3.65 million tonnes (in 2017)<sup>49</sup>, wastewater treatment- as only three of the 27 municipalities are partly covered by wastewater treatment system, air pollution, etc.....), the adverse effect of which are often overwhelming local authorities abilities to cope and manage.

<sup>39</sup> Pheav, S., () Land Degradation Land Degradation Assessment in Cambodia, [cdn.asocon.org/LADA/Documents/Cambodia%20-%20presentation.pdf](http://cdn.asocon.org/LADA/Documents/Cambodia%20-%20presentation.pdf)

<sup>40</sup> MAFF (2018) Land Degradation Neutrality Targets, [https://knowledge.unccd.int/sites/default/files/ldn\\_targets/Cambodia%20LDN%20Country%20Commitments.pdf](https://knowledge.unccd.int/sites/default/files/ldn_targets/Cambodia%20LDN%20Country%20Commitments.pdf)

<sup>41</sup> Global Mechanism of the UNCCD, 2018. Country Profile of Cambodia. Investing in Land Degradation Neutrality: Making the Case. An Overview of Indicators and Assessments.

<sup>42</sup> MAFF (2015) Agricultural Census 2013, [www.fao.org/fileadmin/.../Census\\_Agriculture/.../KHM\\_ENG\\_REP\\_2013.pdf](http://www.fao.org/fileadmin/.../Census_Agriculture/.../KHM_ENG_REP_2013.pdf)

<sup>43</sup> MRLG (2019) State of Land in the Mekong <https://mrlg.org/resources/state-of-land-in-the-mekong-region/>

<sup>44</sup> UNESCAP 2010 Asia-Pacific Disaster Report 2010 Reducing Disaster Vulnerability and Building Resilience in Asia and the Pacific The Asia-Pacific Disaster Report, 2010

<sup>45</sup> The current (2016) world risk index ranking are (i) Vanuatu; (ii) Tonga; (iii) Philippines; (iv) Guatemala; (v) Bangladesh; (vi) Solomon Islands (vii) Costa Rica (viii) Cambodia, out of 171 countries, in Bündnis Entwicklung Hilft & United Nations University (2016) World Risk Report, [https://collections.unu.edu/eserv/UNU:5763/WorldRiskReport2016\\_small\\_meta.pdf](https://collections.unu.edu/eserv/UNU:5763/WorldRiskReport2016_small_meta.pdf)

<sup>46</sup> [www.inform.index.org](http://www.inform.index.org), INFORM is a global, open-source risk assessment for humanitarian crises and disasters and is intended to support decisions about prevention, preparedness and response, and is maintained by UNISAC and the EU.

<sup>47</sup> Based on 4/5<sup>th</sup> of the 2015 (22.2%) to 2020 (24.2) range in the UN (2018 revision) World Urbanisation Report <https://www.un.org/development/desa/publications/2018-revision-of-world-urbanization-prospects.html>

<sup>48</sup> The project figures from the ADB Cambodia Urbanisation Report 2015

<sup>49</sup> MoE figures report in Khmer Times (/11/2018) WASTE MANAGEMENT, <https://www.khmertimeskh.com/548828/waste-management/>

## METHODOLOGY

### Framework(s) Review and Adaptation

As mentioned, this study endeavours to build on the previous research on enabling environments commissioned by CCC. This was originally intended to contribute to ongoing global research on issues affecting and challenging civil society around the world, which was undertaken as part of the Enabling Environment National Assessments (EENAs). These EENA's adapted/ localised the research tools developed by CIVICUS World Alliance for Citizen Participation and the International Center for Non-for-Profit Law (ICNL) under their Civic Space Initiative. The EENA approach covers ten dimensions deemed as important for the legal and regulatory environment in which civil society (should) operate. For the 2013 national assessment<sup>50</sup>, Cambodia reviewed seven dimensions (the six mandatory dimensions and one of the optional dimensions), (underlined).

Six mandatory dimension	Four optional dimensions (based on local contexts)
<u>(i) Formation, (ii) Operations, (iii) Access to resources, (iv) Freedom of expression, (v) peaceful assembly/ freedom of association, (vi) government civil society relations,</u>	(vii) CSO Cooperation and Coalition, (viii) taxation, (ix) access to information, (x) internet freedom

In 2015, CCC, the Advocacy and Policy Institute (API), and provincial networks conducted a localised study on the enabling environment at sub-national levels across five provinces<sup>51</sup>. This applied a dual track framework exploring experience from local authority and sub-national CSOs perspectives. The applied framework for the 2015 study explored the following adapted dimensions :

A. Information by Local Authorities	B. Information by CSO Sector
<u>A.1 Operations and Performance</u>	<u>B-1 Operations</u>
<u>A.2 Relationships and Cooperation</u>	<u>B-2 Cooperation and Relationships</u>
<u>A.3 Information</u>	<u>B-3 Information Access</u>
<u>A.4 Managing Resources</u>	<u>B-4 Resource Management</u>

The current study builds on the previous approaches and adapts the two frameworks (above) to the evolving needs and demands in Cambodia, to which has been added an assessment of inclusive partnerships. For this study the applied framework explores the following dimensions, and examines the period between 2015-2019.

Enabling Environment & Inclusive Partnership Assessment Framework	
(CSOs) Formation and Operations	Peaceful Assembly/ Freedom of Association
Taxation	Access to Resources
Access to Information	Relationships between Authorities and CSOs
Inclusive partnerships	

50 <http://www.ccc-cambodia.org/en/knowledge-management/online-library/ccc-publications-and-reports>

51 <http://www.ccc-cambodia.org/en/knowledge-management/online-library/ccc-publications-and-reports>

Data collection for the study was conducted in 2018 and applied both quantitative and qualitative methodologies. The qualitative component represents the main part of the study and was primarily chosen due to the complexity and sensitivities surrounding the various dimensions. It involved key informant interviews (KII), and focus group discussions (FGDs) and case studies development.

Information was gathered from a range of development stakeholders, including representatives of national and local government authorities, and development partners. While the quantitative component of the study was based on a survey of representatives CSOs from a range membership organisations, sector networks, and federations. This was later supplemented by a review and analysis of the wide range of information from secondary sources. The data collection tools and applied approaches were adapted, as follows for the :

### **Quantitative Survey**

A sample frame was designed based on provided member lists from the CCC and other membership organisations such as the NGO forum. The final frame database of approximately 400 CSOs, included contact information for CSOs representing the following sectors; health, education, livelihoods, community development, agriculture, natural resource management, advocacy, human rights & peace building. A survey was designed in a SAAS application 'Survey To Go' in close collaboration with CCC.

This was distributed digitally to CSO management personnel for self-completion, it was accompanied by an introductory letter from CCC. Two reminders were sent out by , phone communication was also used to improve/ encourage participation/ completion of the survey. The initial target was to accomplish 150 responses from management personnel of CSOs, in which case, more analysis could have been undertaken to better inform the quantitative part of the study. Based on the survey framework generated database 400 emails were sent out, and phone calls were made in the effort to recruit respondents.

Finally, only 67 successful interviews were self-completed by respondents! The findings from the quantitative study has been only used to support or validate findings from the key informant interviews.

### **Qualitative Interviews**

The qualitative component of the study consists of key Informants interviews (KII), as described in detail in figure 2 below, as well as focus group discussions (FGDs) with clusters/groups of CSOs and other representatives.

#### **Key Informant Interviews (KIIs)**

Lists of officials/representatives from different levels of government/ local authorities, the private sector and development partners at national level were identified, and contacted for participation. Responses were slow leading to a longer time in the field than anticipated, reasons for the low response rate were work-load, scheduling clashes etc. Representative officials from authorities at sub-national levels were recruited at district and commune levels. For CSOs at sub-national levels, personnel were identified based on lists provided by CCC, and some referrals by provincial NGO networks.

The question guides for the KIIs was designed based on a modified CIVICUS Framework using the seven elements: Operation/formation, Taxation, Freedom of Expression/Assembly, Access to Resources, Access to information, Government/CSO relations and Inclusive Partnerships. Interviews were conducted across eight provinces<sup>52</sup>, with geographical based considerations such as the presence of provincial CSO networks. As a gesture of gratitude for participation, a note-book was given to key informants and other participants, as were transport costs, to enable them to travel to interviews and group discussions.

### **Focus Group Discussions (FGDs)**

In addition to the Key Informant Interviews, eight Focus Group Discussions (FGDs) were conducted in the same eight provinces. For each FGDs, six CSO staff, representing management, were recruited at district and commune levels. These group discussions were facilitated by one moderator and a note taker for each session. Participants were selected to represent a variety of sectors including health, education, livelihoods, community development, agriculture, natural resource management, advocacy, human rights & peace building.

### **Case Studies**

Four case studies were developed, two were used to support the findings for the enabling environment for CSOs, while the other two were used to support the findings for inclusive partnerships. These case studies were also used to explore and evaluate models of inclusive partnership to inform on the potential of future modelling of partnerships. The case study methodology consisted of interviews with staff and reviews of online documentation about their organisations.

### **Secondary Sources Review**

Efforts were made to gather and review a wide range of more contemporary sources to try to enable an objective review to be undertaken, particular regard was given to the 2015-2019 period. These sources were gathered from available published and online sources, while this generated an enormous potential library of sources, considerable time and effort was needed to review each source.

### **Limitations**

This study, as conducted, was primarily based on the perceptions of representatives of civil society organisations (CSOs). Efforts were made to encourage the participation of senior management, Directors, Board of Director members, country representatives etc.... were initially targeted to enable a better accounting/ perspective on higher level issues. However, due to the lack of responses a broader scope was applied to target managers, and programme leaders as well, and this may have reduced this study's ability to account for some important issues.

As mentioned, while about 400 organisations were contacted for the research, hoping to obtain 150 responses to be representative of the distribution of CSOs across the country. In the end

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<sup>52</sup> Interviews were conducted in : Battambang, Siem Reap, Ratanakiri, Steung Treng, Kampong Cham, Svay Rieng, Preah Sihanouk and Kampot.

only 67 responses were received, even after multiple follow ups. This raises concerns about the commitment of CSOs to advancing the enabling environment agenda.

It would appear that there is a certain antipathy and lack of interest by CSO managements' to participate in the study? Or was this lack of willingness to participate linked to ongoing concerns about freedom of expression in that potential interviewees were reluctant to express their views in the current tense but lessening environment.

Another issue with the risk of creating bias, in that only one representative interview per organisation was conducted. It is possible that a single individual is more likely to account for issues specific to his or her perception of reality - interviewing different levels within an organisation may result in more diverse viewpoints on the identification of different issues and levels of urgency.

During the review and reworking of the draft report in 2019, the team involved could only work with the data previously collected, they found that a considerable number of the responses from the quantitative surveys, comprised of numerous subjective responses from open ended questions. This resulted in hundreds of individual responses which could not be effectively clustered or cross tabulated without possibly distorting the findings, resulting in this data being sadly set aside in many instances.

The number of government officials and representatives of development partners included only provide some indicative responses and are maybe under-representative of the diversity of views from these stakeholders. While this research does identify some of the attitudes and views of interview subjects it is clear that more is needed to map the true influence these stakeholders have on the Enabling Environment for CSOs.

## MAIN FINDINGS

The following sections, detail the findings based on the seven dimensional enabling environment & inclusive partnership assessment framework outlined above.

### FORMATION AND OPERATIONS

#### Overview

This section on civil society organisation formation and operations **initially refers to the process and requirements of registering an organisation or association according to the adopted legal requirements.** It was guided by the questions<sup>53</sup> related to law(s) that govern the formation of Civil Society Organisations (CSOs), such as (a) who is legally permitted to serve as a CSO founder? (b) The minimum number of individuals required to form a CSO? (c) The requirements of membership? (d) The procedures required to register/incorporate a CSO? (e) The specific grounds for rejecting a CSO's application for registration/incorporation? (f) Appealing registration decisions? (g) The documentation required for CSO's incorporation/registration? (h) CSOs requirements for renewal registration? (i) The costs to register a CSO? And (j) How long does the process typically take? It will also look at the reported number of CSOs currently registered since LANGO passed in 2015.

In the context of this study, **operations refers to the ability of CSOs/NGOs to manage and conduct their activities within the framework of their license with the state, as well as within the existing legal framework, without interference from the state.** It will be guided by questions on, but not limited to, (a) what law(s) directly govern the operation of CSOs? (b) Do any other laws affect or influence the operation of CSOs? (c) Are CSOs required to notify the government of activities or any meetings? (d) Are CSOs required to submit periodic reports to the government? (e) What kind of reports – e.g. activity or financial reports –, and how often? (f) Are CSOs subject to government audits or inspections? (g) What administrative requirements affect the operation of CSOs? (h) Are CSOs mandated to align their activities with governmental priorities as defined in national development plans? (i) On what grounds is the government legally permitted to terminate or dissolve a CSO? (j) Is there appeal process/procedures for termination/dissolution decision?

#### Findings and Analysis

##### Reported CSO Context

There are now reported a total of 5,523 associations and non-governmental organisations (NGOs, 3,226) and association (2,297) who have provided files and registered with the Ministry of Interior (MoI)<sup>54</sup>. The right of Cambodian citizens to form a civil society organisations (CSOs) in Cambodia is guaranteed by the 1993 Constitution of the Kingdom of Cambodia and, in practice, citizens are able to access and use this right. Article 42 of the Constitution states that Khmer citizens shall have the right to establish associations and political parties and that these rights shall be determined by law. Khmer citizens may also take part in mass organisations for mutual benefit to protect national achievements and social order.

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<sup>53</sup> Adapted from CIVICUS's mandatory dimensions for EENA Research Guide-Questions.

<sup>54</sup> Sar Kheng, deputy prime minister and minister of MoI, speech at the Partnership Forum between Government and NGOs on 17th January 2019.

The existing legal framework for registering CSOs/NGOs in Cambodia is now governed by the 2015 Law on Association and Non-Governmental Organisations colloquially called the “LANGO”. The stated purposes of this law is “to determine the formalities to legally recognise associations or non-governmental organisations as well as to establish the relationship between the associations and/or non-governmental organisations and the public authorities for the development of Cambodian society”<sup>55</sup>.

By 2018, only 289 entities; (180 associations and 109 NGOs) have registered or submitted an application to the Ministry of Interior (MoI)<sup>56</sup>. Consulted domestic CSOs who were previously registered (before 2015), reported now being required to submit additional updated documentation to comply with ad-hoc MoI personnel requirements, supposedly under the LANGO framework. When they went to inform MoI of changes in their organisation position holders (new (BoD members/ senior management personnel ), changes of address, or changes in statutes, etc...), though these requirement are not covered by LANGO? As mentioned later, these requests apparently fell under “pre-appraisal/ pre-submission ” reviews of to-be-submitted document. But are not covered by the formal registration application procedure, and something that need clarifying.

### Formation Requirements Framework

#### (a) Who is legally permitted to serve as a CSO founder?

The 2015 LANGO’s states (article 6) that

- Any national can apply to form an NGO or association while only national Khmer (citizens) able from a domestic NGOs. With the right protected by the Constitution (article 42) through this right is to be determined by law.
- There are no other (reported) impediment to be listed as a founder/ director.

#### (b) The minimum number of individuals required to form a CSO?

- For domestic Associations and NGOs, at least three founding members over 18 years of age are required to. It has slight difference as a domestic association the national of the founders is not considered, while for domestic NGOs the founding members have to be of Khmer nationality.
- For Foreign Associations and NGOs wishing to work in Cambodia need to register by signing a Memorandum of Understanding with the Ministry of Ministry of Foreign Affairs and International Cooperation (MoFAIC) such an application has to be accompanied by a letter from the head/presidents of the organisation and its international registration.

#### (c) The requirements of membership?

- The statutes of Associations may define further requirements but there are no legal requirements, As Association are defined (article 4) membership organisation established under the laws of Cambodia by natural persons or legal entities aiming at representing and protecting the interests of their members without generating or sharing profits.
- Domestic NGO are described (article 4) “to a non-membership organisation, including foundations, established under the laws of Cambodia by natural persons and/or legal entities aiming at providing funds and services in one or several sectors for the public

<sup>55</sup> <https://cambodia.ohchr.org/.../sites/.../Unofficial Translation of 5th LANGO ENG.p...>

<sup>56</sup> [ibid.](#)

interest without generating or sharing profits”.

**(d) The procedures required to register/incorporate a CSO?**

- Article 6 of the LANGO states that (NEW) domestic associations and/or non-governmental organisations shall be required to register with the Ministry of Interior and need to submit the a range of documentation (see annex 1.1).
  - More recently in 2018, MoI issued the 7 chapter, 13 articles Ministerial Prakas #2193, (dated 11 May 2018) “On Guidance for the Registration of Cambodian Associations and NGO” with similar requirements to Article 6 of LANGO. Though there appears to be minor difference in the (interpretation) of the documentation to be submitted (see Annex 1.1).
- One of the documents required to be submitted are the “Statute” of the association /organisation, which “shall lay out the substances in conformity with the Constitution and other existing laws” and cover eight points (see annex 1.1) including the goals and purpose of the organisation. The remaining requirements are administrative and institutional, in terms of naming the organisation, its logo etc. Procedures for recruitment and changes in the directors; changing the statutes, sourcing and managing resources, dissolution and disposal of assets of the association.

**Article 8 of LANGO covers new domestic Association/ NGO registration process**

- The application decision making process should take 45 working days if the application is complete on initial submission.
  - If additional documentation or clarifications are required, these need to be submitted within a further 45 days, and if satisfactory MoI should make a decision within a further 15 days following submission of additional information.
  - If MoI does not communication its decision or a request for additional information within the stated 45 days then the domestic Association/ NGO “shall be deemed registered” under LANGO, and MoI should prepared and provide the required license.

**Article 12-17 Registration of Foreign Associations or Non-Governmental Organisations**

- This registration falls under the MoFAIC and is covered a Memorandum of Understanding (MoU) between the Association/ NGO and the Government through MoFAIC. Article 13 lists six types of documentations required to support the application to MoFAIC (see Annex 1 for the list).
  - A decision on the registering processing of the application to MoFAIC should be completed within 45 working days.
  - The foreign Association/NGO should have completed an agreement with (undefined) “public authorities” before submit an application for a MoU.
- In contrast to the domestic Associations /NGOs, foreign entities have to renew their MoUs every three years according to LANGO. With the application to renew submitted at least 90 days prior to the expiry date.

For Associations/ NGOs which had previously submitted documentation to MoI prior to the 2015 enactment of the LANGO

- Article 37, states that “following the entry into force of this law, any domestic association or non-governmental organisation whose documentation has been filed with the Ministry of Interior shall be deemed registered and will automatically receive the legal entity status under this law.

For existing Foreign Associations/NGOs

- Article 38, states that following the entry into force of this law, any foreign association or non-governmental organisation, which has entered into a memorandum of understanding with the Ministry of Foreign Affairs and International Cooperation, shall be deemed registered under this law and may conduct its activities until the expiry date of (their existing) MoU with MoFAIC.

- Both national (article 10) and foreign (article 17) Associations/NGOs have to provide details (numbers, signatories for and locations of Banks) of the organisation banks accounts in Cambodia within 30 days of being registered to the responsible ministry (MoI/MoFAIC) and MoEF.
  - The same articles also require national and foreign Associations/NGOs to provide information and copies of the changes documents to the responsible ministries of changes
    - In the location of registered office
    - Changes in authorised signatories and position holders
    - Changes in statutes (for domestic Associations/ NGOs)

**(e) The specific grounds for rejecting a CSO’s application for registration/incorporation?**

- Domestic Associations/ NGOs can be denied registration (article 8) if MoI deems that the Association’s/NGOs “purpose and goals are found (to) endanger the security, stability and public order or jeopardise national security, national unity, culture, traditions, and customs of Cambodian national society”.

**(f) Appealing registration decisions?**

- The decision to deny the “request for registration... by the Ministry of Interior shall have the right to appeal to the courts”

**(g) The documentation required for CSO’s incorporation/registration?**

- See Annex 1.1

**(h) CSOs requirements for renewal registration?**

- Registration under LANGO is a one-time requirement.
- Though as mentioned previously registered Association/NGO informing MoI of change are being requested/ required to re-register using the LANGO requirements
- There are annual reported requirements

- Article 25 requires domestic NGO to provide an annual activity and financial report by the end of February the following years.
- They are also required to submit copies of reports and financial statement to donor with 30 days of the reports submission to the donor, and related documents need to be kept for five years.
- For foreign NGO
- Are requires to submit copies of annual activity reports and financial statements sent to the donors to the MoFAIC and MoEF 30 days of their submission to the donor
- Copies of agreed project documents and financial agreement with donors by should be submitted to MoFAIC and MoEF with 30 days from the date of the agreement.

**(i) The costs to register a CSO?**

No formal fees are reported in LANGO though consulted stakeholder confirmed an official fee notice at the MoI of 300,000 Riels (~US\$75). However it was also mentioned by consulted CSOs that requests for unofficial payments to speed up processing or to make changes and complete internal (MoI) documents were common.

**(j) How long does the process typically take?**

No clear insight could be gains on the duration, though six months to one year to get through the process seem to be the case as mentioned by consulted CSO. They mentioned that this was due to arbitrary requests to reword and change submitted documents, no formal process and lack of adherence to the LANGO time frame.

The OHCHR in Cambodia submitted a detailed human rights analysis of the Law on Associations and NGOs, to the Constitutional Council (August 5<sup>th</sup> 2015)<sup>57</sup> for review after the law had been adopted by the National Assembly and Senate in July 2015?. This suggested possible revisions to nearly every article of the Law to better align it with international human right laws standards.

This analysis raised concern about the LANGO's adherence to Cambodia's Constitutional and international commitments to a number Human Rights Conventions (including the International Covenant on Civil and Political Rights (ICCPR)).

- They firstly highlighted the risks of the wide range of interpretations possible under the draft law then in circulation (in 2011), a point which largely remains valid with respect to the current (adopted Law).
- Secondly, OHCHR expressed concerns about the registration process as “international human rights mechanisms are of the view that the right to freedom of association and the right to privacy of civil society organisations are better protected through a voluntary notification system”.
- Thirdly they noted that “the complexity of the range of implications of the law for the human rights environment in Cambodia would have justified (and benefited from) a

<sup>57</sup> OHCHR, PHNOM PENH (11 August 2015), finalized and shared with the Constitutional Council its human rights analysis of the Law on Associations and NGOs, which hold profound implications for the ability of persons to exercise through associations and NGO's their internationally and constitutionally recognized rights to freedom of expression and association. The report is available at: <https://cambodia.ohchr.org/en/news/ohchr-issues-its-analysis-lango> (accessed on 16th July 2019)

considerably more profound consultation and discussion”, which was an issue of concern about LANGO express by multiple stakeholders consulted.

NGOs consulted who had undertaken registration or re-registration between 2017 and 2018, acknowledged that their organisations statute’s has been influenced and changed (“requested” and “demanded”) by the officer in charge at the MoI’s registration office to aligned with a MoI statutes’ template and text changes required by MoI included text insertion of clauses/statement like:

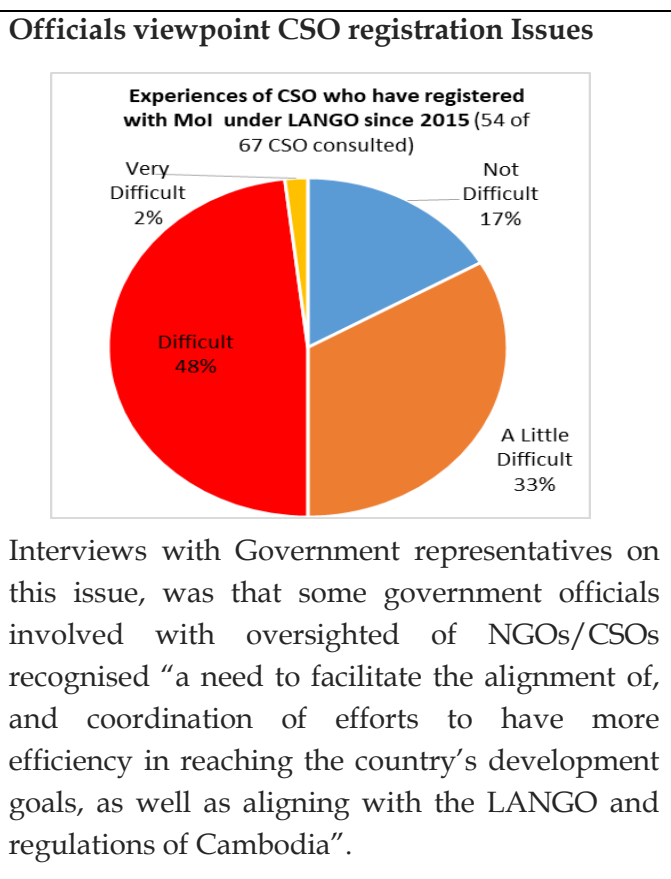
- ...Organisation (name) is a non-profit, non-partisan, non-religious, non-political organisation, not do politic, not provide any political materials or budget, and not support the political party or candidates....
- (Requiring the holding of) an annual congress or general assembly – no matter small or big, membership or not. The organisation has to make the Congress/general assembly the top decision making body in the structure of organisation.
- Also all resolutions or decisions by the congress or general assembly have legal implication to be followed.
- All of the remaining assets after an organisation’s legal debt relief is transferred to ..... (but must include) the Cambodian Red Cross or .....

**CSO Experiences with registration**

Some CSO representatives observed that while the 45 day application period is mentioned in the Law, most applications take far longer, and that the reported time appears to be for application approval by higher level official at MoI.

What actually happens, is that the application paperwork gets caught up in an unofficial pre-submission process.

This is where officials request/ demand that applying NGOs align their statutes and other documents with officials predefined formats, and if an organisation wants its paperwork passed for approval they have to comply. This apparently ad-hoc unofficial review process is an issue of concern for some organisations.



### *Analysis of CSO Formation*

The majority of CSOs feedback tells the story of a difficult process which is poorly facilitated and understood. CSOs at national level also emphasised that the main challenge with registration is related to the complicated process. “For CSOs in the province it is just too time consuming and expensive”. Provincial CSOs highlighted the issue, that registration is centralised in Phnom Penh requiring them to make numerous trips to get the appropriate forms for the application to register the organisation. Then to follow-up and change documents to meet requested demands which consumes limited financial resources. The feedback from most CSOs participating in this study is clear about the process of application being difficult.

Regarding foreign associations or organisations, the LANGO processes were confirmed as being similar to those which had preceded LANGO. FNGOs must register with the Ministry of Foreign Affairs and International Cooperation (MoFAIC), and renew their Memoranda of Understanding with the government every three years.

However, according to the directors of a number of foreign CSOs, the conditions of the MoFAIC MoU have been modified, and the following clause has been added ‘foreign NGOs, work must align with the Government of Cambodia’s national strategies’. They also mentioned that the reviewing and assessing the submitted documents (to MoFAIC) for registration is now very detailed. There also appears to be some issues for foreign faith based organisations and also for Organisations who are not working directly with Cambodian people (i.e. those working by providing financial support to Cambodian CSOs).

An experienced CSO leader considered that “*Registration is still complicated with restricted documentation requirements (e.g., office addresses must be certified by local authorities, map of office location, and staff structure must be provided); as well as the solicitation of unofficial payments by government officials. The most critical point was that the officer in charge of registrations copies and paste some articles into the bylaw/statutes of registering NGOs. In addition, registered NGOs/CSOs must officially report annually their organisational status – including changes in executive directors, board members, and senior positions of staff, organisation names, addresses, and regulations – to the MoI.*

*Furthermore, (they noted that) the registration process is more difficult for small NGOs/CSOs based in the provinces, as they must travel to the capital to register and to completed the registration, at least 3 to 5 times for meetings with the officer in charge of registration to provide supporting documents”.*

LANGO only classifies CSOs either as NGOs or Associations as the legal framework lacks clear definitions. MoI deems CSOs serving society as NGOs and CSOs serving only their members as associations. Many and probably most community-based organisations (CBOs) operate without formal registration<sup>58</sup>, though this is not required by the law. However, since unregistered organisations are not recognised as legal entities, they face certain limitations. For example, they cannot enter into contracts.

The registration certificate (letter) is seen as a positive thing as it confirms the NGOs/CSOs right to exist and provides proof of such a right. The problem is that the process of registration is too difficult and requires too much effort as mistakes are made and in the end both money and time is wasted.

<sup>58</sup> CBOs are (rightly) currently outside the scope of LANGO. Though a number of those involved with natural resources issues (fisheries and forestry groups) or irrigation are required to seek recognition by the responsible ministries.

## **Government Establishment of the Civil Society Alliance Forum (CSAF) in 2016 & the Inter-ministerial committee to ensure implementation of the LANGO in 2018.**

In June 2016, the Government through the Council of Ministers (CoM) established the Civil Society Alliance Forum (sub-decree #128). The reported purpose of this body is “to support the development of the country through civil society in accordance with Cambodia’s national development policy. This forum’s aim was “to promote cooperation between NGOs, community associations, and unions with the government, (and to) coordinate their work with the local authority to encourage and promote increased collaboration and sharing of experiences between all institutions in the fields of civil society in order to achieve rapid development”<sup>59</sup>.

Elsewhere<sup>60</sup> it was reported that its goals and objectives “are to serve as a constructive forum for the exchange of views among all the relevant stakeholders in the process of formulating public policy proposals, which are sound and applicable, through scientific research and internal, in-depth discussions”. Development and CSO stakeholders consider the forum a Governmental institution created to ‘stage’ civil society events engaging other pro-government NGOs and associations.

One role for CSAF was to replace other CSOs who had boycotted providing observers for the 2018 national election. CSAF was reported to have fielded 1,036 national (from a reported 93 organisations) and 220 international observers (from at least 21 international organisations) from a range of organisations to “rubber stamp” the election day process in July 2018<sup>61</sup>. Reviewed media coverage on Khmer TV channels has shown that so called “provincial NGO consultations” being co-chaired by CoM established CSAF to give the appearance of an actively engaged civil society. However there would appear to be limited evidence of the high aspiration reported for the organisation in terms of policy engagements etc....as mentioned above.

More recently, in December 2018, MoI established<sup>62</sup> a new a 33-member inter-ministerial committee to ensure the implementation of LANGO and to demarcating the duties of each ministry. The Ministry of Economy and Finance is tasked with monitoring the tax obligations of NGOs, with the National Bank asked to track their financial operations. The committee is headed by the Ministry of Interior’s Pol Lim, along with MoFAIC officials Ouch Borith and Keo Rith<sup>63</sup>. The role(s), function(s), and activities of this committee remain unclear.

It was observed that during the period under review (2015-2019), that a number of rights and advocacy based organisations and independent media companies/ groups came under increased compliance assessments and reviews by state agency (MoI, MoFAIC, tax department, labour departments, etc..) which resulted in some closures (National Democratic Institute, the Cambodia Daily newspaper, as well as 15-19 independent radio stations<sup>64</sup> which had re-broadcast Radio Free Asia (RFA), Voice of America (VoA) and Voice of Democracy (VoD)

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<sup>59</sup> CSAF website- <http://csaf.org.kh/en/about-csaf-2>

<sup>60</sup> <https://www.facebook.com/CSAForum/>

<sup>61</sup> <http://m.en.freshnewsasia.com/index.php/en/10442-2018-07-31-08-43-42.html>

<sup>62</sup> MoI Decision No. 110 SSR, dated 5 December 2017, on Creation of Inter-Ministerial Commission for Managing the Work Activities of Foreign NGO.

<sup>63</sup> Phnom Penh Post (15/01/2018 New Lango committee formed <http://www.phnompenhpost.com/national/new-lango-committee-formed>

<sup>64</sup> <https://www.phnompenhpost.com/national/no-relaunch-shuttered-radio-stations>, <https://www.cambodiadaily.com/news/anger-mounts-as-radio-purge-knocks-19-stations-off-air-134077/>

Khmer channels), and a number of these were closed because of reported non-compliance with tax requirements<sup>65</sup>.

### *CSO Operations Framework*

#### **(a) What law(s) directly govern the operation of CSOs?**

LANGO is the main legal instrument, it mainly deal with the registration and reporting requirements of CSO. However additional legal provisions need to be considered as there are clauses in the Tax Laws and instruments such as Prakas 464, on the taxation for associations and NGOs (released by MoEF in April 2018, Social Welfare Law, Civil Code, Criminal Codes, as well as the Law on Public demonstration, which need to be considered by CSOs in their operations.

#### **(b) Do any other laws affect or influence the operation of CSOs?**

An increasing number of laws and sub-decrees now have to be considered and “complied with” by CSOs, these include but are not limited to; LANGO, Tax Laws and Sub-Decrees, the Labour Law and various Sub-Decree related to the National Social Security Fund, which have an influence on the operations of CSOs to varying degrees.

CSOs now also need to take account of other legislation such as the Civil and Criminal codes which cover issues that can be influence by CSOs. Of greatest concern are the clauses in the Criminal code, namely provisions on “public insult” (Article 307) and “incitement to commit felony” (Article 495) – these vague catchall phrases are frequently now being used against those considered anti-government activists in Cambodia”. To which was recently added (February 2018) “Leste Majeste” provisions (article 437). There are numerous published examples of the abuses of these provision to restrict and or arrest CSO activities

#### **(c) Are CSOs required to notify the government of activities or any meetings?**

Between October 2017 and November 2018<sup>66</sup>, MoI had issued a directive requiring NGO and associations to inform MoI or local authorities of their intention to undertaken activities at least three days in advance of the activity taking place. However this requirement to inform was frequently misinterpreted by local authorities to mean requiring permission in advance.

However, a number of organisations consulted mentioned adhoc requirements by sub-national authorities (provincial, district and commune levels) for them to inform and report on activities at different times. These requirements preceded and were often in demand at different locations, though under what legal requirement is unknown.

#### **(d) Are CSOs required to submit periodic reports to the government?**

Yes, LANGO, domestic NGOs and foreign NGOs (article 25) are required to submit annual activity and financial reports.

The domestic entities need to be submitted by the end of February and if they receive funds from overseas within 30 days of donor reporting. Report documentation has to be kept for at least five years.

For associations MoI can request the activity report and annual financial report if necessary

<sup>65</sup> <https://www.khmertimeskh.com/82702/radio-free-asia-shuts-phnom-penh-office-20-years/>

<sup>66</sup> Phnom Penh Post 928/11/2018) ‘NGOs may operate without restriction’ <https://www.phnompenhpost.com/national/ngos-may-operate-without-restriction>

(article 25).

Foreign entities have to submit activity reports and financial status reports within 30 days of reporting to donors.

Subnational administrations often require CSO operating in their areas to provide periodic reports.

**(e) What kind of reports – e.g. activity or financial reports –, and how often?**

Annual activity and financial status reports to be submitted for domestic NGO.

While foreign NGO its linked to donor reporting.

They “shall submit a copy of its annual activity reports and financial status sent to donors to the MoFAIC and MoEF within 30 (thirty) days after they were sent to the donors”

They should submitted a copy of “project documents and financial agreement with donors by copying from original documents within 30 (thirty) days from the date of the agreement to MoFAIC and MoEF.

**(f) Are CSOs subject to government audits or inspections?**

Article 26 states that “The Ministry of Economy and Finance or the National Audit Authority may, if necessary, check and audit an association and a non-governmental organisation”.

**(g) What administrative requirements affect the operation of CSOs?**

Apart from the reporting requirement, there are only a few requirements. In October 2017 the Government introduced a regulatory instrument requiring prior notification of activities by NGO in villages. This instrument/directive was annulled in November 2018.

However arbitrary demand for permission to operate in areas both prior to and follow the national elections are still being reported by CSOs

**(h) Are CSOs mandated to align their activities with governmental priorities as defined in national development plans?**

The LANGO encourages NGOs to align with national development objectives, but it is not mandatory or enforced

**(i) On what grounds is the government legally permitted to terminate or dissolve a CSO?**

Chapter 7 Administrative Measures and Penalties

Article 30 states that “Any domestic association or non-governmental organisation that fails to comply with Article 10, or Article 24, or para. 1 or para. 2 of Article 25 of this law, the Ministry of Interior shall issue a warning in writing by giving 30 (thirty) working days at the latest. In case of non-compliance, the Ministry of Interior shall issue a warning in writing to temporarily suspend its activities for a period of 90 (ninety) days at the latest. In the case of repeated noncompliance, the Ministry of Interior shall issue a written decision to remove it from the register”

“To any domestic association or non-governmental organisation that fails to properly comply with its statutes, the Ministry of Interior shall notify in writing or temporarily suspend activities for a maximum period of 30 days. In the case of non-compliance, the Ministry of Interior shall issue a written decision to remove it from the register”.

The Ministry of Interior shall decide to remove from the register any domestic association or non-government organisation that conducts activities that endanger the security, stability and public order, or jeopardise the national security, culture, tradition, and custom of Cambodian

national society, regardless of other criminal punishments.

Article 32: The competent authorities shall take measures to immediately stop any domestic association or non-governmental organisation for conducting activities without registration with the Ministry of Interior according to the provisions of this law. In case of resistance, the concerned association or non-governmental organisation shall be subjected to a fine from Riel 5,000,000 to Riel 10,000,000 by the Ministry of Interior. In case of repetition, the competent authorities shall file a complaint to the courts for legal action, regardless of other criminal punishments.

Paragraph 1 above shall also be applied against any domestic association or nongovernmental organisation that is delisted or whose activity is suspended by the Ministry of Interior but continues to carry on activities in the Kingdom of Cambodia.

Article 33: In case a foreign association or non-governmental organisation fails to comply with Article 24, or paragraph 3 of Article 25 of this law, the Ministry of Foreign Affairs and International Cooperation shall issue a warning in writing by giving at the latest thirty (30) days. In case of non-compliance, the Ministry of Foreign Affairs and International Cooperation shall issue a warning in writing by giving at the latest thirty (30) days. In case of repeated non-compliance, the Ministry of Foreign Affairs and International Cooperation shall issue a written decision to terminate the validity of its memorandum.

Article 34: The competent authorities shall take measures to immediately stop any foreign association or non-governmental organisation that conducts activities without registration or which Memorandum of Understanding is terminated by the Ministry of Foreign Affairs and International Cooperation. Additional measures involving expulsion under the Law on immigration may be undertaken against any foreigner working for a foreign association or non-governmental organisation for committing the above offence regardless of other criminal punishments.

Article 35: The Ministry of Foreign Affairs and International Cooperation may terminate the validity of a Memorandum of Understanding where a foreign association or non-governmental organisation fails to properly comply with the Memorandum of Understanding it has signed with the Ministry of Foreign Affairs and International Cooperation, or where a foreign association or non-governmental organisation conducts activities which harm security, stability, and public order, or endanger the national security, national unity, culture, good traditions and customs of Cambodian national society.

Article 36: Any association or non-governmental organisation conducting activities which endanger the national security or involves money laundering, terrorist financing or terrorist crimes, or other criminal offenses, shall be punished according to the existing criminal law of the Kingdom of Cambodia.

**(j) Is there appeal process/ procedures for termination/dissolution decision?**

YES, Article 31: A domestic association and non-governmental organisation shall have the right to appeal against the decision of the Ministry of Interior regarding the denial of registration, suspension of the activity, deletion from the register, and fine to the court within thirty (30) working days at the latest from the date on which a notification of the decision is received.

### *Analysis of CSO Operation*

The operation of civil society organisations at subnational levels has been curtailed over the last few years, due to the political environment. The curtailment is visible through a combination of:

- **The Perceived Shrinking of Civic Space**, in that CSOs were first reluctant to have confrontations with local officials. As there had been an increase in CSO activities and meetings being stopped or not allowed to take. The majority of CSOs are risk adverse and if staff are told to stop activities or are not allowed to set up they generally comply. Why Local authorities (commune and police) stopped is unclear and on what justification is usually not known. CSOs consulted mentioned being asked for more information or permission about their activities/ or and to seek permission before activities take place (the levels of these request apparently increased in 2016/17).
- **Institutional Restrictions**, MoI issues a directive in October 2017 (dated 2/10/2017 and signed by the Minister of MoI) that requires “Associations and NGOs wishing to conduct activities in the territory of a specific city or province have to inform the Ministry of Interior about the nature of activity or directly inform the administration within three days before the activity starts and that “If no notification is given, or if the MoI or local authority deems the activity to affect “public order or national authority,” the relevant authority is empowered to ban the activity and is required to inform the MoI about the proposed activity immediately. The letter includes no definitions for the terms “public order” or “national security.”
  - The Ministerial instruction had a second objective which stated that “Provincial Administration and the relevant competent authorities to take immediate action to shut down any local associations and non-governmental organisations who act without being legally registered at the Ministry, and the local associations and NGOs that have been decided to be deleted from the interior list or inactive, and remains active. In this case, the competent authorities must take the legal action and report to the Minister of Interior”.

Between 2016-2019 there were also a number of reported instances of civil society organisations, especially organisations promoting human rights, being subjected to harassment by government officials. There were also reported instances where local government officials have ordered CSOs to stop their activities. During the period under review the LANGO, in particular, has been reported as being used by government authorities to break up meetings and trainings conducted by NGOs and community-based organisations. Interviewed NGOs indicated that authorities have claimed that the LANGO requires groups to receive permission from local authorities before holding meetings, trainings, and other events. However, the LANGO does not have any such measures to require this.

In November 2018, MoI issued another Notice to the sub-national governments to end the requirement that NGOs/CSOs have to inform local government of their activities. However NGOs/CSOs continue to report that local authorities still require them to inform and obtain permission before conducting/organising activities. Interviewed NGOs felt that the requirement for asking/informing about their activities, this provided local authorities with a measure to control the operations/activities of NGOs/CSOs on their areas.

The 2009 Law on Peaceful Demonstration does not require prior permission to organise a demonstration, but does require notification. However, in practice, prior permission to hold an

assembly is required and almost never granted. This discourages would-be organisers who fear they will be investigated by local government officials or even arrested by local police if they go ahead. In 2014, the government began to view CSO initiatives in response to the political deadlock as being connected to the opposition political party; as a result, demonstrations were stopped, often violently, and some activists arrested (CSOSI, 2014)<sup>67</sup>.

A significant proportion of consulted CSOs mentioned that the process is not the same for all NGOs/CSOs. Those CSOs operating within the agriculture, education and health and other social sectors reported experienced fewer problems while those advocating for civil/human and environmental rights often find themselves in conflict just based on the nature of their mission. The general view on this is that the law should be the same for all organisations, regardless of mission. There is also a need for clarity in procedures, processing and the interpretation of the law is registered as a need expressed by the majority of CSOs participating in this study.

#### *Threats to NGOs/CSOs*

State pressure on CSOs dramatically increased in 2017. Both foreign and domestic CSOs, have been targeted for alleged association with the so-called colour revolution (CSOSI, 2017). LANGO, since its adoption in 2015 has posed a quietly looming threat. Long before LANGO became Law, civil society groups warned that the legislation was designed to shut down those that fell afoul of the government. It was just a question of when<sup>68</sup>. According to CSOSI, 2017, the government alleged that these CSOs persecuted were part of a “US interference network,” produced a video detailing these accusations, and circulated a list of NGOs throughout the government. A legislator from CPP delivered a presentation to the National Assembly, in which he accused the National Democratic Institute (NDI), International Republic Institute (IRI), and National Endowment for Democracy (NED), Freedom House, and the Open Society Institute of fomenting the purported colour revolution (CSOSI, 2017).

According to CSOSI, 2017, several CSOs and media outlets were shut down or forced to curtail their operations while they were under investigation.

Organisation/ Media Outlets	Forms of Harassment and Suppression
National Democratic Institute (NDI),	<p>NDI was the first casualty this was closed for purportedly failing to obtain a Memorandum of Understanding with MoFAIC as required by LANGO. It was given seven days to shut down and send its foreign staff home.</p> <p>According to the Prime Minister, the group had broken rules requiring political neutrality by working with the opposition to topple the ruling party. The announcement came just weeks after Prime Minister warned international NGOs that they were now under threat, thanks to a separate law. “So please, foreign agencies and groups who eat foreign funds – please retreat. We are watching you. Your NGOs could be dissolved via the party law,”<sup>69</sup></p>

<sup>67</sup> CSO Sustainability Index For Asia Report, 2014 (Cambodia, page 10-11).

<sup>67</sup> Colin Meyn, 'Cambodia's controversial NGO law snares its first victim', 31 August 2017, (accessed on 11 July 2019) available at: <https://www.devex.com/news/cambodia-s-controversial-ngo-law-snares-its-first-victim-9094>

<sup>68</sup> Colin Meyn, 'Cambodia's controversial NGO law snares its first victim', 31 August 2017, (accessed on 11 July 2019) available at: <https://www.devex.com/news/cambodia-s-controversial-ngo-law-snares-its-first-victim-90947>

Equitable Cambodia	Was suspended for one month in September 2017 pending an investigation by the MoI into potential violations of the LANGO, including violating their bylaws and not submitting annual reports and other documents in a timely manner It was finally allowed to restart it operations in February 2018
The Cambodia Daily newspaper, Voice of America (VOA, Radio Free Asia (RFA), and the Voice of Democracy (VOD)	These were placed under investigation, mostly by MoI and the Ministry of Economy and Finance, allegedly for not fulfilling of tax obligations.  They were force to close their office in country.  The daily owners were charged with defamation and held in pre-trial detention.
Cambodia Center for Human Rights (CCHR)	The Prime Minister publicly warned CCHR of a possible investigation “because they followed foreigners,” presumably because the organisation was founded by Kem Sokha,
Agape International Missions (AIM)	Authorities threatened AIM to close for allegedly insulting the country’s culture during a media broadcast about human trafficking
The Situation Room, a CSO consortium	This network of Rights NGOs/CSOs had coalesced to monitor and report on the 2017 Commune Election and other election. But is high-profile reporting under its “brand name” drew the ire of Government who threatened its members with closure for engaging in activity without registration under the LANGO and for fomenting a so-called ‘colour revolution’.

Moreover, authorities continued to arrest environmental activists, including those from the organisation Mother Nature, for violating privacy laws by using drones to reveal illegal sand dredging activity<sup>70</sup>.

CSOSI reported that ‘In addition to this overt pressure, over the past few years the government has also established organisations and institutions aimed at weakening the independence and voice of authentic CSOs by vocally supporting government positions. For example, the Civil Society Alliance Forum (CSAF), was created in 2016, it is staffed mainly by members of the Council of Ministers and ministries and consistently issues statements in support of government actions. Similarly, Union Youth Federations of Cambodia (UYFC) is run by the prime minister’s son, and essentially functions as a youth arm of the CPP. The government has used these bodies to claim that it engages with civil society. Meanwhile, many formerly vocal CSOs have been co-opted or forced to censor themselves.’

<sup>70</sup> CSOSI, 2017, page 33.

### Practical experience vs legal requirement of annual submission

Prior to the adoption of the LANGO in 2015, there was no legal requirement for Associations and NGOs to submit an annual reports to the Government in Cambodia, In 2017, the MoI issued two information letters (announcements) requesting all registered Associations and NGOs to submit information about their funding agreement(s), bank account(s), and required reports to MoI and the Ministry of Economy and Finance (MEF). Later on 4 July 2017, MoI issued a Notice, the aim of which was to ensure participation of the Associations and NGOs in implementing and focusing on the obligations imposed by Articles 10 and 25 of the LANGO.

It was reported in November 2017, that thousands of organisations had failed to meet the deadline (September 30 2017) for filing their financial reports under the LANGO, according to a ministry official<sup>71</sup>. The director of MoI's Department of Associations and Political Parties, said that of the total 5,199 associations and NGOs registered with the ministry (in 2017), just 621 (196 associations and 425 NGOs) had submitted any documentation. By 2019, MoI reported only receiving annual reports from about 2,000 CSOs out of more than 5,500 registered.

### **Comparison Between 2013 and 2018 Studies**

<i>Situation in the 2013 report</i>	<i>During the period of studying and writing report (2018-2019)</i>
<p>The registration of CSOs, prior to LANGO 2015, was consider simple for Cambodian NGOs But took a long time because it required endorsement from all administrative levels (Commune/Sangkat, district/Khan, province/municipality) and with the Ministry of Interior at national level. To meet these requirements NGOs/CSOs seeking registration with the MoI had to meet requirements which could provide the local authorities more control over registered NGOs/CSOs. Despite these bureaucratic impediments, NGOs/CSOs were generally able to register.</p> <p>However, there was no reported reviewing and influence of/ on the organisations bylaw/statute. There no difference between Associations and Organisations. All registration called 'Ankar' Organisation.</p> <p>Previously for Cambodian NGOs there was no need to do reports on activities and finances to the Government.</p>	<p>The LANGO registration processes short cut the procedures in term of reducing the endorsements as only Sangkat/commune level was required.</p> <p>However, it continues to take a long time at the MoI because the officer in charge has to review the documents. Additionally LANGO added some requirements for registered bylaw/statute.</p> <p>Further, when MoI approves a registration, it is now not enough for NGOs to operate.</p> <p>As they are now required to register with Taxation department whose processes take longer and require a long list of documents to support tax registration. Without tax registration, an NGOs bank account at any bank will be terminated.</p> <p>Cambodian NGOs must now report their activities and finances and submit these annually to Government.</p>

<sup>71</sup> Phnom Penh Post, Kong Meta and Leonie Kijewski, 'Few NGO compliant with law', 02 November 2017. Available at: <https://www.phnompenhpost.com/national/few-ngos-compliant-law> (accessed on 16 July 2019)

## Challenges and Suggestions

Regardless of the issues of possible civil society restrictions which CSO were/ are concerned about the LANGO is the national law and needs to be followed. However the provisions of the LANGO appear to be misinterpreted and misunderstood and abused, in terms of being used to restrict and suspend CSOs, and limited their activities by imposing requirement for permissions.

There appears to be issues with the CSO registration process as

Challenges	Suggestions
<ul style="list-style-type: none"> <li>• It remains centralised in Phnom Penh, which poses difficulties for smaller organisation and those located in the provinces, as they have to frequently travel to Phnom Penh during the registration process.</li> <li>• The registration process is opaque, time consuming and open to interference and influence.</li> <li>• There is a lack of documented guidance on the process and requirements</li> </ul> <p>In terms of CSO operations</p> <ul style="list-style-type: none"> <li>• Considerable ambiguity existing in the application of the LANGO and other legal instruments, which have and are being used to curtail CSO activities.</li> <li>• There is a lack of an objective mechanism to review legal instruments in a timely manner and clarify issues.</li> </ul>	<ul style="list-style-type: none"> <li>• Move the registration process online to enable and delegate and allow the “one window service office” to issues registration documents as part of the government commitments to decentralisation.                             <ul style="list-style-type: none"> <li>○ Benchmark the processing in terms of timing of the process steps.</li> </ul> </li> <li>• Develop a CSO registration documentation guideline, which can clarify issues and contain examples and templates and the justification for desired or requested wording/ phrasing</li> <li>• Improve mutual understanding by CSOs and local authorities of legal instruments and their application, develop document guides of ambiguous provisions to better engaged local authorities</li> <li>• Engaged in consultations with ministries and decision makers to seek improvements and clarification in the legal framework and system, and advocate with others for necessary the changes.</li> </ul>

## FREEDOM OF EXPRESSION

### Overview

With an open and pluralistic civic space, CSOs and other stakeholders can become effective partners with public institutions at all levels and across all sectors to contribute to ensuring sustainable development. In respect of the partnership value, the right to the freedom of expression is required and it is guaranteed by Cambodia's Constitution. It is the core to ensuring the existence and effective functioning of an open and plural civic space.

The right to freedom of expression is guaranteed under international human rights treaties, which Cambodia accepted and incorporated into its national legislation, including the Universal Declaration of Human Rights (UDHR) (article 19), the International Covenant on Civil and Political Rights (ICCPR), and the Convention on the Rights of the Child (CRC)<sup>72</sup>. The United Nation's position is that the freedom of expression protects other rights, including the right to information, right to freedom of assembly, right to freedom of opinions, and so forth.

While Cambodia has recognised its international human right commitments in the Constitution and elsewhere on papers. Active and pragmatic protection and compliance with this Rights by representatives of national and local authorities is considered lacking and deficient.

Research<sup>73</sup> shows that by enabling conducive environments for groups of people from different political interests and other stakeholders in development process, enable more transparency and accountability of outcomes (Vaduva, Wilt, Fotea, & Vaduva, 2019). And this is absent in Cambodia at present Cambodia, as the current conditions become more inclusive and friendly of different views and opinions including those that oppose one political party's viewpoint. One only has to look at Myanmar where a military junta back proxy government established in 2010 allowed more open elections (2015) which saw them defeated. The transition process of which began in 2010 included the release of an opposition leader held under long term house arrest for an evolving example of this.

#### What is Freedom of Expression?

Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), guarantee the right to freedom of expression and opinion for everyone, stating that "this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

**Article 41:** Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate public law and order and national security. The regime of the media shall be determined by law.

Source: the Constitutions

<sup>72</sup> <http://cambodia.ohchr.org/en/civil-society-fund-freedoms/freedom-expression>

<sup>73</sup> For example. [https://en.wikipedia.org/wiki/Freedom\\_of\\_speech](https://en.wikipedia.org/wiki/Freedom_of_speech) ; [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=285432](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=285432) ; <https://freedomhouse.org/issues/freedom-expression>

Further analysis on:

- What domestic legal provisions are available to guarantee people’s right to their freedom of expression?
- To what extent are Cambodia’s existing legal provisions responding to international standards and practices for promoting and protecting of the right to freedom of expression?
- What challenges and issues have the representatives of CSOs working in Cambodia been experiencing the practicality in exercising their right to freedom of expression?

For these, all Cambodia’s citizens are meant to benefit from the constitutional protection enshrined in Articles 31 and 41 of the Constitution. However, the application, use and compliance of Cambodia’s legal provisions related to the Freedom of Expression are not reaching (recognised) international standards and practices (CCHR, 2017).

Various rights advocates<sup>74</sup> including UNOHCHR have highlighted the increasing use/ abuse of the current legal framework to stifle and curtail freedom of expression. This is further compounded by arbitrary interpretation of laws by national and local authorities to violate the right of individuals and groups of people to the freedom of expression and other human rights, with little or no recourse to legal protection.

Some media outlets, CSOs (such as CCHR’s- Fundamental Freedoms Monitoring Project)<sup>75</sup> and other platforms have recorded and reported the complaints of different groups of rights violation by public authorities. CSO representatives consulted at national and subnational levels reported experiencing different types of quasi-legal administrative requirements, interferences, and restricts which had curtailed people’s rights to exercises their fundamental freedoms, including right to freedom of expression.

### **Findings and Analysis**

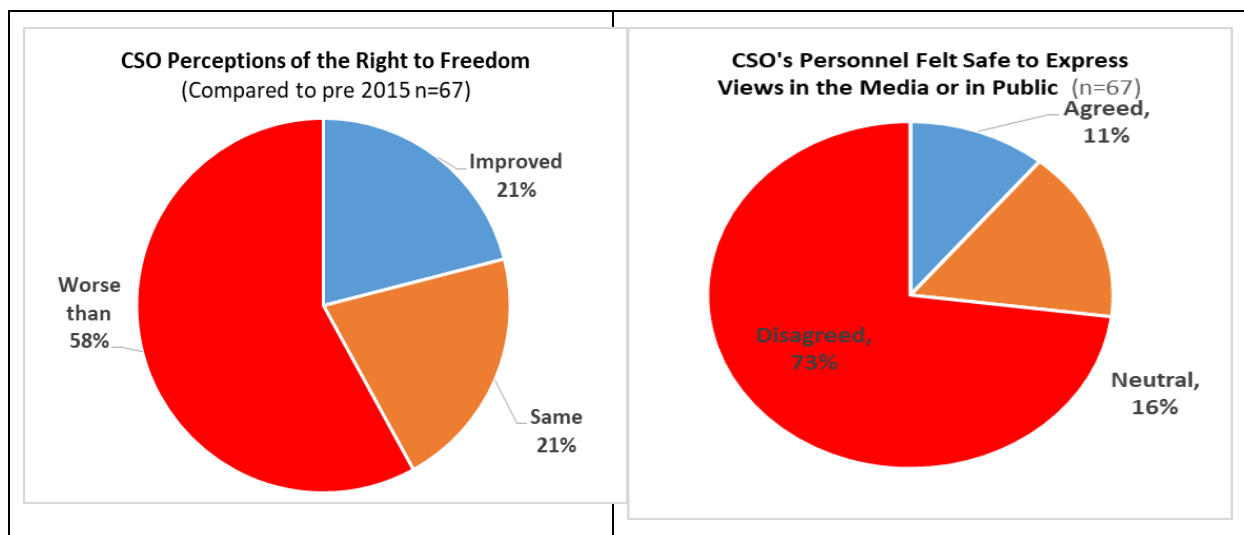
Of the 67 CSOs who responded to the survey in 2018, over half of the CSO’s (58%) believed that conditions for freedom of expression had deteriorated when compared to 2015. A fifth (21%) believed that conditions for freedom of expression had improved (left hand side-LHS).

In following up, the CSO representatives were asked whether they agreed with the statement that their “personnel feel safe in expressing their views in public or in the media”. Nearly three quarter disagreed (73%) with the statement, only a tenth (11%) agreed with the statement (right hand side RHS).

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74 <https://www.icj.org/cambodia-ongoing-misuse-of-law-to-silence-opponents-further-deepens-impunity-and-undermines-the-rule-of-law/>; <https://www.icj.org/hrc37cambodia/>

75



Most respondents consulted, felt that the current legal framework could be abused to misconstrue what they say in public meetings or the media. They also shared their experiences from different provinces and districts as public authorities at different levels interpreted and applied the legal framework differently about CSOs and others in exercising their right to freedom of expression. Findings from CSO focus group discussions, indicated that some senior representatives of public authorities used negative rhetoric at public events “to marginalise human right activists and CSO representatives” who were critical of the government or political establishment. This aligned with finding from CCHR’s ongoing Fundamental Freedoms Monitoring Project which reported incidences of abusive statement by officials over the last few years which frequently demonized civil society organisations<sup>76</sup>.

Fear of repercussions for speaking freely is felt strongly by consulted CSOs working on human rights, community development and advocacy, this however is not the case for all. CSOs operating in health, agriculture and education sectors reported generally not facing problems, their perception is that the Enabling Environment for their sectors is improving for the better. Education is a good example of the changes taking place, a different level of commitment from government towards this sector is recognised since the appointment of a new minister of education in 2013 (more detailed description of how is discussed later in this report).

At sub national levels, the general feeling is that it has been a difficult few years running up to the national election in 2018. It is recognised that the enabling environment for CSOs has been unfavourably affected by the need for government to maintain its position of power after coming close to losing the national elections in 2013<sup>77</sup>. In addition to this, a few CSOs pointed to their perception of the enabling environment being better for CSOs before the introduction of the new law (LANGO in 2015).

However, quite a few CSOs, have pointed to how it has been getting better in recent months since the completion of the 2018 national elections, and the formation of the government in September 2018. As regulations for notifying authorities about gatherings have been reported lifted and there is a sense that the intimidatory and suppression pressures has lifted (for now).

<sup>76</sup> [https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=report\\_detail.php&reid=130&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=130&id=5)

<sup>77</sup> Reuters (August 12, 2018). Cambodia election crisis deepens as opposition rejects results. Available at: <https://www.reuters.com/article/us-cambodia-election-count/cambodia-election-crisis-deepens-as-opposition-rejects-results-idUSBRE97B02I20130812>

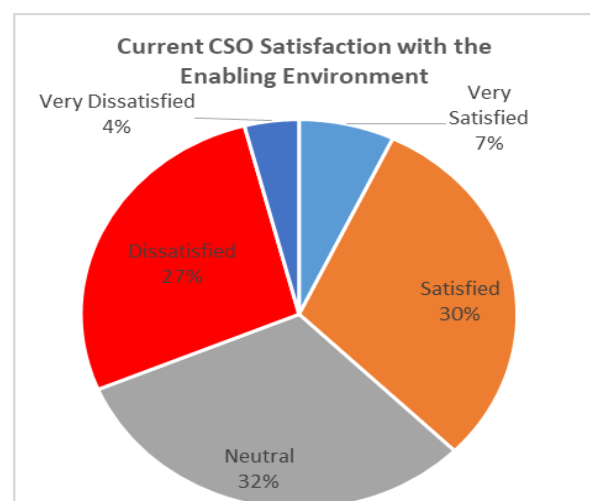
While Cambodia has developed and evolved its core legal framework from a legal perspective, it still has more work to be done. The existing legislation often needs clarification, revision and improvement. The legal framework also needs additional legal instruments and guidance to improve the practical application of the law. At present there is little opportunity or scope to request discussions or encourage revisions of legislation.

Sub national CSOs consulted even those that were reluctant to be critical of government, genuinely expressed dissatisfaction with the current situation (2018) in terms of the lack of space for the freedom to express. Events leading up to the election, such as; the closing down of the Cambodia Daily newspaper supposedly for the non-payment of taxes; the Supreme Court’s dissolution of the leading opposition party in 2017. The expulsion of the National Democratic Institute in 2017, which according to the government had “operated (as an NGO) without being registered with the government”<sup>78</sup>. As well as the arrest detention and trial of the ADHOC 5 between 2017-2018 and the suspension of operation of Equitable Cambodia by MoI<sup>79</sup> in September 2017.

These seems to have had a strong impact on the population and CSO’s feeling of being oppressed. According to USAID’s financed Civil Society Organisations Sustainability Index (CSOSI 2017) “democratic space in Cambodia continued to erode in 2017 after the government led by the ruling Cambodian People’s Party (CPP) dissolved the Cambodia National Rescue Party (CNRP)” and believed that “the government also launched a major campaign against CSOs alleged to be part of the purported colour revolution.

Several CSOs and media outlets were closed, suspended, or placed under investigation. Moreover, the government intimidated, harassed, and stigmatised CSOs” “and reduced CSOs’ visibility”<sup>80</sup>. They also believed that “the sustainability of Cambodian CSOs continued to deteriorate in 2017, with negative developments noted in all dimensions of sustainability with the exception of organisational capacity”. Following this the fear of expressing ideas that are in opposition to the contemporary political consensus has increased.

From the CSO surveys and discussions, with 67 responsive national and subnational CSOs in 2018. It would appear to be evenly divided, with just over a third of CSOs (37%) being satisfied or very satisfied with the current CSO Enabling Environment. While just under a third (31%) being dissatisfied or very dissatisfied with the CSO enabling environment. The remaining third of CSO (32%) expressed neutrality on the question of satisfaction with the Enabling Environment, neither, satisfied or dissatisfied.



78 Khmer Times (23/08/2017) Government to close NDI, expel foreign staff <https://www.khmertimeskh.com/79516/government-close-ndi-expel-foreign-staff/>

79 Phnom Penh (28/09/2017) Land rights NGO suspended <https://www.phnompenhpost.com/national/land-rights-ngo-suspended>

80 USAID/FHI/ICNL (November 2018 ) Civil Society Organization Sustainability Index, For Asia, 2017, 4th Edition - November 2018, <https://www.usaid.gov/asia-civil-society>

These findings indicate a higher level of dissatisfaction than what is found through the personal in-depth interviews which found a larger degree of acquiescence bias<sup>81</sup> from the 'face to face' interviews. The results do indicate significant room for improvement. Asian cultural norms were also mentioned as a possible restraint on peoples willingness to participate in the political debate: "It is not always accepted to speak your mind, especially not in public, the 'right' way is to discuss matters of sensitivity in private, not in public": This appears to represent an attitude of some of those working to build civil society, it may be necessary to consider ways of getting around this attitude.

CSOs comments post the 2018 elections, is that it seems to them, that there is some opening of and for civic space and now more freedoms to go about their business than previously. If this were to be the beginning of a permanent change it would be a sign of positive development. However, some scepticism was also noted as to whether or not these changes are part of effort to improve CSO perception of the evolving political environment.

### Comparison Between 2013 and 2018 Studies

<i>Situation in the 2013 report</i>	<i>During the period of studying and writing report (2018-2019)</i>
The 2013 EENA report summarised the situation with regards to the freedom of expression, as being constrained for freedom of expression in Cambodia and these constraints as being significant and of serious concern to civil society actors and other observers. It believed that civil society organisations seem skilled to navigate this difficult terrain.	<p>Most CSOs, donors, and stakeholders, considered that the civic space for freedom of expression had deteriorated significantly over the last few years.</p> <p>They attributed the deterioration of the situation to the political environment in the country. This had resulted from the CPP decision to neutralise and stifle the opposition and its supporters.</p> <p>Fundamental issues affecting the limitations of freedom of expression persist in that the ambiguity and deficiencies in the legal framework persist and can be reapplied/ "weaponised" at any time.</p> <p>Additionally protection of the rule of law is still considered absent to protect CSO, unions and the public.</p>

### Challenges & Suggestions

<b>Challenges</b>	<b>Suggestions</b>
<ul style="list-style-type: none"> <li>▪ Continuing ambiguity in the legal framework, with numerous provision in various laws (Penal, Criminal code, LANGO, Telecommunications, Trade Union....) and instruments which can be used to limited and restrict the Freedom of Expression.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Form a CSO platform to better engage government on freedom of expression issues.</li> <li>➤ Initiate campaign(s) for legal framework revisions <ul style="list-style-type: none"> <li>○ Increase awareness and advocacy campaigns on the right to freedom of</li> </ul> </li> </ul>

81 Acquiescence bias is when people are more likely to agree than disagree regardless of their actual opinion. This is often a result of a cultural influence where disagreeing with someone, or criticizing something is considered rude. In surveys this often results in a higher percentage of non-critical or neutral responses.

<ul style="list-style-type: none"> <li>○ Abuses of the legal systems through misinterpretation by authorities at different levels to limited freedom of expression.</li> <li>■ Lack of media (print, TV, radio), and internet independence. <ul style="list-style-type: none"> <li>○ And an increasingly cowed cadre of journalists leading to the absence of objective, equitable reporting of issues in local media.</li> </ul> </li> <li>■ Continuing abuses and impunity of and to laws by members of the executive and judiciary branches of government to constrain individuals and organisations who express opinions contrary to the government, continuing and reinforcing the climate of self-censorship.</li> </ul>	<p>express and other rights</p> <ul style="list-style-type: none"> <li>➤ Improve documentation and record keeping of cases of rights abuses and rights suppression</li> <li>➤ Monitor and align activities with the adopted CSDG framework (December 2018) including <ul style="list-style-type: none"> <li>○ Goal 10: Reduce inequality within and among countries</li> <li>○ The two adopted targets for CSDG 16 “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”</li> </ul> </li> </ul>
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## PEACEFUL ASSEMBLY & ASSOCIATION

### Overview

The rights to peaceful assembly and association are some of the fundamental freedoms legally recognised and enshrined in the 1993 Constitution of the Kingdom of Cambodia and in under Articles 31, 41, and 42<sup>82</sup>, which are meant to direct Cambodian Law. The Constitution recognises and guarantees international human rights law, which make explicit reference to the right to peaceful assembly and association, under

- Article 20 of the Universal Declaration of Human Rights (UDHR),
- Article 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), and
- Article 15 of the Convention on the Rights of the Child.

Peaceful assembly is a broad term covering all types of gatherings, including peaceful demonstrations. The right to peaceful assembly is recognised as a fundamental right guaranteed under international human rights law. The general rule is that “any restriction placed on such freedom shall be prohibited, unless it is provided by law, subjected to a strict test of necessity in a democratic society, and imposed only in the interest of national security or public safety, public order, the protection of health and public moral, or of the rights and freedoms of others” (UN, 2019). Though it is this last point that is frequently being used in Cambodia to limit and curtail the freedom. In 2009, Cambodia adopted a national Law on Peaceful Demonstrations, this defines what is considered as a peaceful demonstration in the country. The Law also established a set of procedures for notifying the authorities. Under Article 4 of the Law, a peaceful demonstration is recognised as:

<sup>82</sup> <http://cambodia.ohchr.org/en/civil-society-fund-freedoms/freedom-peaceful-assembly-association>

1. A peaceful assembly or march conducted by a group of people
2. To publicly demand, protest or express their sentiments, opinions or will
3. By using various forms or means peacefully

This analysis aims overview of the interpretation and application of Article 21 of the International Covenant on Civil and Political Rights (ICCPR) in domestic law in Cambodia through the provisions of the Law on Peaceful Demonstrations. It looks at the right and legal application on its citizens, as individual and groups, to exercise their right to freedom of assembly, to protect and promote human rights, and comply with international standards and best practices on fundamental freedoms and human rights.

The Constitution accepts the international human right instruments such as the United Nations Charter, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child. It goes to guarantees that *“every citizen shall be equal before the law, enjoying the same rights and freedom, and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status (Cambodia National Assembly , 1993).”* More specifically, the Article 41 of the Constitution guarantees that *“every citizen shall have freedom of expression, press, publication and assembly. With this legal provision in mind, no one shall exercise this right to infringe upon the rights of others, to affect the good traditions of the society, to violate the public law, order and national security.”*

The ongoing Fundamental Freedoms Monitor Project (2017), a joint initiative of the Cambodian Center for Human Rights (CCHR), Cambodian Human Rights and Development Association (ADHOC), and the American Center for International Labour Solidarity (ACILS), concluded that the Cambodia Law on Peaceful Demonstrations is largely in compliant with international standards and practices. However, misinterpretation and conceptual obscurity of the domestic legal provisions made by representatives of public authorities results in violating the right to freedom of peaceful assembly and other rights.

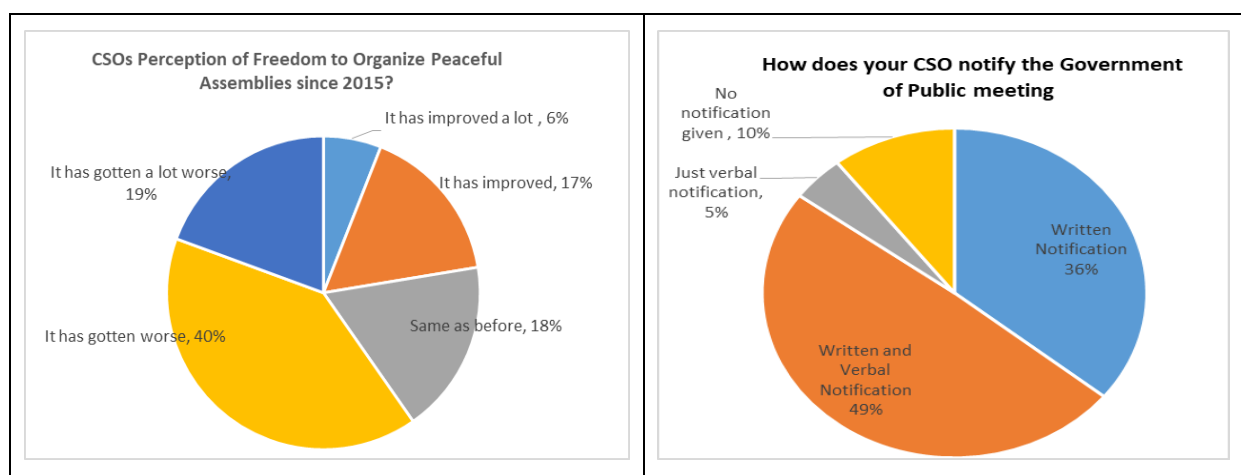
In addition, the study found that tougher administrative requirements, restrictions and interferences were experienced by representatives of CSOs after the Public Circulation (a three-day notification on public gatherings) had been introduced by the Minister of Interior in October 2017.

### **Findings and Analysis**

Some of legal provisions of the 2009 Law on Peaceful Demonstrations appear to be frequently misinterpreted and arbitrarily applied by public authorities’ representatives at different levels and in different locations across the country. The misinterpretation and conceptual obscurity arise due to the vague pragmatic of the legal language of the law (Cambodian Center for Human Rights, 2011). This often results in representatives of public authorities violating the right of individuals and group of people to the freedom of peaceful assembly and other human rights. Media and other platforms often reported that human right activists and CSO representatives have been experiencing different types of administrative requirements, encroachment, interferences, violations, restrictions and suppression with regards to the exercises of fundamental freedoms. This study focuses on the perceptions of CSO representatives working in mostly social sectors, namely education, health, agriculture and other development areas as presented in the earlier pages of this report.

Misinterpretation of domestic legal provisions related to fundamental freedom by representatives of public institutions was reported to result in violating the right to freedom of peaceful assembly. Freedom of peaceful assembly governs a process that ensures the existence and functioning of peaceful assemblies. On the other side, public understanding of their fundamental freedom of assembly remain limited (Fundamental Freedoms Monitor Project (FFMP), 2018). The application of the legal provisions of the Law on Peaceful Demonstrations was reported to vary by different provinces across the country.

CSO representatives consulted experience different types of administrative requirements, encroachment, interferences, violations, restrictions and suppression in relations to planning, disseminating, advertising and organising public gatherings. When asked a fifth of CSO representatives (~21%) felt that the freedom to assembly and the right organise public events had improved compared to 2015, However 59 per cent believed it had deteriorated (LHS).



89 per cent of CSOs reported seeking either verbal, written or both forms of notifications from local authorities to hold an activities. Bearing in mind that notifications was mandatory from October 2017. Representative from different parts of the country often reported being required by local authorities (at district and commune levels) to seek ‘permission/ approval’ well in advance of the 2017 ministerial instruction. 10 per cent of CSOs reported experiencing no requirement to notify authorities in advance.

The FGDs confirmed that most of CSO-organised activities, including education and health oriented gatherings are participated by local authorities in the sense that they observe the activities of CSOs in their local territories. Some CSOs reported that the requirement to notify authority began to increase from 2013 onwards.

The three annual FFMP reports from 2016-onwards share some evidence of CSO experiences of violation of the right to assembly 2016 to 2018. From 2017 till the first quarter of 2019 FFMP reported that at least 210 incidences of the violation of the right to assembly were reported to involved organisations. MoI repealed its prior notification require for CSOs’ activities in November 2018. Despite this positive development, the FFMP recorded six incidents (up to the end of March 2019) where authorities interrupted CSOs’ activities seeking proof of notification or permission to hold activities even after the revocation notification regime.

The study survey of 67 CSO respondents, found that in the research period (2015-2019), 64 per cent reported that they experienced some form of restrictions imposed by public authorities on their organising public or peaceful gatherings. 15 per cent reported that they did not experience

restrictions imposed by public authorities on organising public or peaceful gatherings. 21 per cent did not give any comments regarding restrictions imposed by public authorities in their geographical provinces.

### Comparison Between 2013 and 2018 Studies

<i>Situation in 2013</i>	<i>Situation in 2015-2019</i>
<p>The requirements of the 2009 Law on Peaceful Demonstration places restriction on the ability of CSOs to organised and hold assemblies and peaceful events.</p> <p>Abuses of power and restrict were event in 2013, though it varied by location.</p> <p>The mandatory requirement for organiser to be identified and identifiable was a source of possible intimidation.</p>	<p>Frequency and incidence of restriction on assembly and public demonstration is much higher than previous, as government brought in a legal instrument requiring prior notification of activities (in village) organised by CSO.</p>

### Challenges and Suggestions

<b>Challenges</b>	<b>Suggestions</b>
<ul style="list-style-type: none"> <li>➤ Continuing demands from authorities in some areas for ‘approval’ requirements.</li> <li>➤ A lack of understanding by authorities, CSO and the public of their rights.</li> <li>➤ Poor application/ compliance of the rule of law, in that arbitrary interpretation of the existing legal framework leads to illegal restriction.</li> <li>➤ Lack of accountability or redress mechanisms</li> <li>➤ The lack of a comprehensives transparent country wide monitoring system of rights abuses</li> </ul>	<ul style="list-style-type: none"> <li>➤ Improve the dissemination and adherence to the legal framework by all officials at national and subnational levels including by local law enforcement officers.</li> <li>➤ Expand capacity building activities to increase understanding of the laws and rights by officials, CSO and the public</li> <li>➤ Request the government to establish an accountability and redress system to track misunderstanding and abuses of rights and the legal framework.</li> <li>➤ Improve independent monitoring of rights abuse</li> </ul>

## TAXATION

### Overview

All countries in the world apply tax regimes in some form, this section, explores the evolving situation in terms of the application of tax legislation and requirements on CSOs and NGOs in Cambodia. It focuses on the questions of what taxes are imposed on the financial resources and income of CSOs? Do they affect their earned income, grants, investments, or purchased goods and services? Are CSOs subject to local taxes, fees or charges, in addition to national taxes? What are the taxes and regulatory requirements on CSOs that engage in economic activities? Are CSOs granted any special tax exemptions? To what extent are the tax laws/ regulations enforced? And are taxes regularly paid?

### Findings and Analysis

#### *The Evolving Tax Regime*

Tax is a vital source of revenue for all governments, enabling them to meet the nations need improving health care, education and alleviating poverty in the country. Over the past decades, the royal government of Cambodia has expanding its tax base as the country develops. The 1997 Law on Taxation set out the initial tax framework and the initial attempts to raise tax revenues. It expanded the definitions of those to whom tax law would be applied and who would be eligible to pay tax. Under 'the term "legal person" this could means any enterprise or organization carrying on a business whether or not officially recognized by the competent institutions of the Royal Government. The term "legal person" includes any government institution, religious organization, charitable organization, or non-profit organization. For a non-resident person, the term "legal person" means any permanent establishment in the Kingdom of Cambodia. The term "legal person" does not include a pass-through or a sole proprietorship<sup>83</sup>. So from the 1997, CSOs were potentially liable to pay tax.

The 1997 law did include provisions for exemption on income including the income of organisations (art. 9.2) with the requirements that (a) exempted organisation operated exclusively for religious, charitable, scientific, literary, or educational purposes; (b) and that no part of the assets or earnings of the organisation are used for any private interest (art.9.1.a). It sets out provision for income tax on earning, including the consideration of non-profit organisations as employers (Art. 42) to withhold tax from employees. It also allowed for the exemption from salary tax of recognised member of staff diplomatic and other foreigner, though such diplomatic recognition is reciprocal between countries (art 43).

Cambodia's tax base has expanded but it is still considered deficient, it was reported that the tax collected in 2018 was 17% higher than the previous year<sup>84</sup>, as the General Department of Tax applied its growing expertise. In fact most recently, the government declared that it collected US\$1.9 billion in tax during the first quarter of 2019. These increases in the tax base are a result of the booming economy and ongoing the government reforms. The tax reforms have been progress applied since 1994<sup>85</sup> which introduced a self-assessment system. With the most significant reforms in 1997 when the law on taxation was introduced.

In 2016<sup>86</sup>, other significant reforms were introduced by government including the abolished of the estimated regime of taxation and the transition to a real regime of taxation. These including the reform of tax registration procedure, simplification of accounting rule for taxpayers,

83 RGC (1997) Law on Taxation, Article 3.2, 24/2/1997 [http://www.bigpond.com.kh/Council\\_of\\_Jurists/Fiscal/fsc001g.htm](http://www.bigpond.com.kh/Council_of_Jurists/Fiscal/fsc001g.htm)

84 B2B Business (22/10/2018) Tax Collection Up 17.5 Percent, <https://www.b2b-cambodia.com/news/tax-collection-up-17-5-percent/>

85 Mr. Um Seiha Deputy Director General, General Department of Taxation, Cambodia, 2012. Cambodia: Tax Revenue Reform: Issues, Further reforms, IMF-High Level Tax Conference For Asian and Pacific Countries, Tokyo, JAPAN

86 Eurocham Cambodia, 2016. Whit Book: Trade and investment Policy Recommendation. Phnom Penh

increase the minimum band threshold for tax on salary and industry specific VAT and exercise tax.

The Cambodian government has increased tax collection efforts substantially over the past few years and, it has observed that wage etc. in CSOs are considerably higher than average income. So the government have begun to ensure that NGOs and associations are fully compliant with the evolving tax code. However this process including auditing of the financial affairs of CSOs has on occasion been selective target at organisations which the state feels threatened by. While most organisation understanding the tax code is to be universally applied (as most of the auditing firms have inform organisations since the introduction of the 1997 law), some organisations have resisted its being compliant with it.

In 2018 Ministry of Economy and Finance (MoEF) issued a new Prakas (#464) the aim of which was to strengthen tax compliance of associations and non-government organizations (NGOs). By providing further instruction in tax compliance of associations and NGOs in accordance with the applicable taxation laws and regulations and the LANGO. It required that all associations and NGOs are required to register with tax administration in accordance with the applicable tax laws and regulations. It also reaffirmed that funds for associations and NGO were tax exempt, but that such an exemption now needed to be applied for by submitting the associations and NGO registration and support documents.

In June 2015 the General Department of Taxation issued a notice (No. 3435) demanding that all enterprises settle tax debts prior to the end of June 2015 or their bank accounts would be frozen, or property taken as security (Martin Gemsell, 2017). This aggressive pursuit of back taxes towards enterprises, is unlikely to exclude NGOs would receive different treatment, especially in situations where authorities have full access to the financial reports of NGOs/ associations<sup>87</sup>. Under the Article 25 of LANGO, this requires NGOs to submit annual or project related financial reports, it also gives power to authorities to request financial reports and to conduct audits of NGOs/ associations.

Several respondents expressed concern about the risk of retroactive tax payments being enforced on NGOs. Although no respondents had yet experienced requests for back-payments stretching back to when the organisation was first registered, interviews confirm arbitrariness in demands made by tax officials when NGOs try to start paying their taxes: sometimes authorities do not require any retroactive tax payment at all while others have demanded a years' worth of back-payments. Concerns about a rigorous recovery of back-dated debt settlements could threaten the existence of many, especially older, NGOs if debts have to be settled from first registration (Martin Gemsell, 2017). In fact the government demand for backdated non-paid tax was used to close the Cambodia Daily newspaper in 2017 and it is reported to such the RFA office in Cambodia, as they had apparently not been tax compliant.

Law on Taxation (LOT) 1997 provides CSOs with income tax exemptions, including on income from economic activity and government contracts. However, such exemptions require approval from the Ministry of Economy and Finance. In 2017, the Law on Taxation was more strictly implemented, and CSOs found it harder to access tax exemptions. Some CSOs believe this was done in order to increase tax revenue. In addition, CSOs operating credit unions without registration with the National Bank for Cambodia—a requirement not well-known or

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87 Ibid

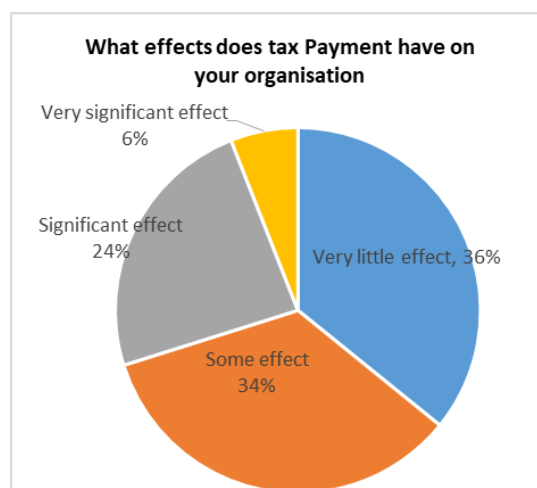
previously enforced – were issued letters requiring their organisations to shut down. The 1997 Tax has a provision for tax deduction on charitable contributions up to 5% of taxable income (art. 16 of the LoT 1997)

#### *Law on Accounting and Audits 2016*

In January 2016 the National Assembly passed a new accounting and audit law, regulating accounting and audit procedures for among others NGOs which is now awaiting approval by the Senate. It remains to be seen how this will be applied and if it will extend requirements on NGOs to carry out external audits (Gemsell, 2017).

#### *Levels of Understanding Tax Regime by NGOs/CSOs*

The study survey asked the 67 CSO respondents, about the impact of tax payments on their organisation, while a third (36%) of respondents believed they had little effect, a further third (34%) believed that tax obligation had some effects on their organisations. 30% of organisation believe that tax obligations had a significant or very significant impact on the organisation. These were usually small CSO, with limited and often precarious financial resources, and the tax obligation imposed an additional burden on them.



From the KIIs and FGDs some Cambodian Associations and NGOs as yet do not have a fully understood and pay much attention on the issues of taxes. Some of them wrongly assumed that all non-profit Associations and NGO are automatically granted a tax reprieve because of humanitarian's activities, which is incorrect and auditing firms have been trying to correct this misunderstanding for quite some time. According to the BNG Legal Newsletter, October 2015, 'if tax auditor finds out a NGO is non-compliant with the tax law, they are required to ensure that the NGO pays the back taxes, penalties and interest on the unpaid amount of tax from the first day of the tax due'<sup>88</sup>.

Many NGOs do not fully understand the need for compliance with the tax regulations. Having the misunderstanding that an NGO is a tax exempted entity could result in a dilemma of having a burden of tax liabilities after finding out they are required to settle all outstanding unpaid taxes including penalty and interest<sup>89</sup>. In response to the shrinking space and restrictive legal environment for civil society, for example, the Cooperation Committee for Cambodia (CCC), in cooperation with Legal Aid of Cambodia (LAC) and DFDL a Cambodia law firm, have provided legal assistance on the LANGO, the Law on Taxation, and the Labour Law to CCC's members and partners, including provincial CSO networks. However, legal compliance remains difficult due to inconsistent interpretation of the law by officials (CSOSI, 2017).

According LANGO, and other tax related regulations, besides Income Tax, Associations and NGOs shall fulfil their obligations for withholding tax (WHT) on salaries, under new Articles 25, 26 (one), and 31 of the 1997 LoT, and pay this Tax on Salary and other taxes in accordance with current tax law and provisions. Associations and NGOs now have to make monthly

<sup>88</sup> BNG Legal Newsletter, October 2015, page 1.

<sup>89</sup> Ibid

declaration of its withholding tax and staff salary taxes, no matter how big or small an organisation is.

Some CSO when asked about what would be considered fair taxation believe that it is not fair to tax funds that are raised from donations, as donors often are private citizens that have already paid the required income tax. Tax for rent, vehicles and salaries are perceived to be fair though. Some subjects mention that they would like to see more transparency with regard to tax paid and how it is used. A retirement fund is mentioned as a typical activity where tax income should end up. When asked about how donors feel about taxation the response varies but in conclusion tax does not seem to represent a big worry for donors (as perceived by CSOs).

### *Possible Abuses of the Tax Requirements for NGOs*

As mentioned, some observers believe that tax payment requirement have become tool of suppression since 2017. At least three local human rights NGOs (ADHOC, COMFREL and LICAHDO) have been called for questioning by the Ministry of Economy and Finance's Taxation Department to clarify their tax situations, amid an aggressive tax collection campaign that has recently gone after media outlets the *Cambodia Daily*, Voice of America and Radio Free Asia<sup>90</sup>. While the government has long sought to improve its tax collection, many of those (CSO) who received calls from the Tax Department in recent years have also drawn the ire of the government in the past. In 2017, the Prime Minister instructed tax authorities to investigation whether NGOs in Cambodia were paying income tax for their personnel<sup>91</sup>. Since the June 2017 commune elections, he had also accused the election monitoring coalition called the "Situation Room" – of which all three organisations are members – of operating illegally<sup>92</sup>. While, US-backed radio outlets Voice of America and Radio Free Asia – long accused by the government of harbouring pro-opposition bias – were also entered the spotlight this week after a Finance Ministry request to the Ministry of Information to push the media outlets to pay their taxes.

### **Comparison Between 2013 and 2018 Studies**

<i>Situation in the 2013 report</i>	<i>During the review period of the studying (2015-2019)</i>
Taxation issues were not covered in 2013 EENA	<ul style="list-style-type: none"> <li>➤ Government's expansion of its tax collection capacities has started to incorporate better collection of tax revenues from CSOs.</li> <li>➤ Some CSOs have avoided paying tax for a number of years but that has gone since 2018 MoEF require all CSOs to register for and pay their taxes.</li> <li>➤ It was observed that NGOs critical of Government were targeted for tax compliance in 2017 and later, indicating a lack of impartiality in the rule of law and its application.</li> </ul>

<sup>90</sup> Leonie Kijewski and Niem Chheng, Phnom Penh Post 'Tax Department reaches out to NGOs', 15 August 2017, available at: <https://www.phnompenhpost.com/national/tax-department-reaches-out-ngos>

<sup>91</sup> *ibid*

<sup>92</sup> PPP (30/6/2017) Government probing 'Situation Room' <https://www.phnompenhpost.com/national/government-probing-situation-room>

## Challenges and Suggestions

Challenges	Suggestions
<ul style="list-style-type: none"> <li>➤ Continuing lack of understanding on the application of the tax law and code by development stakeholders including national and local authorities and by CSOs and the public.</li> <li>➤ Uneven application of the tax law and code being used to target CSO critical of government.</li> <li>➤ There is a risk of undeclared back taxes by CSO to the start of the current tax regime (1997) as, ignorance of the tax and institutional deficiencies limited tax collection.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Continue to roll-out learning and capacity development activities to improve understanding of the need to comply with the evolving tax code for CSOs,</li> <li>➤ Develop and maintain a tax guide and cloud based resources library on CSO compliance with evolving tax laws and regulations</li> <li>➤ Advocate for the impartial application of the tax law to all sections of society.</li> <li>➤ Monitor the application and experiences of CSOs with the Tax office to ensure they are fairly treated.</li> <li>➤ Advocate for a tax amnesty, and maximum retrospective application of tax law requirements for all sectors</li> <li>➤ Improve public understanding of the application of tax revenues through transparent and “open budget initiatives”</li> </ul>

## ACCESS TO RESOURCES (INCLUDING THE PRIVATE SECTOR)

### Overview

For the purpose of this study, access to resources refers to the ability of CSOs and NGOs to secure and mobilise financial resources from a variety of different sources. Such sources include (but are not limited to) international donors, development partners and bilateral aid, Government and the private sector, and the philanthropy and local income-generating activities including social enterprises.

There is a general perception among CSOs that access to (financial) resources is decreasing. Due to CSOs dependence on “short-term, project-based donor funding”, and “not having access to general organisational support” (CSOSI 2017). Globally there are some indications of this, as “foreign aid from official donors in 2018 fell 2.7% from 2017, with a declining share going to the neediest countries” (OECD 2019)<sup>93</sup>. But this drop was largely due to “less aid being spent on hosting refugees out of official aid budgets. However global aid does appear to be stagnating according to the head of the OECD. This appears to be the case as statements, like “Overseas Development Assistance is declining steadily as a share of Gross Domestic Product (GDP)”<sup>94</sup> is often misinterpreted. Aid as a portion of GDP should decline and is because of Cambodia’s rapidly growing “booming” economy, which “has sustained an average growth rate of 7.7% between 1995 and 2018, making it among the fastest-growing economies in the world”<sup>95</sup>

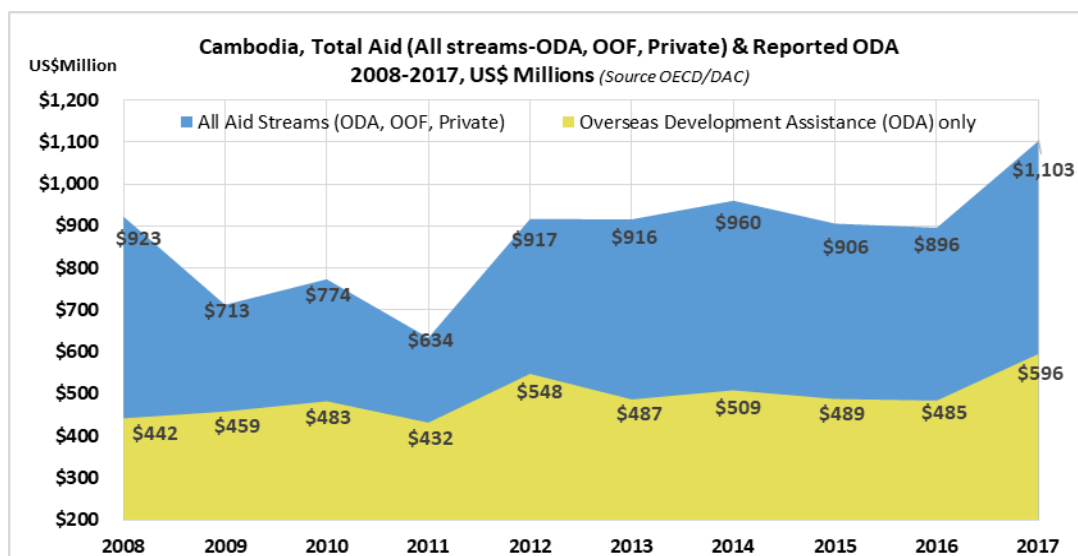
<sup>93</sup> Development aid drops in 2018, especially to neediest countries, <http://www.oecd.org/newsroom/development-aid-drops-in-2018-especially-to-neediest-countries.htm>

<sup>94</sup> OECD (2018), OECD Investment Policy Reviews: Cambodia 2018, <https://www.oecd.org/finance/oecd-investment-policy-reviews-cambodia-9789264309074-en.htm>

<sup>95</sup> <https://www.worldbank.org/en/country/cambodia/overview>

## Country Context

However reporting on aid flows to Cambodia by the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD) indicate a slightly different picture. Total ‘aid’ flows<sup>96</sup> from the 30 OECD/DAC countries to Cambodia (see annex 1.2). have been cumulatively running near US\$1 billion for some years. Over half of



this (~54% over the last five years) has been ‘concessional’ ODA, “aid”.

To these aid flows, must be added those from other countries/ sources, these include the contributions from multilateral institutions and other (non-OECD) countries, that provide information (see the table below). In 2016 and 2017, the last years for which information is available for (at the time of writing) these reported flows were US\$223 million (2016), and US\$236 million (2017). Overall total reported cumulative ‘aid flows’ for Cambodia were in the region of US\$1.1 billion (2016) and US\$1.3 billion (2017).

Additionally there is a growing need to consider aid flows from other (non-OECD/DAC) countries for example China, India, and others, as well as other “South-South Initiatives” which Cambodia may benefit from.

It is worth repeating that Cambodia remain categorised of one of the 47 Least Developed Countries (LDCs) in the World, and the government has expressed its intending to begin the six year graduation process starting 2021. LDC status is meant to enable greater access to development assistance, which is should be better leveraged to attract resources to target vulnerable and other areas such as governance to improve the use and transparency of funds provided to the country.

Other Reported Aid Sources, US\$ million (Source OECD/DAC)					
	2013	2014	2015	2016	2017
EU institutions	\$ 30.6	\$ 55.6	\$ 45.2	\$ 63.3	\$ 51.9
IBRD					
IDA	\$ 23.0	\$ 28.5	\$ -9.1	\$ -7.2	\$ 0.7
IFC	\$ 8.0				
IMF					
Regional Development Banks	\$ 136.6	\$ 142.5	\$ 82.4	\$ 98.0	\$ 80.6
UN Agencies	\$ 29.9	\$ 34.1	\$ 36.7	\$ 26.9	\$ 23.3
Global Fund	\$ 39.5	\$ 47.2	\$ 24.1	\$ 23.2	\$ 32.6
Other Multilateral	\$ 21.1	\$ 24.7	\$ 54.9	\$ 14.7	\$ 37.2
Other providing Countries	\$ 2.5	\$ 4.5	\$ 3.8	\$ 4.4	\$ 10.6
	<b>\$ 291.2</b>	<b>\$ 337.1</b>	<b>\$ 238.0</b>	<b>\$ 223.3</b>	<b>\$ 236.9</b>

<sup>96</sup> which incorporates; ‘Official Development Assistance (ODA), other official bilateral transactions which are not concessional or which, have concessional elements, often trade facilitating in character, i.e. “Other Official Flows” (OOF); as well as including changes in bilateral long-term support to private non-monetary and monetary sectors, in particular guaranteed export credits, private direct investment, portfolio investment’.

While only a portion of this assistance is available to civil society organisation. The application and use of these funds can of use and interest to civil society, to ensure that supported aid flows are being well applied.

### Findings and Analysis

The Cambodian Rehabilitation and Development Board/ Council for the Development of Cambodia (CRDB/ CDC) officially acts as the Government’s aid coordination body. It reports that aid flows to NGOs over the last few years have been running in the region of US\$ 300 million per year. This is made up of a combination NGOs own mobilised resources, and fund obtained from development partners.

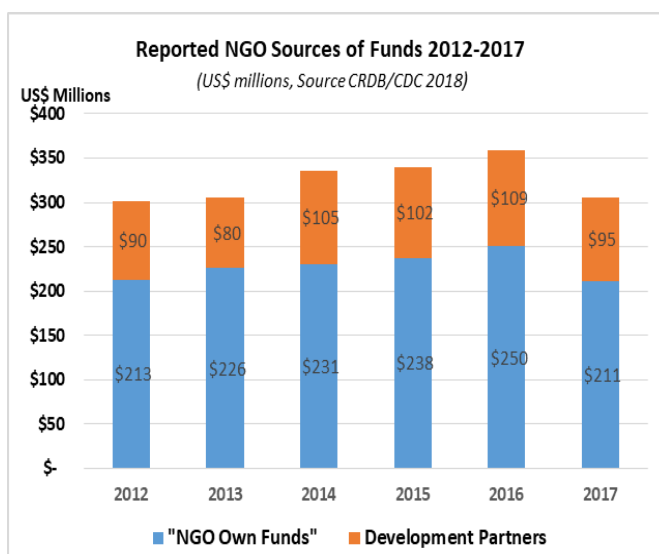
As can be seen there was a perceptible decrease in 2017 of 15% of NGO funding across both categories. Why this occurred is not qualified as aid to NGOs had been increasing in preceding years. It is considered premature to assume the aid flows are decreasing.

Cambodian CSOs source the majority of their funds from overseas donors. Some also access resources in form of volunteers, while a few engage in local fundraising and more innovative solutions such as online crowdsourcing. According to CSOSI (2017) the

infrastructure supporting CSOs in Cambodia remain fragmented and in need of coordination. So considering the number of entities and the level of fragmentation the challenge of achieving increasing social benefits per dollar starts to emerge or simply put gaining value for money has increased. This is compounded by the lack of an effective impact monitoring system, to quantify, qualify and report the impacts of investment made

The Government recognises that “NGOs have been a major contributor to Cambodia’s national development, especially through their abilities to mobilise funds and work on areas that complement programmes by national government and development partners”<sup>97</sup>. Funding for CSO has been decline. The decline in funding for CSOs is likely due to a combination of factors, including

- Cambodia’s overall development progress, having seen poverty levels cut in half
- Its economic growth and the rapid expansion of industrial opportunities
- Competed needs globally and in the region, initial with the opening of Myanmar and later with Rohingya Humanitarian crisis,
- One can also consider donor fatigue, as Cambodia had been able to attract significant levels of donor support for ~20 years
- Changes in aid modalities and requirements



<sup>97</sup> CRDB/ CRC (2018) Development Cooperation and Partnerships Report 2017

It is worth notice that total NGO funding in 2017 decreases by 15% compared to 2016. Additionally one of the big challenges is the concentration of funding, In 2015

- 15 local NGOs account for 75% of local NGO expenditure and
- 15 international NGOs for over 50% of all international NGO funding.

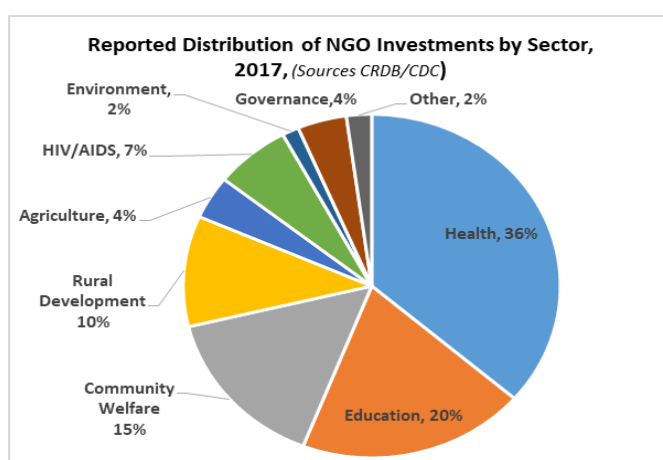
In 2017 the top 25 NGOs accounted for ~60% of all expenditure.

As can be seen there was a perceptible decrease in 2017 of 15% of NGO funding across both categories (own funds and funds mobilised from development partners). Why this occurred is not qualified as aid to NGOs had been increasing in preceding years. It is considered premature to assume the aid flows are decreasing.

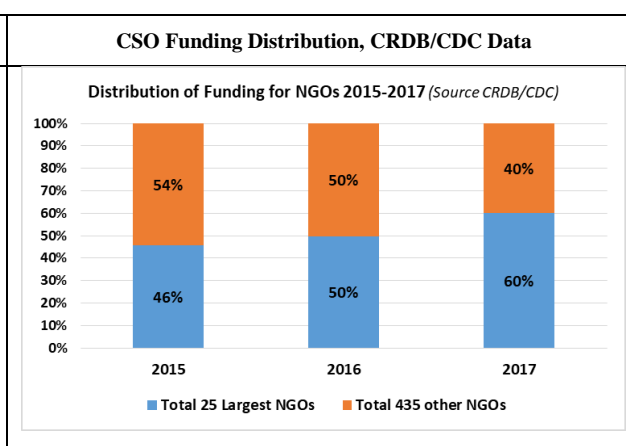
But, it may be correct in believing that it is becoming harder to access resources, due to a combination of factors; Including the changing nature of aid (the transition to the 2030 Agenda and its SDGs, aid channelled to/through the private sector), and increasing requirements for proving qualifiable impacts etc...

This appears to indicate a growing concentrating of resources in a smaller number of organisation. **Though it has to be noted that many of these larger NGO channel resources to smaller NGOs through a range of partnering arrangement.** However these

arrangements may be part of the perceived problem of reduced resources, as they often only cover specific operational activities and may not cover core costs or provide “organisational support” mentioned above.



Reported NGO & Development Partner Funding distribution 2015-2017 (CRDB/CDC)									
Categories	Distribution of Funding for NGOs 2015-2017 (in US\$ Million) (Source CRDB/CDC)								
	2015			2016			2017		
	NGO own funds	Development Partners	Total	NGO own funds	Development Partners	Total	NGO own funds	Development Partners	Total
Total 25 Largest NGOs	\$ 99.3	\$ 55.4	\$ 154.7	\$ 112.1	\$ 66.4	\$ 178.4	\$ 118.6	\$ 65.2	\$ 183.8
Total 435 other NGOs	\$ 138.4	\$ 46.6	\$ 184.9	\$ 138.2	\$ 42.3	\$ 180.6	\$ 92.7	\$ 29.4	\$ 122.1
	\$ 237.7	\$ 102.0	\$ 339.6	\$ 250.3	\$ 108.7	\$ 359.0	\$ 211.3	\$ 94.6	\$ 305.9



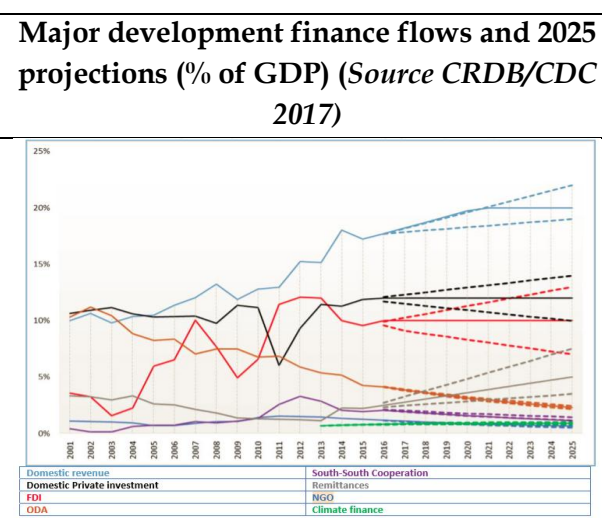
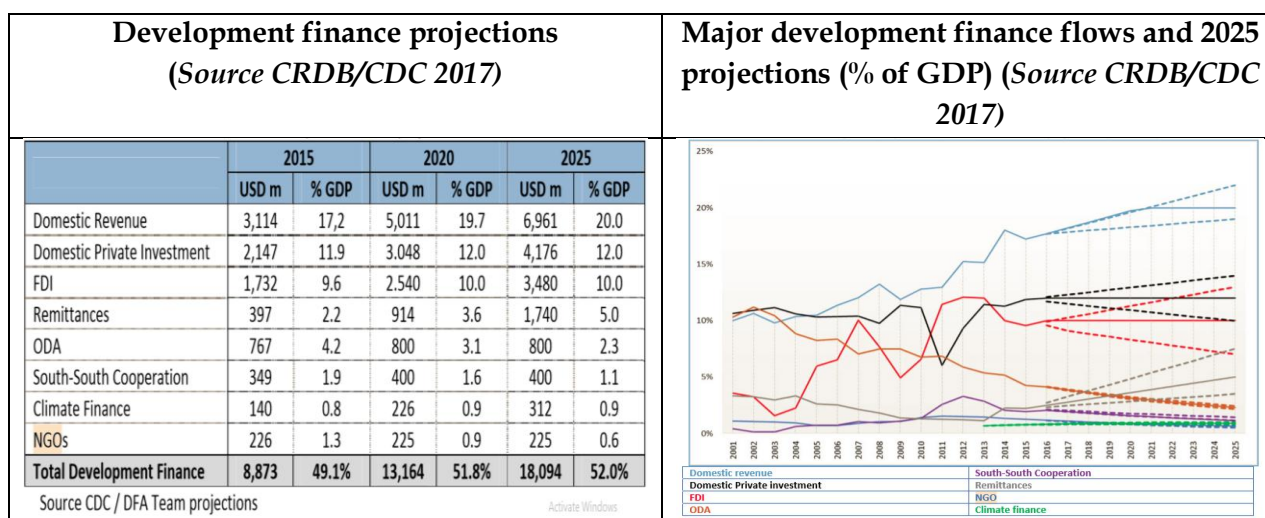
It is reported that there is good potential for consolidating and expanding access to NGO funds as well as to promote increased alignment with national priorities<sup>98</sup> especially through the National Strategic Development Plan (2019-2023) and with Cambodian Sustainable Development Goals (CSDGs) framework. However the challenge will be agreeing and qualifying the inputs and impacts to be delivered by CSOs.

<sup>98</sup> CRDB/CDC (2017) Cambodia Development Finance Assessment

Little is known about the mobilisation of resources from the private sector, the 1997 Tax Law allows for the writing off of 5 percent of declared operating revenues against charitable donations. But little more is now how much and where these charitable donations are being used. Most in country charitable donations, are targeted at Buddhist temples or other religious events. As well as towards humanitarian relief and vulnerable groups such as children/education, the disabled, and women. Reported international philanthropy is reported (OECD/DAC 2019) in the region of ~US\$5.4 million per year between 2012-2017.

*The Future*

Looking forward government and development partners believe that total financing potentially available for supporting national development more than doubles in the period to USD 18 billion by 2025.



It is projected that the overall level of NGO resource will likely remain where it is fluctuating in the region of US\$225 million per year for the foreseeable future till 2025.

*Concerns about Future Sources of Funding*

When asked whether the conditions for raising funds are getting better or worse, the majority say that the situation is getting worse. While some CSOs have established relations directly with donors, who are committed to long-term development, the general trend seems to be that there is now more competition among CSOs and less money to go around. It is emphasised that Cambodia has moved from being a ‘lower income’ to a ‘low to middle income’ country and as a result donors are directing their funds to more needing economies. Concern is noted that this situation will continue to develop and that raising sufficient funds will become more difficult as the economy keeps evolving, “probably more so for CSOs who deal with charity” one subject said.

CSOs at national level mention the need for CSOs to demonstrate results so that they can show progress, and hence justify the need for continuing the program. The need for CSO staff to improve their skills for writing good proposals, when applying for funds, and to make better reports on progress, was also mentioned.

*Funding via Government*

The study showed that there are those who believe in government as a future source of funding as its revenue base had expanded and increased. Over the last 20 years, the Cambodian government has had a policy in place for providing its financial support to the CSOs, but has lacked the funds in the past. It has provided funding supporting to CSOs through projects, for example the Demand for Good Governance (DFGG) project in which funds from World Bank to the government were managed by MoI. More recently government with development partner support has funded CSO for the Implementation of the Social Accountability Framework (ISAF). Other examples exist in education, health sectors and for building infrastructure, but while government has been involved in projects that are aimed to help build civil society they rarely fund these activities without significant contributions from international donors.

*CSO Trust Funds*

There are calls to establish some form CSO trust funds and CCC has integrated this into its new phase for its Governance Hub Program (GHP 2017-2021). However, how to do so, and be objective in its operation and ensure equitable benefits is and will be a challenge. As are the issues of ensuring that it is aligned with identified and agreed government development priorities, and are endorsed by them pose other challenges. Additionally, how to target these funds, and ensure qualifiable and quantifiable impacts can be garnered from the investments could be considered a third challenge. Some donors have and are providing funding to build up and strengthen CSO to enable them to better understand and access available funding sources.

*Social Enterprise*

The idea of social enterprises as one possible alternative/ or contributing source to fundraising were also noted. But establishing them raises other issues, as they fall within the remit of commercial enterprises, so a number of other tax measures coming into play, and ensuring the separation of currently and previous tax exempted funding from commercial investment and revenues is likely to be hard to maintain? Eco tourism, conservation, handicrafts are possible areas, frequently mentioned, but would they realistically have the potential to generate sufficient revenues/ income, to contribute sufficient revenues to support a range and distribution of CSO across the country is questioned. It may be possible for some social enterprises to support one of two initiatives, but not a large number of CSO. There are also considerable capacity gaps between CSO and commercial operations.

**Comparison Between 2013 and 2018 Studies**

<i>Situation in the 2013 report</i>	<i>During the period of studying and writing report (2018-2019)</i>
Constraints in accessing funds seem mostly related to local NGOs' lower capacity - compared with international NGOs - in identifying appropriate donors, communicating with them in	The evolution of global aid architecture, has and is seeing changes in the nature and type of aid being provided to countries. Donor funding requirements are becoming increasingly more complex as donors and development partners want to see increasing value for their invested funds.  One example of the frequently requested changes from

<p>English, building trusting relationships with them and submitting clear and viable (sophisticated) proposals for funding. The near absence of local philanthropy means that local fundraising is also constrained.</p>	<p>donors or their agents are the requires for consortium based proposals rather than from individual organisation. These changing requirements often exceed the capacities of smaller CSOs to access funds. They also show the continued fragmented nature of many of the CSOs sectors.</p> <p>These have probably contributed to the observed concentration of resources for CSO in Cambodia, going to a limited number of CSO, on average 52 percent of all CSO support per year over the last few years went to just 25 organisations. However this phenomena is not just occurring in Cambodia but elsewhere as well. It is worth repeating that many of those funded support networks of other CSOs/NGOs as this concentration often offers costs economies.</p>
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### Challenges and Suggestions

Challenges	Suggestions
<ul style="list-style-type: none"> <li>• Changing donor aid mechanisms/ approaches appear to limit Cambodian CSO access to resources.</li> <li>• Compounded by changing donor priorities, aid and cost efficiencies, and achieving impacts at scale.</li> <li>• Increasing competition for available resources as national CSO frequently have to compete against</li> <li>• Levels of ODA funding available to CSOs are predicted to remain monetary the same, but with a decreasing percentage of GDP.</li> <li>• What is being made available is often concentrated in a few large NGOs</li> <li>• The continued limited capacities of a considerable portion of CSOs to effectively access funding sources and tackle                         <ul style="list-style-type: none"> <li>○ The lack of understanding of evolving aid modalities</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• CSO representative groups need to advocate for improved distribution of funds through CSOs in agreed priority areas, aligned with national development objectives and priorities.</li> <li>• Assess the potential cost and benefits of establishing and supporting a multi-donor/ basket CSO trust fund.                         <ul style="list-style-type: none"> <li>○ Including remit, scope of funds, nature of operations, priority areas etc.. To see if it will provided value for investment against other possible funding options.</li> </ul> </li> <li>• Increase CSO capacities to access resources ensuring timely and proactive alignment with changing development/ donor priorities and approaches.</li> <li>• Improve donor, government and private sector engagement to leverage national development objectives, LDC graduation CSDG/SDG commitments.                         <ul style="list-style-type: none"> <li>○ Explore the potential for CSO funding to contribute to these from these sources.</li> </ul> </li> </ul>

## ACCESS TO INFORMATION

### Overview

In 2010, only 300,000 Cambodians had access to the Internet. By 2013, however, that number had surged to almost four million, or about a quarter of the country's population of ~15 million. There are now 1.7 million registered Facebook users<sup>99</sup>. Suddenly, ordinary Cambodians, including those living in rural areas, have the opportunity to receive news and information more openly. The above increased access to and use of social media was made possible with rapid development of telecommunication infrastructure, which in turns has led to a "booming" mobile telephone networks and Internet Service Providers (ISPs) within the country during the last 15 years of so.

As of 2013, the total number of mobile phone users was 13.8 million raking 58th in the world, with approximately 92 per 100 persons using such device<sup>100</sup>, latest public data recorded by the Cambodian Ministry of Telecommunication's 2015 factsheet claimed the total number of mobile users to be 20.5 M meaning that most Cambodian own more than one phone line/mobile phones<sup>101</sup>.

With the above described leaps and jumps of mobile infrastructure and high connectivity, Cambodia can be considered as being an emerging fertile ground for high prevalence of cyber related crimes. While cybercrimes are not systematically tracked and reported openly by the state or the private sector, there is a sense these crimes are becoming evolving concerns for Cambodia.

The access to information (A2I) in this study focuses on what the laws and/or regulations govern or affect a CSO's access to information? The type of information being sought? An appeal process for information? To what extent are government officials themselves accessible to the public? What opportunities exist for the public, including CSOs, to meet with government officials about their personal or organisational interests and needs? Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs' access to information? If so, please summarise the content of the key provisions and in what stage of the legislative process it currently stands. Is the process of obtaining government information transparent, smooth, sufficiently easy to navigate, and based on the rule of law, or is it difficult, seemingly arbitrary, slow, and mired in bureaucratic red tape?

Access to information is a fundamental human right. Article 19 of the United Nations Universal Declaration of Human Rights reads: Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers. While the Constitution of the Kingdom of Cambodia, Article 31, states that: "The Kingdom of Cambodia recognises and respects human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights and covenants and conventions related to human rights, women's rights and children's rights..."

Cambodia has neither an Access to Information (A2I) law, nor a Cybercrime law. Cambodia is a Country that practically promotes freedom of information, including the practices in the use of social media networks (through the news online system – internet, websites, social media, etc.). All Cambodian citizens obviously enjoy the rights and freedom to develop and use social

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<sup>99</sup> Internet world Statistics on Cambodia – June 2016.

<sup>100</sup> Cambodia, World Factbook, U.S. Central Intelligence Agency. Retrieved 24 October 2013

<sup>101</sup> Cambodia Ministry of Posts and Telecommunication Factsheet December 2015.

media networks (such as websites and so forth) which could be launched to express their opinions freely from everywhere, within and outside Cambodia<sup>102</sup>.

CSOs believe that a A2I law is crucial to pave the way of citizen's participation, promoting transparency and good governance. Under the leadership and coordination of the Advocacy and Policy Institute (API)<sup>103</sup>, a group of CSOs in 2004 CSOs (19 organisations and now 28 NGOs) started the campaign on the Freedom of Information (Right to Information/Access to Information) to push the Cambodian of government to adopt the legislation. In between 2003 and 2007, learning the best practices and experiences from other countries as well as understanding what we mean about the access to information (freedom of information). In 2004, the Cambodian Government acknowledged the need for an A2I law 'to create a transparent Government, reduce corruption and promote confidence in the Government'. In August 2007 a draft policy paper on access to information was produced with the technical support from USAID.

On 8 November, 2013, at a meeting of the Council of Ministers, the Prime Minister officially announced that development of the A2I law would kick off and assigned the Ministry of Information to take the lead and open consultations with journalists, CSOs and relevant stakeholders to prepare a draft law on Access to Information (A2I). A draft A2I law was completed in March 2018, under the leadership of the Ministry of Information, in partnership with UNESCO and participating CSOs.

#### *Cyber Crimes and Security*

Because of the reported increase in cyber-related crimes over the last few years including the 2013 hacking of the Cambodian National Election Committee's ("NEC") by a group identified as "Anonymous Cambodia". Who later hacked the website of the Press and Quick Reaction Unit of the Council of Ministers, the Council of Legal and Judicial Reform and the Government-aligned TV station TVK<sup>104</sup>. As most of the targets were state institutions, the Government of Cambodia has increased cyber security and scrutiny which may have limited respect of human rights.

More recently since 2015 a number of people have been arrested for posting comments on social media, with them being arrested using the penal code clauses for "insulting and/or incitement," as the tool to hold and prosecute them. In all more than a dozen Cambodians have been arrested or detained for making political statements on Facebook/ social media, some of them after running afoul of recent lese-majesty law passed in February 2018 <sup>105</sup>.

Given the above described political context and the various examples as cited concretely affecting both the public and private sectors, Cambodia is in dire need to have legislation with responsive measures to address cyber related crimes. As such, legislation has huge potential to address and mitigate business risk and public trust, it remains unclear whether the Government will so for only mitigating and building trust or for other political end. If the latter is the mean to an end then the formulation and enforcement of legislation to curb increasing cybercrimes may cause more social, political and economic harm (than good) to the country as a whole.

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102 Human Rights Council, Working Group on the Universal Periodic Review, Eighteenth session, 27 January – 7 February 2014

103 Sinthay NEB (Director of API)'s presentation

104 Joshua Wilwohl, 'Anonymous Hacks Government Websites' The Cambodia Daily (13 September 2013)

105 <https://www.voacambodia.com/a/cambodia-takes-aim-at-critics-on-facebook/4835777.html>

In a 2009 thesis paper<sup>106</sup> Dr. Sok Siphana, confirmed the assertive power of Cambodia's Executive Branch over the Legislative and the Judiciary branches of government in such a manner that there was/is little or no room for justice to prevail in a fair and just manner in Cambodia. He cited that "State institutions, such as the legislature, the judiciary, the military, and the security apparatus remain subservient to their (executive branch) interests and to those of the ruling elites. The CPP has been successful in consolidating its power at the expense of a weak democracy. The legislature, for instance, is far from becoming politically effective particularly when members of parliament (MPs) can be stripped of their parliamentary immunity. The controversial new law scrapping lawmakers' right to speak freely in parliament has sparked concerns that Cambodia has taken a step backward from democracy". He went on to say that "Judicial independence is threatened mainly by direct and indirect interference by the executive and powerful private entities. During this period, the executive tried to protect its asserted discretionary procedures by reducing the judiciary's power to enforce market-allocative law".

### **Findings and Analysis**

CSOs and the populace are often in need of information about regulations, legal boundaries, procedures, policies, development plans, and minutes from important meetings that affect them, and these need to be made available to them by national and sub-national authorities. When information is not made available, or difficult to access the CSO/ people are exposed to an increased risk of not being able to serve the Cambodian people as their representative.

#### **Information about the registration**

The need for information relates to formation (registration) of new organisations, staying informed about the law, updates about regulation, planning of infrastructure etc. Also, especially for sub national CSOs who engage in agriculture the need for information about market development is important as farmers rely on it to sell their produce. Information from government about resources made available for training and of course, information about available funds are all mentioned to be of importance.

The number one challenge, which the majority of subjects mention, is that the information may be old and outdated, inaccurate or fake. This is often the case with information published online where routines for appropriate updates are not always in place. The Internet is perceived to have helped improve access to information but the issue of reliability remains. All subjects use the Internet on a regular/daily basis. They rely on the Internet to update themselves about news/politics and also for local news and development. They all say that not all news is reliable; some say that 50% is reliable while others say that 80% of the information online can be trusted. The source of the information online is said to be important, the quality of the news is source dependent, but it is not always clear how to validate the reliability of the source.

Internet provides a lot of information and the general feeling among CSOs is that government cannot manage/control the internet, this is perceived to be the case, and even more so in the case of social media. It is however emphasised by the majority that social media produces a whole lot of fake news; "people need to be careful not to consume and spread this kind of

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<sup>106</sup> Siphana Sok (2008) Role of Law and Legal Institutions in Cambodia Economic Development: Opportunities to Skip the Learning Curve, PhD, e-Publications@bond, Faculty of Law.

news” was mentioned in one of the focus groups at subnational level, the sentiment was shared by the other members of the group, across groups and personal interviews alike.

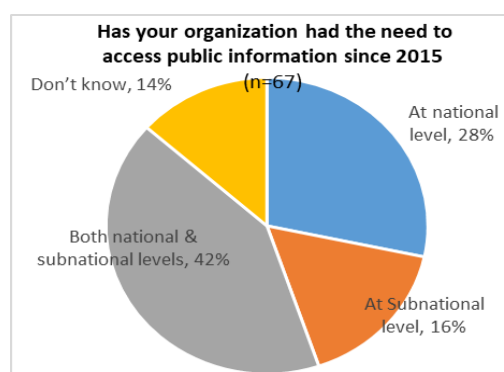
#### Access to information at national level

While numerous ministries have websites and increasingly a social media presence, their use as information dissemination channels is not always the case. Information, statistics, legal document under the ministry mandate are often not available in a timely manner on their website. This limits development actors/ stakeholders and the population ability to access information in a timely manner.

#### *Access to Information at Sub-National Levels*

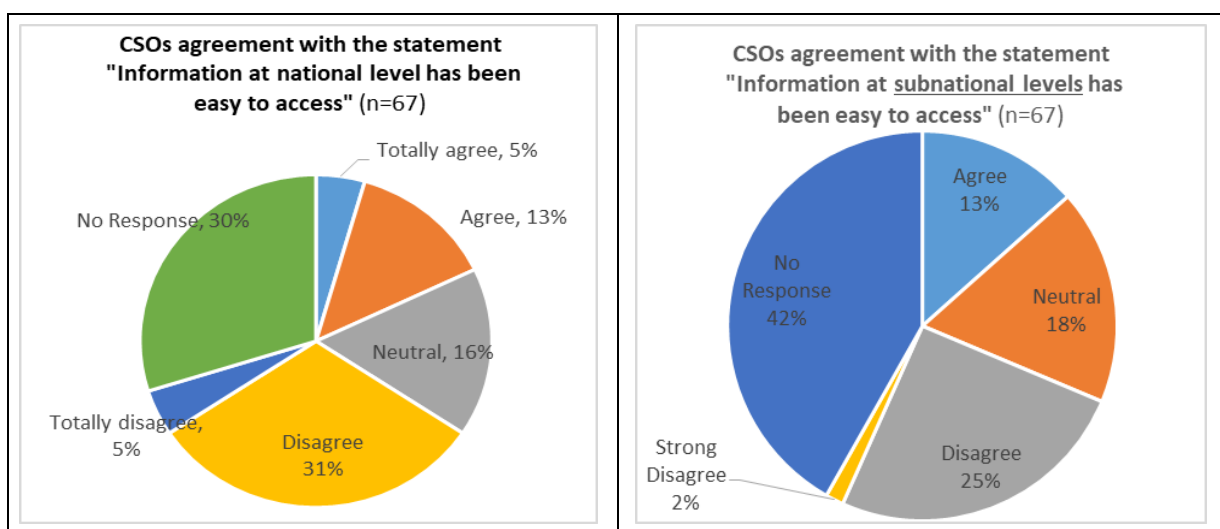
Access to information is importance for the practice of social accountability. The information on public services and official fees and the information on citizens’ livelihood have been disseminated through the communities. The extent of awareness and understanding of the content and processes to approach authorities varies from place to place. The effectiveness of the information dissemination depends on the methodology and capacity of the commune, district and provincial authorities and of the CSO desiring to access information. From interviews, not only communes and district levels who are obligated to circulate the information to the community but also CSOs and CBOs needs to do so as well. CBOs frequently conducted village meetings, where they have opportunities to circulate of information on public services, if they can access information, they can also communicated and facilitate requests for information by communities.

NGOs also seeks to encourage coordination among governments, citizens and the private sector. NGOs were recognised and became a key partner of the sub-national administration and the parliament in addressing the needs and concerns of Cambodian citizens, particularly marginalised and venerable groups. In many ways, NGOs has played a critical role in achieving goals of democratisation, participation, good governance, poverty reduction, social accountability and development.



#### *Types of most-sought information sought by NGOs/CBOs*

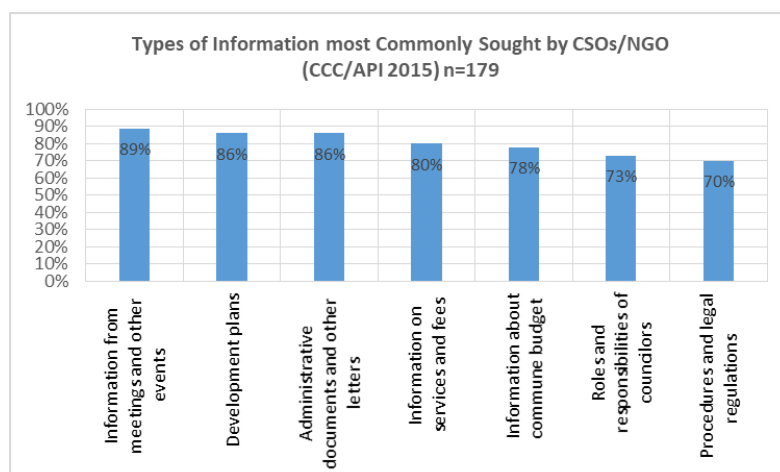
The survey for this study undertaken in 2018 asked CSO representatives did they seek to obtain information from public authorities, 86% of organisations reported trying to obtain information and data from authorities at different levels. The representatives of the CSOs were asked about their agreement or not with statements on the ease of access information at national and subnational levels. Less than a fifth of CSOs (18%) thought that accessing information was easy at national levels over third though that is was difficult to obtain information, of concern would be the nearly half of response who either don't provide a response or were neutral.



At sub national levels satisfaction with access to information was even less, with only 13% of respondent agreeing with the state, while a quarter of respondents (25%) were not satisfied with trying to access information. Again however a considerable number of respondents either did not respond (42%) or felt neutral about accessing information at subnational levels. It is worth looking back at the 2015 CCC/API subnational study which identified what types of information was frequently sought at subnational levels which information gather across parts of five provinces.

Additionally in a follow up question in 2015), the most difficult types information to gain access to were:

- Copies of national laws and government regulations with 69% of respondent believe these were difficult to obtain at subnational levels.
- These were followed by access to local development documents
  - The commune budget 47%;
  - roles and responsibility of the Councils 47%
  - Council administrative letters and documents 47% believing these were difficult to obtain.



### Comparison Between 2013 and 2018 Studies

Situation in the 2013 report	During the period of studying (2015-2019)
Access to information was not covered by the 2013 Assessment	<p>One the one hand</p> <ul style="list-style-type: none"> <li>➤ Access to information is a fundamental right, as having access to information is needed to make informed decisions. However current government practices are restricted access to information.</li> <li>➤ While government institutions have increasing web</li> </ul>

	<p>and social media presence, information and statistic for which they are responsible are not regularly update in some institutions. Or are presented in such a form as to be difficult use.</p> <ul style="list-style-type: none"> <li>➤ Additionally legal, regulatory and institutional documents are often difficult to access in a timely manner.</li> </ul> <p>On the other</p> <ul style="list-style-type: none"> <li>➤ Public users of social media who express an opinion have been targeted and accused of criminal</li> <li>➤ The process to improve the legislative framework in terms of consulting on and finalising Access to Information law and the cyber-crimes law need to be completed as they got caught up in the 2018 ‘shutdown’ associated with the national elections.</li> </ul>
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### Challenges and Suggestions

Challenges	Suggestions
<ul style="list-style-type: none"> <li>➤ Most of the Government’s ministries and institutions don’t regularly updated information and data on their website. This restricted citizens and NGOs/CSOs access to their information.</li> <li>➤ The continued lack of the Access to Information (A2I) Law restricts civil society and the publics’ right to information                             <ul style="list-style-type: none"> <li>○ Final rounds of public and stakeholders consultation on the law are needed</li> <li>○ Adoption of the law is need to be speed up guide and commit to open government</li> </ul> </li> <li>➤ Previous local data sources such as the Commune database (in an electronic format) which can help with local development planning and process are harder to access and obtain limiting development process</li> </ul>	<ul style="list-style-type: none"> <li>➤ Government needs to develop an access to information framework to contribute to the government’s commitments to open government.                             <ul style="list-style-type: none"> <li>○ To take account of the increasing digital and “smart” society we live in.</li> </ul> </li> <li>➤ Provide geo-referenced data including in electronic formats, in a timely manner to support local development processes.                             <ul style="list-style-type: none"> <li>○ Publish institutional performance data to increase public accountability</li> </ul> </li> <li>➤ Build institutional capacities and adopt benchmarks to get information into the hands of the public in a prompt manner</li> <li>➤ Push forward with finalising and adopting the A2I law and the cybercrime law.</li> </ul>

## RELATIONS BETWEEN AUTHORITIES AND CSOs

### Overview

In democratic and pluralistic societies, active participation from citizens and CSOs is crucial, as they play important roles in balancing and influencing politics and societies. So political and civil society activities related to democracy, human rights and promoting the rule of law, ensuring transparency and accountability of authorities and decision makers, cannot be separated. While CSOs, government and institutions may have differing and opposing views they (more often than not) tolerate, and respect, each other views. In progressive societies the consideration of opposing viewings contributes to open discussions of issues of concern and leads to (positive) changes to improve the situation, or so the thinking goes. However in some countries CSOs and NGOs working to restoring promote and improve human rights and democratic conditions, are often at risk of being intimidated suppressed, or attacked by groups or parties opposed to losing power or improve conditions which they cannot exploit.

Cambodia's situation sadly falls somewhere in between, statistics indicate a booming economy and improving socio-economic conditions. However its human rights and democratic situation has deteriorated, likely a result of the political impasse that had occurred and the inability of the parties in power to relinquish this power or see it reduced. Numerous institutions and organisations<sup>107</sup> including Cambodian Organisations<sup>108</sup> have expressed concerns about the observed deteriorating right situation in Cambodia in the period of 2015 to 2018. Which had become increasingly painful, as the political environment worsened and civic space for NGOs/CSOs and the people shrunk. These statements of concerns often catalogued a litany of abuses to intimidate the opposition and rights CSOs. However apart from resulting in further statements and the threat of sanctions (such as the withdrawal of EBA access to the European Union, which will likely only affect the private sector and workers) little else could and can be done.

The current situation is yet again another example of this hardened approach, whereby the state/government pushes through the adverse period of international criticism to returned to a 'status quo' of a lessening need and dependence on international assistance and by implication a lessening influence. The government has taken on board some issues and support as these contribute to expanding the economy, as well as continuing to address social deficiencies and environmental vulnerabilities in society. It is this reality that now frames the relationship between the government and CSO. This overturns the experiences during rehabilitation period in the 1990s, when CSOs and international development organisations often had an unhindered influence on government and services delivery, but that period is now history.

In Cambodia there appears to unfounded mutual distrust between CSO and Government, on the one hand government accusing CSOs and NGOs of trying to undermine its position, and during the period under review all CSOs appear to be affected by this. While CSOs believe that government is try to suppress and control CSOs and again during the period under review, government, suppression of CSO increased with organisation under greater scrutiny. While

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<sup>107</sup> Phnom Penh Post (28/03/2018) UN Council discuss deteriorating rights situation in Cambodia <https://www.phnompenhpost.com/national/un-council-discuss-deteriorating-rights-situation-cambodia>, International Comission of Jurists (21/6/2018) Cambodia: deteriorating situation for human rights and rule of law, Human Rights Watch, <https://www.hrw.org/world-report/2018/country-chapters/cambodia>

<sup>108</sup> Cambodian CSO statement to the US-ASEAN Summit February 2016 statement can be obtained at <https://www.central-cambodia.org/archives/72> (accessed on 2 July 2019) Other statements can be accessed at: <https://www.central-cambodia.org/archives/category/joint-statement>

there were examples of both issues, they do not represent the broad body of experience of CSO and government in working development issues.

## Findings and Analysis

### *National Levels Plans & Strategies*

#### **2013-2018**

First looking back, at the period under review (2015-2018), the government has developed and follows an integrated national development framework made up of three linked and harmonised documents (a) The Political Platform of the Royal Government of the Fifth Legislature of the National Assembly (b) the Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase III and (c) National Strategic Development Plan-(NSDP 2014-2018). These set out the priority areas and planned action to be implement over the life of the plan and provides an indication of the resources needed to achieve each of the sector priorities.

RS III recognised that “Partnership with all stakeholders was further strengthened, especially with official development partners, private sector and civil society, through introduction of various effective mechanisms. The investments from state budget along with official development cooperation financing and inflow of private investments have helped promote high and sustained economic development.

In fact the improve aid coordination and effectiveness framework that the government and development partner had developed and agreed too in the “Strategy on Development Cooperation and Partnership 2014-2018” contributed to progress and improvements during the 2015-2018. It also enabled better forward planning of development finance including the contribution from CSOs. The Strategy predicted and planning for “(1) the necessity to redefine the role of development cooperation financing due to a global decline in grant financing and developments in the partnership arrangements with individual partners; and (2) the anticipated the decline in concessional financing as Cambodia reached a lower-middle income country status. The strategy was also highlighted the Government’s commitment to the principles of development cooperation as agreed in various summits.”

#### **2019-2023**

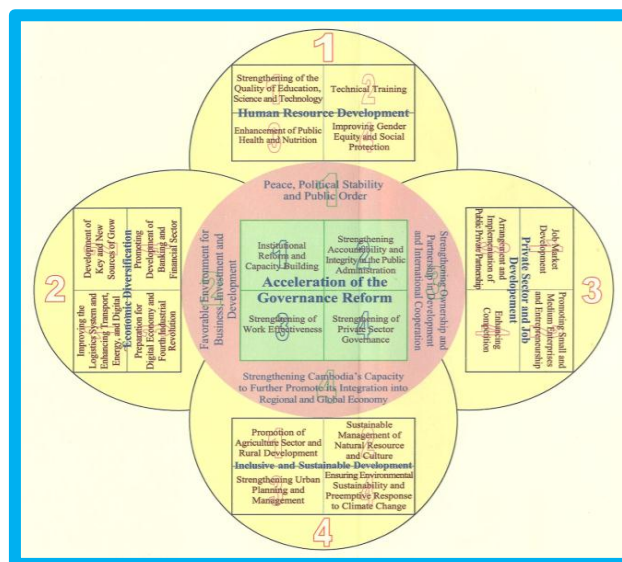
This section looks to the future, Cambodia has followed a national development framework (NDF) approach developing key guiding strategies and plans. The current NDF is made up of

(i) The Political Platform of the Royal Government of the Sixth Legislature of the National Assembly	This sets out strategic goals, prioritised policies, sectoral development policies, and specific measures to be implemented from 2019 onwards to guide the activities of the RGC in its service to the nation and the people in the sixth legislature
(ii) The Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase IV (RSIV)	This builds on the ‘experience of implementing the previous three phases of the Rectangular Strategy. The RSIV prioritises four pillars; (i) human resource development, (ii) economic diversification, (iii) private sector and job development, and (iv) inclusive and sustainable development. At the core of the four pillars is the acceleration of the governance reform, which refers to institutional reform and capacity building, strengthening

	accountability and integrity in the public administration, improving of work effectiveness, and strengthening of private sector governance.
(iii) The action orientated National Strategic Development Plan-(NSDP 2019-2023)	Approved by government in June 2019. the NSDP outlines policies and priority actions 2019-2023 that relevant ministry shall carry out, and presents estimated values, including expenses, resources and expenditure program. The NSDP also presents the framework for monitoring and evaluation for 2019-2023 phase and shows extensive conclusions
Cambodian Sustainable Development Goals (CSDGs), Framework 2016-2030	The Government has adapt global goals, targets and indicators to the national context and craft a localised set of targets - the Cambodia SDGs, which will feed into national and sectoral development planning processes.

The NDF harmonises and is linked to the Government’s Development Cooperation and Partnership Strategy (DCPS). These key documents all make reference to the importance of partnership.

The RSIV state that there is “a strong foundation for allocating resources towards (identified) policy priorities and a great framework for cooperating with related development partners, private sector and civil society”. It goes on to state that “Cambodia needs to strengthen ownership, partnership and cooperation mechanisms in order to pool financial, technical and knowledge resources to underpin national development. To date, Cambodia achieves a great development success through open economy. This approach will continue to determine Cambodia’s progress, which requires us to strengthen the capacity to integrate into the regional and global economy”.



So in the sixth mandate the government prioritised “Strengthening Ownership and Partnership in Development and International Cooperation” (the right-hand-side of the circular second tier). It recognises that “despite the improvement in Cambodia’s own financial ability to promote the country’s development, international technical assistance and development financing continues is still important, especially for big and complicated projects. In this regard, Cambodia must strengthen its ownership in the policy dialogue partnership, including official development partners, private sector and nongovernmental organisations, in its pursuit of sustainable and comprehensive socio-economic development”.

Under this dimension of the RSIV one of the six focus areas is “Further strengthening partnership with non-governmental organizations through enforcing the law on associations and non-governmental organisations in order to promote efficiency, transparency, and accountability of the cooperation”.

While RSIV make commendable and well-intentioned expression about partners and partnership it also appears to have a sting in its tail with the enforcement of LANGO. Considering that the scope of LANGO is fairly narrow (basically registration requirements, and annual reporting and non-compliance with these).

### *Sub-National Plans & Strategies*

These covered both the period under review 2015-2018 and also will influence the coming period.

Sub-national planning and development processes fall within the long evolving deconcentration and decentralisation reforms programme and processes as part of the National Programme for Sub-National Democratic Development (NP-SNDD). Which is guided by two primary pieces of the legislation the 2008 “Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans”-“the Organic Law” and the “2001 Law on Administrative Management of Communes/Sangkats”.

Both of these require that subnational administrative levels prepared five years development plans and three years rolling investment plan to contribute to local development. The established local authorities are also meant to consult and involve other stakeholders active in their areas which should include CSOs.

The sub-national planning and implementation system provides opportunities for CSOs to actively engage and work with local authorities at different levels, as they are progressively transferred and supported to deliver services. Additionally the local authorities have increasingly taken up coordination role for example through the Women and Children Committees at different levels at commune, district, and provincial.

One additional component of local planning is the Implementation for Social Accountability Framework (ISAF), which is ongoing practical example of government civil society partnership. It began in 2013 and has progressive grown to now cover parts of 98/156 rural districts across 18 provinces.

Sub-national development approach through local councils has built in a coordination mechanism where development stakeholder can get involved ‘pitch’ / promote initiative to be jointly undertaken. These are the District Integration Workshop (DIW) where different stakeholders including CSO and government agencies can propose or agree to collaborate and cooperate on activities. While these have great potential, whether local authorities and CSOs ever enter implementation arrangements/ relationship is nor report.

How CSOs engage and work with local authorities is poorly documented and fragmented. While it is event that local authorities are increasingly more responsible for planning and development, and the government has committed to increasing their development budgets, which was one of the main limiting factors for effective collaboration. There are numerous examples of collaborative activities where CSOs who have the resources work with local authorities and other stakeholders to enhance and improve services and to contribute national development objectives. These collaboration arrangements are most frequently in the social (health education, poverty reduction child protection, gender) and livelihood (agricultural extension and activities, Community based natural resources management, disaster preparedness/climate resilience) sectors. However there is no stocktaking of who? Is doing what? At what scale? And where?

Local authorities have cooperated with CSOs to enable CSOs undertake activities, more frequently than not the cooperation between CSOs and local government was driven by the CSOs providing or supporting services, as they have resource for such and most local authorities welcome CSOs, But during the period under review, key informants observed that it became harder to engage and get involved in new areas, if they simple expanded in their existing areas no problem but initiating a relationship in new areas become harder as local authorities were often reticent to engage.

#### *Relationship Approaches*

So how government institutions and CSO initiate relationships remains unqualified, ambiguous, and unreported,

- Domestic NGOs generally use their registration with the MoI to engage with national institution and subnational authorities to obtain MoU to enable them to undertaken activities, while,
- International organisations use their reputation and proposed funding/ investment to obtain a MoU with MoFAIC which support obtaining MoUs with a line Ministries, and these MoUs, enable access to provincial departments of the line ministries and through them to subnational authorities.

There are other mechanisms for alignment with government, these include the subnational planning system where NGOs/ CSOs are asked about what activities they are undertaking or planning to do in and administrative area (commune, district, and provincial) which can be incorporated into areas development (usually every five years but annually updated from an investment perspective).

CSOs can also contribute by participating in the District Integration Workshop whose purpose is to enable alignment with area development activities and they can enter into agreements with local authorities to delivery or support services. The (theoretical) intentions.

The lack of alignment between authorities at sub-national level and smaller CSOs, points to the need for an improved system that documents unified effort where strategy constitutes the frame for a more efficient decision-making process. Programs such as the Implementation of Sustainable Accountability Framework (ISAF) demonstrates the importance of relationship and Inclusive Partnerships (IP) for successful development. And even though some of the success of such programs can be attributed to large budgets and high levels of transparency, there are lessons to be learned for smaller projects.

Issues are also revealed about the inefficiency of communication between authorities and CSOs at sub-national level. Communication is recognised as a major challenge for many CSOs as they often lack the ability to position themselves in the value chain. With the current overwhelming number of CSOs, and considering the absence of information about the actual performance of CSOs, it is possible to see how local authorities may question the need for bespoke intervention. If awareness of national development strategy for local authorities was to improve, and CSOs were able to better demonstrate the way by which they contribute towards the successful implementation of such strategy, communication between the two parties would be much easier.

The lack of goal oriented management and learning strategies is characteristic, not only for the smaller CSOs but also for bigger organisations working with international developing partners (DPs). While DPs do bring some structure to Inclusive Partnerships (IPs) it is important to ensure capacity transfer to local partners, especially with regard to proper project/program management. Kampuchea Action for Primary Education (KAPE) is a good example of such capacity transfer and has been able to position itself as a strong local partner for educational development programs - a position they hold in the minds of national and sub-national authorities as well as international development partners.

Tapping in to the potential of private sector to contribute towards development is perceived as difficult, if not impossible, by most stakeholders in development with the exception of Australian Aid. With their Investment In Infrastructure program (3i), as well as their agricultural value chain program (CAVAC) they have successfully managed to engage private sector in development and as stand out as a good example of an alternative and perhaps a more functional approach to strategy.

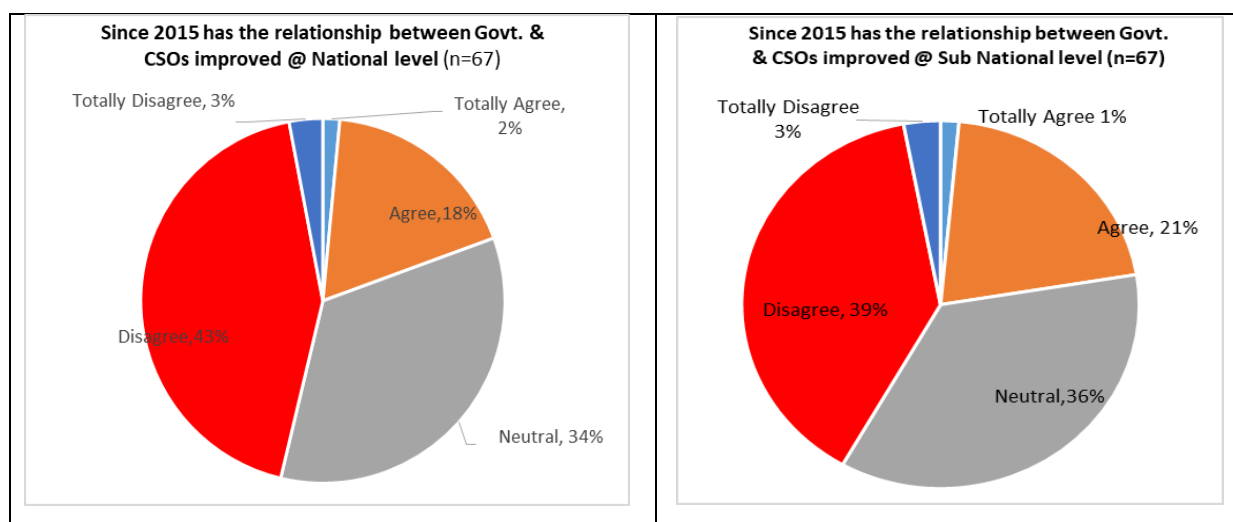
#### *Doing Good = Bad Image*

When asked about whether or not CSOs are doing a good job all interviewees representing national authorities acknowledge the positive contribution of CSOs with regard to development. In spite of the challenge of asking authorities about their own shortcomings a select few do actually point to the need for more collaboration between stakeholders that is based on a better understanding of each other's objectives. During the course the research it became obvious that there is a gap between national and subnational level of government with regard to awareness of policy and national development strategy. While knowledge about the details of national development strategy at national level is good this is not always the case at sub-national level - this in turn makes for a more strained relationship between CSOs and local authorities as it is not always clear that they are working towards the same goals. Considering the 5000+ international and local non-governmental organisations based in Cambodia (CSOSI 2017), all with very specific views on how to contribute towards development, we can see how the challenge of managing a coordinated effort starts to emerge.

As opportunity mostly comes from overcoming existing challenges no distinction will be made between the two. The opportunity for Cambodian CSOs to improve their enabling environment lies in facing the existing challenges and coming up with solutions. Some Recommendations on what it will take to get this done will be elaborated upon in the following section on recommendations.

#### *Current Relationship Perceptions*

The survey for the study, undertaken in 2018, asked (67) CSO representatives of their perception of working with government at different levels. The approach taken was whether they agreed or not with a statement. "Have relations between CSOs and government improve at national and subnational levels since 2015". As can be seen nearly half of the CSOs (46%) believed that relations with national level government institution had not improved since 2015. While a fifth of respondents (20%) believed they had. It is worth noting that a third of respondent remains neutral on the issue. At subnational levels nearly a quarter of CSO respondents (22%) believe relations with local authorities had improved, while over two fifths (41%) believed that relations had not improved. Again, a third of respondent (36%) remained neutral.



### Comparison Between 2013 and 2018 Studies

<i>Situation in the 2013 report</i>	<i>During the period of studying (2015-2019)</i>
<p>The EENA stated that there were no legal constraints on civil society’s input into the political and electoral process or the public policy process in Cambodia. Apart from the, moral obligations imposed on CSOs to be non-partisan.</p> <p>Civil society tended to report more positive relationships with low and middle level government. In many instances, civil society actors also reported positive relationships with line ministries with whom they engage. Although this varied for different ministries. Some line ministries conduct annual meetings with the NGOs with whom they maintain a memorandum of understanding.</p> <p>Government-led consultations with civil society do sometimes occur. For example to discuss the draft LANGOs. Such events are perceived by some as efforts to appease civil society actors through ‘token’ participation. For example, consultation events do not necessarily include a session for questions and answers.</p> <p>There is also a precedent for certain individuals within the government to be involved in selectively choosing specific NGOs to represent Cambodian civil society</p>	<p>Space for civil society to engage impartially in the political arena has disappear. As any attempt could lead to criminal prosecution for incitement. So there is little of no tolerance for objective engagement by civil society in politics.</p> <p>During the period under review, the relationship between CSO and government deteriorated. As government officials were reluctant to be seen as being associated with CSOs</p> <p>This was further compound by the Government introduction of a regulatory requirements (in October 2017) for CSOs to notify local authorities in advance of activities in communities. It rapidly became apparent that “notification” was interpreted as obtaining permissions, which was frequently drawn-out or not given and village security group and police had been instructed to seek evidence of such permissions/ approval.</p> <p>Experiences with CSOs/Govt. relationship varied considerably by location and sector. Actors in less contentious sectors reported only minor issues of inconvenience, and had not issues with their engagement with government actors. However others CSOs in more contentious sectors report significant problems</p>

<p>in consultation exercises, especially international fora, instead of permitting civil society organisations to nominate their own representatives</p>	<p>in try to implement their activities. It was also reported that government began to establish and support pro government CSOs and networks which were able to undertaken activities while other organisation had difficulties.</p>
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### Challenges and Suggestions

Challenges	Suggestions
<ul style="list-style-type: none"> <li>➤ No reliable, timely and effective information on Who? Is doing what? Where? At what scale? And with whom?                             <ul style="list-style-type: none"> <li>➤ This limits both CSOs, national and local governments to coordinate inputs, and better target interventions where the greatest needs exist</li> </ul> </li> <li>➤ Limited/ or lacking mechanisms to share and coordinate activities and interventions between CSOs and local government.</li> <li>➤ Limited understanding of each other roles, responsibilities and activities they undertaken.</li> <li>➤ Establish and enhance joint communication relationship building mechanism to better coordinate between parties</li> </ul>	<ul style="list-style-type: none"> <li>➤ Create an open-source cloud based mapping and documentation system (GIS)</li> <li>➤ Hold periodic learning and sharing events (two or four times per year) at subnational levels, bringing together government and CSO representatives</li> <li>➤ Improve local coordination mechanism to build trust and understanding.</li> <li>➤ Joint capacity development initiative to build capacities.</li> </ul>

## INCLUSIVE PARTNERSHIPS

### Overview

The UN SDG framework states that “inclusive partnerships build upon (agreed) principles and values, with a shared vision, goals and are needed at the global, regional, national and local level<sup>109</sup>. It is the lack of consensus on these that is possibly hindering inclusive partnering in Cambodia. The Minister of Interior recently stated<sup>110</sup> that ‘partnership’ as an honest communication/relationship between sub-national and national governments and CSOs and or the private sector, to carrying out activities for the benefits of people. In general, the implementation of a partnership, can only be successful if the parties become involved in all stages of solving conflicts together. Parties to the partnership need to; trust, be supportive, accessible, and understandably agreeable with each other, to learn and share experiences in order to achieve a common purpose<sup>111</sup>.

From a broader perspective the Government has adopted and incorporated one of the global partnership targets (SDG 17.17) into its localised Cambodian Sustainable Development Goals (CSDGs) framework adopted in December 2018, namely to “Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnership”<sup>112</sup>. We can draw some similarities between the above definition and the global definition stemming from SDG17 to “Strengthen the means of implementation and revitalise the Global Partnership for Sustainable Development”.

Inclusive partnerships involve mutual and trusted relationships among all involved development actors as essential to secure “A successful sustainable development agenda requires partnerships between governments, the private sector and civil society. These inclusive partnerships build upon principles and values, a shared vision, and shared goals, that place people and the planet at the centre, (as these) are needed at the global, regional, national and local level”<sup>113</sup>. Embedded in the concept of inclusive partnerships is the core principle of mutual accountability and respect. This means each partners equitably and honestly upholds these values, so that working in partnership in such a way, rewards for each party in the partnership without any party losing out, being used or being undermined.

### Findings and Analysis

#### *National Context for Inclusive Partnership*

RGC and the development (donor) community have attributed critical importance to inclusive partnerships, as they form a key component of the international aid effectiveness architecture expression in the Paris (2005)<sup>114</sup>, Accra (2008)<sup>115</sup>, and Busan (2012)<sup>116</sup> Agreements as joint tools to achieve common development goals and eventual development results.

Government across all phases (I-IV) of the Rectangular Strategy have stated that it seeks cooperation with both the private sector and civil society to achieve its development plans and

<sup>109</sup> <https://www.un.org/sustainabledevelopment/globalpartnerships/>

<sup>110</sup> Sar Kheng, deputy prime minister and minister of Mol, speech at the Partnership Forum between Government and NGOs on 17th January 2019, page 1 & 2.

<sup>111</sup> *ibid*

<sup>112</sup> For this SDG (#17) RGC has adopted eight of the 19 targets, as most of the targets in SDG 17 related to international cooperation.

<sup>113</sup> <https://sdg-tracker.org/global-partnerships>

<sup>114</sup> <https://www.oecd.org/dac/effectiveness/parisdeclarationandaccraagendaforaction.htm>

<sup>115</sup> <https://www.oecd.org/dac/effectiveness/45827311.pdf>

<sup>116</sup> <https://www.oecd.org/dac/effectiveness/busanpartnership.htm>

goals. As do development partners, the United Nations, the European Commission (EC), SIDA, USAID, SDC and other development providers routinely encourage if not require their development partners work in partnership consortia or in cooperation with one another. Although there has been evidence of increased cooperation within sectors, cross sector collaboration has been reported to be low (CCC, 2013).

There are now several existing partnering coordination platforms at national and sub-national levels that provide examples of space to influence and engage in policy debates with the government, development partners, civil society and private sector. These include the Government-Private Sector Forums (G-PSF); the now 21 Technical Working Groups most of whom to varying degrees remain active, some more than others.

In addition to these, there are other coordination mechanisms many aligned with ministry/sector mandate. One of these enables the Implementation of Social Accountability Framework (ISAF) and advocates for having the multi-stakeholder forum in place to help ensure that all development actors/stakeholders have an inclusive space to talk about their own agendas, as well as to share some perspectives to overcome common development challenges.

According to the Cambodian Rehabilitation and Development Board of the Council for the Development of Cambodia (CRDB/CDC)'s Development Cooperation and Partnership Strategy, 2019-2023 (Jan 2019). Partnership focuses very much at the higher level (Govt and DPs) whereas Partnership Forum between Government and NGO focuses at the middle (MoI-NGOs) and sub-national (Provincial Administration-NGOs) levels. The CRDB/CDC adopted its Development Cooperation and Partnership Strategy, 2019-2023 that has goal "To mobilise and manage all development finance flows so that all resources are used for maximum effectiveness and impact in reaching Cambodia's development goals as set out in the RS - Phase IV, the NSDP and CSDGs, and strategies at sector, thematic and reform level."

**Strategic objective 1:** Ownership Resources are mobilised and managed under RGC leadership

**Strategic objective 2:** Partnership Coordinated and coherent support to deliver services and strengthen national systems

**Strategic objective 3:** Results Robust monitoring systems and principles of mutual accountability inform evidence-based partnerships

The written cooperation and partnership strategy is a solid foundation whereas the Government-NGOs has guidelines of how the Forum will be organised.

### **Guidelines for Supporting Partnership Dialogues**

Most recently the Government and partners have addressed the growing demand for the need to heighten the effectiveness of development co-operation between the Government development partner including CSOs and the private sectors. As some of these have deteriorated in recent years. Four Guidelines have so far been adopted (April 2019)<sup>117</sup>:

1. The objective of the **Sectoral Multi-Stakeholder Dialogue mechanism** is to support the implementation of the RS-IV, NSDP, CSDGs, sector strategies/plans and major governance reform programmes. It is intended to support RGC's efforts to strengthen ownership and

<sup>117</sup> <http://www.cdc-crdb.gov.kh/dcps/guidelines/default.htm>

leadership in implementing sector plans and reforms. To enable and ensure partnership in mobilising and coordinating resources, and to deliver effective development results as articulated in the RS-IV, NSDP, CSDGs, sector strategies/plans.

2. The purpose of the **Consultative Meetings between RGC and NGOs** shall be to ensure that NGO support is consistent and effective in line with national development priorities as articulated in the Rectangular Strategy-Phase IV, the National Strategic Development Plan (NSDP), the Cambodia Sustainable Development Goals (CSDGs) and sectoral/thematic/reform strategies.
3. Sector **Technical Working Groups (TWGs)** these have been progressively established by the Government (RGC) since 2004, to serve as coordinating bodies and partnership dialogue mechanisms that bring together the RGC, development partners, associations and (invited) NGOs to support the attainment of national development priorities set out in the Rectangular Strategies, NSDP and associated sector/thematic/reform programme/strategies. To date Twenty (20) TWGs are currently recognised across a range of sectors, thematic and major governance reform programmes. The objective of TWGs is to support RGC's efforts to facilitate technical dialogues, coordinate and mobilise external assistance to implement sector/reform strategies/plans that are associated with the RS-IV, NSDP and CSDGs. These mechanisms are not intended to be a substitute for or to duplicate the functions of ministries/agencies.
4. On March 14, 2019, MoI issued a notification No. 598, with the purpose of setting up Provincial and Municipal Administrations to organise the **Sub-national Partnership Dialogues**. The objective of these Sub-national Partnership Dialogue mechanisms is to support the implementation of the RS-IV, NSDP, CSDGs and the ongoing sub-national democratic development reform process via enabling support for the implementation of five-year development plans and three-year investment programmes of sub-national administrations.

Each guidelines sets out objectives, guiding principles, priority areas, institutional arrangements, for the participants and supporting mechanisms for implementation arrangements as well as monitoring and evaluation of the Partnership Dialogues.

These have the potential and could provide an opportunity for greater engagement and partnership across a range of sector. It will be up to development actors including CSOs to take advantage and use the guidance to enable inclusive partnerships across sectors.

#### *A Lack of Knowledge about Inclusive Partnerships*

Throughout the study both authorities and CSOs demonstrate limited knowledge of inclusive partnerships (IPs). When asked to mention examples of projects or programmes where collaboration is required, they were only able to provide limited responses. If a CSOs enters a formal working relationship where they are required to contribute towards a specific objective, i.e., the National Strategic Development Plan and/or the newly adopted Cambodian Sustainable Development Goals, there should be systems in place that measure the impact of the CSO's contribution that goes beyond an accounting/ financing approach; this does not however appear to be a requirement nor are there mechanisms in place (yet) to support this.

For authorities, at national and sub-national levels, the term "inclusive partnership" (IP) is not

associated with specific programmes and projects. The absence of responses or the recognition of IPs could indicate a weak relationship for the CSO and government as joint contributors to development. Through there are sector examples of long running and effective partnerships for example:

- In the education sector involving NGO Education Partnership (NEP)<sup>118</sup> and the national and provincial education working groups,
- The disaster Preparedness Partnership of Cambodia (PPC)<sup>119</sup> / and relief coordination mechanism(s) involving The National Committee for Disaster Management (NCDM) and other stakeholder mechanisms (Joint Action Group-JAG; Humanitarian Response Forum-HRF and the Cambodian Humanitarian Forum-CHF)
- Council for Agricultural and Rural Development (CARD) working group on WASH and nutrition.

Consequently CSOs should be able to benefit from positioning themselves more efficiently in the minds of government in terms of demonstrating how CSOs or more importantly cluster of CSOs can contribute to the development or sector value chains. Such improvements in communication would however require CSOs to adopt a more cooperative mindset, which some say is lacking.

#### *Government Engagement*

The collaboration and engagement between civil society and the Cambodian government is often not inclusive, stable or predictable<sup>120</sup>. It is noted that the collaboration is more productive in and for social sectors for service delivery while the collaboration in the other sensitive fields such as human rights, environment, natural resource management, and advocacy organisations rarely happens. Through membership based platforms for NGOs, i.e. CCC, NGO Forum, NEP, have made efforts in ensuring that the voices of their members as well as other civil society organisations are heard and addressed by the government through respective channels.

**At the national level**, development stakeholders have pointed out that the Development Cooperation and Partnership Strategy (DCPS 2014-2018) was endorsed by the government as one of the key mechanism to promote mutual partnership for development. It is expected that DCPS would work in conjunction with other existing mechanisms such as the Technical Working Groups (TWGs), Cambodia Development Forum (CDF), Government Development Cooperation Committee (GDCC), and others both at the national and sub-national levels. However, the effective functionality of these mechanisms remains questionable as few, infrequent meetings are organised.

As of now, membership organisations (CCC, NGO Forum, HACC, FACT, etc.) participate as a member of various TWGs. NGOs have to consolidate the inputs from its members and partners to feed in many national development plans/policies such as the Cambodian Sustainable Development Goals (CSDGs), the National Strategic Development Plan (NSDP), and others, yet the influence and consideration of these inputs often remains unknown.

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<sup>118</sup> <http://www.nepcambodia.org/>

<sup>119</sup> <https://app.adpc.net/index.php/news/cambodia-humanitarian-forum-convenes-2019-annual-review-workshop>

<sup>120</sup> CCC's Government Engagement, accessed on 12 July 2019, available at: <http://www.ccc-cambodia.org/en/what-we-do/multi-stakeholder-engagement-and-inclusive-partnership/government-engagement>

**At the sub-national level**, the national program of the government, the Sub-National Democratic Development (SNDD) has been implementing its second three year implementation plan (IP3-III) and the Implementation Plan for the Social Accountability Framework (ISAF). The national and provincial Partnership Steering Committees (PSC) of ISAF provides space for NGOs/CSOs to promote the voice and space of CSOs and citizens in the whole process.

Another potential partnering mechanism is and should be through the Subnational development planning process. This (in theory) provides opportunities to engage and coordinate with other stakeholder and harmonise input to have improved results, there are also explicit partnering opportunities through the annual District Integration Workshop (DIW) usually held in the last quarter of the years.

NGOs like the Transparency International (TI) participate in Inclusive Partnerships (IPs) at both national and sub-national level. They collaborate with government on development through Technical Working Groups (TWGs) and support specific programs such as the “School of Governance” project. The intention is for TI to ensure influence through building partnerships where government and CSOs work together towards a common goal. At the same time supporting organisations such as the CCC participates in promoting the implementation of such programs and advocates for having the multi-stakeholder forum in place to ensure that such inclusive development takes place.

With regard to horizontal partnerships (CSOs working together across sectors) some stakeholders consulted said that it was too early for CSOs to collaborate. “There is too much competition among CSOs/NGOs nowadays”. They mentioned their perception that CSOs are fragmented in nature often working individually/ independently to solve the same problem. Stakeholders also mentioned the often lack of sharing of information between CSOs in terms of who? Is doing what? Where? Which may result multiple organisations working in some areas while neighbouring areas have no active CSOs.

As mentioned the recently adopted partnership guidelines offer opportunities to stakeholders, national government can encourage all sub-national governments to regularly organised Government-Partnership Forum in each province and CSOs should prepare agreed upon platforms as the partnership forums provide space for all CSOs to raise issues and discuss with government’s institutions openly and freely?

#### *Government-CSO Partnership Forum*

An initiative of government to rebuild confidence in its ability to involve CSOs was to establish an official Government-CSO Partnership Forum mechanism. So far two Government-CSO partnership forums have been organised by the MoI in collaboration with CSOs-CCC.

- The first Partnership Forum was organised on 21 June 2018 to review the situation of cooperation between the government and CSOs and to identify the challenges of all CSOs and to find solutions. 400 participants from all government ministries and institutions, sub-national officials, development partners and 200 civil society organisations were present.
  - One of the results of the forum, was the establishment of a government working group (by government Decision #84 dated 02/11/2018) to coordinate and solve the civil society organisations' requests and concerns, this was to have members from, MoI, MoEF MoFAIC, CRDB/CDC. At the same time, the Ministry of Interior also

issued Directive 040 dated 31 October 2018 on the cooperation between the Royal Government and sub-national governments with local civil society and associations and community based organisations.

- The Second Forum organised on 17<sup>th</sup> January 2019 had 500 participants, including 200 from CSOs and the others from different government institution at different levels.
  - CCC as NGOs/CSOs representatives presented a 12 point agenda based on prior consultations. There was a positive response from the Deputy Prime Minister/Minister of Interior who open the Forum.
  - The results of the forum was seven recommendations that need to be addressed. Among them was the request
    - To Government to accelerate the implementation of the multilateral partnership approach (government, civil society and the private sector) by strengthening and enhancing the quality of multilateral technical working groups (TWG) and Project Steering Committee (PSC) on Social Accountability Framework at the national and sub-national levels.
    - To Government to review and amend LANGO, especially Article 8, 9, 24, and others. In addition, a number of phrases in the LANGO should be clarified in order to avoid mis-interpretations.

Linked to the Government-CSO Partnership Forum initiative, MoI has also issued a notification No. 598 14/3/2019, instructing Provincial and Municipal Administration to convene Sub-national consultation forums for 2019 to be participated in by Line Departments and other authorities concerned with the administration of municipal, district, and communes, as well as the participation of CSOs/NGOs and CBOs.

#### *Development Partner Engagement*

Membership organisations, like CCC<sup>121</sup> the NGO Forum and other, ensure an active engagement/partnership on behalf of its member CSOs/NGOs with a wide range of Development Partners (DPs)<sup>122</sup> and the various Technical Working Groups (TWGs), where they have built a good relationship with DPs to promote the inputs of CSOs into national policies, through the DP participation in development mechanisms. Representatives of CSO membership organisations often participate in most of the national development consultations and discussions organised by Development Partners and government.

These CSO membership organisations have also engaged DPs in advocating on the impacts of the LANGO, CSDGs. They have often facilitated and supported CSO stakeholder consultation and dialogue on Enabling Environment, Financing for Development, Inclusive Partnership for Development etc. These contributions have often been taken into account and reflected by some DPs in their country development strategies. For example, the EU has created a strategy called the EU Roadmap for Engagement with Civil Society in Cambodia (2014-2018) in which many interventions raised were aligned with the interventions proposed by CSO membership organisations.

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<sup>121</sup> CCC's Development Partner Engagement, accessed on 12 July 2019, available at: <http://www.ccc-cambodia.org/en/what-we-do/multi-stakeholder-engagement-and-inclusive-partnership/development-partner-engagement>

<sup>122</sup> like the United Nations, the European Union, USAID, the bilateral countries others

The role(s) played by international development partners (DPs) vary some are active/hands on, while other take a more off hand approach. Most have limited direct involvement and provided limited support for CSO. Regardless of the approach to funding DPs seem to be at ease with their current relations with the Cambodian government. Most DPs are committed to supporting longer term development.

*Private Sector Engagement*

Nearly all international development cooperation document now make reference to the great potential of private sector engagement, consulted Government and CSOs representative express working with private sector as difficult, but this is likely due to the lack of experience with such. CCC and other acknowledges that the private sector in Cambodia has the potential to make significant contributions to the economic prosperity and development the country. However there has been limited review/ evaluated engagement by CSOs and the private sectors. But there is growing evidence the private sector are starting to take up responsible roles providing funding to selected partnered CSOs.

Enhancing inclusive partnership SDGs

In March, 2019, a group of 11 CSOs and UN agencies organised the Civil Society Day under theme ‘Inclusive Partnership for Sustainable and Democratic Development’ which participated by approximately 300 participants who were representative CSOs/NGOs, UN agencies, Government, community-based organisations, private sector and other stakeholders. At the end of the Civil Society Day, a statement was produced.

**Comparison Between 2013 and 2018 Studies**

<i>Situation in the 2013 report</i>	<i>During the period of studying and writing report (2018-2019)</i>
This dimension was not covered under the previous report	Globally it has been recognised that we cannot go it alone, inclusive and other types of multistakeholder partnerships are needed to generate the resources needed to begin to address globally identified issues through the Sustainable Development Goals framework.  Partnerships also have the potential to generate synergies between and across different stakeholders and geographical area.

## Challenges and Suggestions

Challenges	Suggestions
<ul style="list-style-type: none"> <li>➤ While a number of partnering and collaborative mechanism exist, mostly at national levels.               <ul style="list-style-type: none"> <li>○ Many are involved with aid coordination (such as TWG), but representation of CSO on them is often limited.</li> <li>○ Most Government officials, CSOs, and the public have little or no knowledge of what they do and how they work or what the outputs from them are.</li> </ul> </li> <li>➤ At subnational levels               <ul style="list-style-type: none"> <li>○ Most influential partnering and coordination mechanism are too centralised in Phnom Penh</li> </ul> </li> <li>➤ Representation partnering/ coordinating mechanism               <ul style="list-style-type: none"> <li>○ CSOs are fragmented and don't have an effective engagement and coordinating mechanism that jointly represent CSOs</li> <li>○ Government have established it own CSO representative networks and there concerns about its future roles                   <ul style="list-style-type: none"> <li>(i) CSO are concern that government will nominate their network to possible seats on partner mechanism</li> </ul> </li> </ul> </li> <li>➤ There is a needs for a specific planning partnering and coordination mechanism to deliver on the CSDGs               <ul style="list-style-type: none"> <li>○ To better coordinate and quantifiably measure the progress and impacts of inputs.</li> </ul> </li> <li>➤ The lack of a multistakeholder development forum (involving government, development p</li> <li>➤ A lack of understanding and commitment to coordination and partnership</li> </ul>	<ul style="list-style-type: none"> <li>➤ There is now a need to improve the transparency and accountability of existing and future partnering and coordination mechanisms to better inform the public               <ul style="list-style-type: none"> <li>○ To gather and publish information on what is planned and discussed and of the results of meeting held and of the impacts of agreed mechanism.</li> </ul> </li> <li>➤ Government and CSO need to ensure the view and voice of subnational population are heard to be better considered.</li> <li>➤ Partner and coordinating mechanism need to increased representation of development stakeholder including CSO/representative groups               <ul style="list-style-type: none"> <li>○ CSOs need to coalesce under umbrella networks to represent them</li> <li>○ They need to discuss and agree upon common stances/platforms</li> <li>○ There is a need to avoid and counter government interference on CSO representation on partnering and coordination mechanism</li> </ul> </li> <li>➤ Government, development partners and other should consider establishing/ holding a unified multi-stakeholder development coordination forum involving all stakeholder, to better coordinate and enable partnerships for development</li> <li>➤ There is a need build capacities and understanding of and on inclusive partnership approaches to all stakeholders, to begin to fast track and encourage convergence to enable partnership.</li> </ul>

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

This research was commissioned in 2018, to explore the changing enabling environment since two previous studies a national study in 2013 and a subnational one 2015. In the intervening Cambodia has gone through some very unsettling changes in terms of its perceived respect of fundamental human rights and the respect of law, which have impact on the enabling environment for civil society organisations and society in general. The enabling environment was assessed using a diagnostic multidimensional framework adapted from the CIVICUS to examine enabling environment influencing factors. This adapted framework looked at seven dimension (a) formation and operations; (b) freedom of expression; (c) peaceful assembly, and association; (d) Taxation; (e) Access to Resources; (f) Access to Information; (g) relations between authorities and CSOs; to which was also added (h) Inclusive partnership.

The ongoing government reform process picked up pace with the approval of often long overdue legislation including the Law on Associations and Non-Governmental Organisations (LANGO) in 2015, without further consultations which had been asked for by CSOs and others stakeholder. LANGO institutionalised domestic and foreign NGO and association registration requirements and process as well as installing mandatory annual reporting requirements.

Numerous international and national observers and stakeholders have highlighted the deteriorating rights situation in Cambodia, with the decline accelerating in the period under review from 2015-2019. Some predated this decline to 2013, when the then newly established opposition party the Cambodia National Rescue Party (CNRP), quickly captured 44% of seats in the national assembly. This shocked the governing party who began retaliated by initially harassing the opposition party leadership and later groups and individuals identified as critics of the government, including CSOs. In 2017 following subnational local council elections, the opposition secure a tenfold increase in the number of Communes chief positions. As a result of this increase and the perceived threat to the power that be the leader of the opposition was arrested, and the government securing a verdict from the Supreme Court which dissolves the CNRP opposition in 2017. Just prior to this neutralising the opposition, the governing party targeted, intimidated and shuttered critical group media outlets and CSOs, and this harassment was partly based around a strict imposition of the tax regime and claims for back tax to 1997.

These new registration processes and reporting requirements significantly influenced the first dimension of the adapted enabling environment framework on “**formation and operations of CSO**”. It was reported that CSOs attempting to register are often required to revise their documentation and statutes to contain text required by MoI official, Additionally the duration of the registration process is far longer than that mentioned in the LANGO. Some CSOs reported being asked for unofficial payments to facilitate and fast track registration. Since its introduction MoI has targeted some CSO about compliance with their reporting requirements, non-compliance can result in suspension or closure and these compliance requests increased dramatically in 2017. The majority CSOs and NGOs consulted felt that the formation and operational requirements made life more difficult for CSOs.

Parallel with formation and operational issues, “**freedom of expression**” has increasingly being stifled since 2015. 58% of CSOs consulted perceived the constitutional protected right to

freedom of speech had been stifled, and that CSO personnel were (far) more caution in what they said since 2015 because of intimidation.

Other fundamental and constitutional protected right have also shrunk. The third dimension explored related to **“Peaceful Assembly/Freedom of Association”**. While insights into this varied considerable across CSO respondents, depending on such factors as location and sector of activities. As less contentious sectors (education and health etc.) suffered less. During the review period government applied institutional requirements (in October 2017) which hindered freedom of association. Though these requirements were withdrawn in October 2018. CSO’s also highlighted the continued lack of **“access to information”**, as CSOs and the public are still challenged obtain basic information. It became evident during the review period that the **“taxation”** was **“weaponised”** and applied as a tool for intimidating and controlling CSO and the media.

Feedback on **“government authorities and CSOs relationships”** also varied as reported experiences were diverse. The majority of CSOs reported a decrease in the nature of their relations with authorities and this decrease was greater at national levels than subnational levels. But all CSOs’ reported having some form of relation with government authorities. As many CSOs were aware that issues with their relationships were imposed from above, and may have not reflected the realities of the relationships.

The majority of CSOs reported have limited resources to delivery and or expand on the mandates, and **accessing additional resources** was more difficult than before. This was due to a combination of increasingly complex application procedures, greater competition, a lack of capacity to secure funds, and more limited/ eligible funding available

## Recommendations

These recommendations have been consolidated from the suggestions made for the different dimensions of the enabling environment and inclusive partnership analytical framework.

Dimension Recommendation	Driven by
<b>1. Formation and Operations</b>	
1.1. Move the NGO registration process online to enable and delegate and allow the “one window service office” to issues registration documents as part of the government commitments to decentralisation.	Government, DP
1.2. Benchmark the processing in terms of timing of the process steps.	Government, CSOs
1.3. Develop a CSO registration documentation guideline, which can clarify issues and contain examples and templates and the justification for desired or requested wording/ phrasing	Government and DP
1.4. Improve mutual understanding by CSOs and local authorities of legal instruments and their application, develop document guides of ambiguous provisions to better engaged local authorities	Government and CSOs

1.5. Engaged in consultations with ministries and decision makers to seek improvements and clarification in the legal system and	CSOs
<b>2. Freedom of Expression</b>	
2.1. Form a CSO platform to better engage government on freedom of expression issues.	CSOs
2.2. Initiate campaign(s) for legal framework revisions	CSOs and DPs
2.3. Increase awareness and advocacy campaigns on the right to freedom of express and other rights	Government, CSOs and DPs
2.4. Improve documentation and record keeping of cases of rights abuses and rights suppression	CSOs and DPs
2.5. Monitor and align activities with the adopted CSDG framework (December 2018) with particularly regards to CSDGs	
2.6. Goal 10: Reduce inequality within and among countries 2.6.1. The two adopted targets for CSDG 16 “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”	Government, CSOs and DPs
<b>3. Peaceful Assembly/Freedom of Association</b>	
3.1. Improve the dissemination and adherence to the legal framework by all officials at national and subnational levels including by local law enforcement officers.	Government, CSOs
3.2. Expand capacity building activities to increase understanding of the laws and rights by officials, CSO and the public	CSOs and DPs
3.3. Request the government to establish an accountability and redress system to track misunderstanding and abuses of rights and the legal framework.	Government, CSOs
3.4. Improve independent monitoring of rights abuse	CSOs
<b>4. Taxation</b>	
4.1. Continue to roll-out learning and capacity development activities to improve understanding of the need to comply with the evolving tax code for CSOs,	Government,
4.2. Develop and maintain a tax guide and cloud based resources library on CSO compliance with evolving tax laws and regulations.	CSOs and DPs
4.3. Advocate for the impartial application of the tax law to all sections of society.	CSOs
4.4. Monitor the application and experiences of CSOs with the Tax office to ensure they are fairly treated.	Government, CSOs

<p>4.5. Advocate for a tax amnesty, and maximum retrospective application of tax law requirements for all sectors.</p> <p>4.6. Improve public understanding of the application of tax revenues through transparent and “open budget initiatives.</p>	and DPs
<p><b>5. Access to Resources (include the private sector)</b></p>	
<p>5.1. CSO representative groups need to advocate for improved distribution of funds through CSOs in agreed priority areas, aligned with national development objectives and priorities.</p> <p>5.2. Assess the potential cost and benefits of establishing and supporting a multi-donor/ basket CSO trust fund.</p> <p>5.2.1. Including remit, scope of funds, nature of operations, priority areas etc.. To see if it will provided value for investment against other possible funding options.</p> <p>5.3. Increase CSO capacities to access resources ensuring timely and proactive alignment with changing development/ donor priorities and approaches.</p> <p>5.4. Improve donor, government and private sector engagement to leverage national development objectives, LDC graduation CSDG/SDG commitments.</p> <p>5.4.1. Explore the potential for CSO funding to contribute to these from these sources.</p>	<p>CSOs/ DPs</p> <p>DPs</p> <p>CSOs</p> <p>CSOs/ DP and Government</p>
<p><b>6. Access to Information</b></p>	
<p>6.1. Government needs to develop an access to information framework to contribute to the government’s commitments to open government.</p> <p>6.1.1. To take account of the increasing digital and “smart” society we live in.</p> <p>6.2. Provide geo-referenced data including in electronic formats, in a timely manner to support local development processes.</p> <p>6.2.1. Publish institutional performance data to increase public accountability.</p> <p>6.3. Build institutional capacities and adopt benchmarks to get information into the hands of the public in a prompt manner.</p> <p>6.4. Push forward with finalising and adopting the A2I law and the cybercrime law.</p>	<p>Government, DPs</p> <p>Government, Government,</p> <p>Government, CSOs Government,</p>

<b>7. Government Authorities and CSOs Relationships</b>	
<p>7.1. Create an open-source cloud based mapping and documentation system (GIS)</p> <p>7.2. Hold periodic learning and sharing events (two or four times per year) at subnational levels, bringing together government and CSO representatives</p> <p>7.3. Improve local coordination mechanism to build trust and understanding.</p> <p>7.4. Joint capacity development initiative to build capacities.</p>	<p>Government, CSOs and DPs</p> <p>Government, CSOs</p> <p>Government, CSOs</p> <p>Government, CSOs</p>
<b>8. Inclusive Partnership (private, govt., CSO)</b>	
<p>8.1. There is now a need to improve the transparency and accountability of existing and future partnering and coordination mechanisms to better inform the public</p> <p>8.1.1.To gather and publish information on what is planned and discussed and of the results of meeting held and of the impacts of agreed mechanism.</p> <p>8.2. Government and CSO need to ensure the views and voice of subnational population are heard to be better considered.</p> <p>8.3. Partner and coordinating mechanism need to increased representation of development stakeholder including CSO/representative groups</p> <p>8.3.1.CSOs need to coalesce under umbrella networks to represent them</p> <p>8.3.2.They need to discuss and agree upon common stances/platforms</p> <p>8.3.3.There is a need to avoid and counter government interference on CSO representation on partnering and coordination mechanism</p> <p>8.4. Government, development partners and other should consider establishing/ holding a unified multi-stakeholder development coordination forum involving all stakeholder, to better coordinate and enable partnerships for development</p> <p>8.5. There is a need build capacities and understanding of and on inclusive partnership approaches to all stakeholders, to begin to fast track and encourage convergence to able partnership.</p>	<p>Government, CSOs and DPs</p> <p>Government, CSOs</p> <p>Government, CSOs</p> <p>CSOs</p> <p>CSOs</p> <p>Government, CSOs</p> <p>Government, CSOs and DPs</p> <p>Government, CSOs</p>

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## ANNEXES

### Annex 1: Supplemental Information for the Dimensional Analysis Framework

#### 1. Formation & Operation

List of documentation to be submitted to establish a domestic Association and NGO

LANGO Article 6 Requirements	2018 MoI Prakas #2193 / Order on Registering Associations and NGOs
1- Application form for registration, 02 (two) copies; 2- A letter stating the address of the central office of the domestic association or non-governmental organisation issued by the Commune or Sangkat chief, 01 (one) copy; 3- 02 (two) copies of profiles of each founding members with a recent 4x6 sized photographs;; 4- Statutes signed by the president of the domestic association or non-governmental organisation, 02 (two) copies.	a) Application registration (2 copies) b) Relevant documents (1 copy) c) Address of the Association or NGO with certified/endorsed by chief of Commune or Sankgat (1 copy) d) CV of founder together with photo (2 copies) e) Bylaw of the Association or NGO (2 copies)
Required contents of the Association/ NGO statutes (LANGO article 7) <ul style="list-style-type: none"> <li>(i) Purpose and goal;</li> <li>(ii) Name written in full and abbreviation that does copy the full name or abbreviation of any registered association or non-governmental organisation;</li> <li>(iii) Logo that does not copy that of any national or state institution, any registered association or non-governmental organisation, or the Red Cross or Red Crescent or international institutions;</li> <li>(iv) Rules for selecting, terminating, dismissing, transferring and removing the position of the president or executive director;</li> <li>(v) Rules for changing the organisation's name and logo, and for amending its statutes;</li> <li>(vi) Sources of resources and properties;</li> <li>(vii) Rules for managing resources and properties;</li> <li>(viii) Rules for dissolving and disposing resources and properties upon dissolution of the organisation</li> </ul>	

Documentation required for Foreign Association and NGO

- a) A letter of the president of the foreign association or non-governmental organisation which permanent office is in a foreign country, requesting to appoint its representative with 01 (one) attached copy of a brief biography of the person requested to be appointed, and 01 (one) copy of the request to open a representative office;
- b) A letter stating the address of the representative office in the Kingdom of Cambodia issued by the Commune or Sangkat Chief, 01 (one) copy;

- c) An letter issued by a competent authority of the country of origin, authorising the foreign association or non-governmental organisation to operate, 1 (one) copy;
- d) A supporting letter of the projects of the foreign association or non-governmental organisation issued by the public authorities of the Kingdom of Cambodia, 01 (one) copy;
- e) A letter certifying the budget for implementing the projects of the foreign association or non-governmental organisation for at least 06 (six) months, issued by its permanent office in the foreign country, 01 (one) copy;
- f) A pledging letter to provide all accounts of the foreign association or nongovernmental organisation in the banks in the Kingdom of Cambodia, 01 (one) copy.

## 2. Access to Resources

## Reported Aid Flows to Cambodia (OECD 2019)

CAMBODIA						DISBURSEMENTS, UNLESS OTHERWISE STATED IN MILLIONS OF USD					
	2013	2014	2015	2016	2017	2013	2014	2015	2016	2017	
<b>1. TOTAL RECEIPTS NET (ODA + OOF + Private)</b>						<b>2. TOTAL ODA NET</b>					
<b>DAC COUNTRIES</b>											
Australia	73.6	79.9	50.3	59.8	59.7	72.0	79.1	49.2	57.8	58.4	
Austria	0.0	0.1	13.4	-3.4	4.3	0.0	0.1	0.1	0.1	0.1	
Belgium	21.1	5.1	22.0	-6.3	-7.8	4.0	4.9	3.9	3.7	3.8	
Canada	10.3	3.7	4.1	5.0	2.4	10.1	3.7	4.1	5.0	2.4	
Czech Republic	1.2	1.1	1.3	1.6	1.5	1.2	1.1	1.3	1.6	1.5	
Denmark	1.4	0.4	1.8	0.1	1.3	1.4	0.4	0.3	0.1	1.3	
Finland	4.6	7.3	7.7	1.0	14.1	4.6	2.3	2.7	1.0	1.6	
France	42.0	91.7	182.1	135.9	217.7	21.7	61.8	65.8	28.7	92.1	
Germany	147.5	71.8	94.5	51.9	-4.1	38.0	47.4	28.9	41.8	30.5	
Greece	0.0	0.0	-0.1	-	-	0.0	0.0	0.0	-	-	
Hungary	-	0.0	0.1	0.2	0.1	-	0.0	0.1	0.2	0.1	
Iceland	-	-	-	-	-	-	-	-	-	-	
Ireland	0.7	0.7	0.6	0.6	0.7	0.7	0.7	0.6	0.6	0.7	
Italy	1.2	0.3	0.4	0.9	0.5	1.2	0.3	0.4	0.8	0.6	
Japan	281.4	407.8	317.6	273.3	381.5	141.5	124.3	101.8	136.0	183.3	
Korea	118.7	108.0	33.5	255.1	156.6	60.5	68.6	65.9	53.2	64.2	
Luxembourg	0.3	0.5	0.5	0.5	0.1	0.3	0.5	0.5	0.5	0.1	
Netherlands	12.0	5.3	2.8	-52.0	1.1	0.0	-	-	-	-	
New Zealand	3.4	5.9	5.8	4.8	4.8	3.4	5.9	5.8	4.8	4.8	
Norway	25.7	14.1	10.0	-22.0	3.3	25.7	7.9	6.8	6.6	6.1	
Poland	0.0	0.0	1.0	0.6	0.0	0.0	0.0	1.0	1.0	0.0	
Portugal	-	-	-	-	-	-	-	-	-	-	
Slovak Republic	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Slovenia	-	-	-	-	-	-	-	-	-	-	
Spain	5.3	0.3	-0.1	-3.9	-4.7	5.3	0.3	0.0	-3.9	-4.7	
Sweden	39.3	39.6	29.3	35.1	34.3	40.3	39.3	24.4	30.7	34.1	
Switzerland	13.7	13.4	25.1	17.5	18.8	17.1	13.4	14.7	17.2	18.8	
United Kingdom	21.3	7.6	4.3	2.8	5.1	17.1	3.2	4.3	2.8	5.1	
United States	91.6	96.0	98.1	137.1	211.5	75.6	80.0	86.1	87.1	91.1	
<b>TOTAL DAC COUNTRIES</b>	<b>916.1</b>	<b>960.5</b>	<b>905.9</b>	<b>896.2</b>	<b>1102.7</b>	<b>534.3</b>	<b>545.0</b>	<b>468.2</b>	<b>477.0</b>	<b>595.8</b>	
<b>MULTILATERAL</b>											
EU Institutions	30.6	55.6	45.2	63.3	51.9	30.6	55.1	45.2	62.7	51.4	
IBRD	-	-	-	-	-	-	-	-	-	-	
IDA	23.0	28.5	-9.1	-7.2	0.7	23.0	28.5	-9.1	-7.2	0.7	
IFC	8.0	-	-	-	-	-	-	-	-	-	
IMF	-	-	-	-	-	-	-	-	-	-	
Regional Development Banks	136.6	142.5	82.4	98.0	80.6	136.6	67.5	82.4	119.5	98.8	
UN Agencies	29.9	34.1	36.7	26.9	23.3	29.9	34.1	36.7	26.9	23.3	
Global Fund	39.5	47.2	24.1	23.2	32.6	39.5	47.2	24.1	23.2	32.6	
Other Multilateral	21.1	24.7	54.9	14.7	37.2	12.0	20.8	27.8	21.9	29.7	
<b>TOTAL MULTILATERAL</b>	<b>288.5</b>	<b>332.6</b>	<b>234.1</b>	<b>219.0</b>	<b>226.3</b>	<b>271.5</b>	<b>253.2</b>	<b>207.0</b>	<b>247.0</b>	<b>236.5</b>	
<b>OTHER PROVIDING COUNTRIES</b>	<b>4.5</b>	<b>4.5</b>	<b>3.8</b>	<b>4.4</b>	<b>10.6</b>	<b>2.5</b>	<b>4.5</b>	<b>3.5</b>	<b>4.4</b>	<b>10.6</b>	
<b>GRAND TOTAL</b>	<b>1207.1</b>	<b>1297.6</b>	<b>1143.8</b>	<b>1119.6</b>	<b>1339.6</b>	<b>808.2</b>	<b>802.7</b>	<b>679.0</b>	<b>728.4</b>	<b>842.9</b>	
Memo: EU Inst. + DAC EU Members	328.4	287.4	406.7	228.8	316.2	166.4	217.3	179.3	172.2	218.4	
<b>3. ODA LOANS GROSS</b>						<b>4. ODA GRANTS</b>					
<b>DAC COUNTRIES</b>											
Australia	-	-	-	-	-	72.0	79.1	49.2	57.8	58.4	
Austria	-	-	-	-	-	0.0	0.1	0.1	0.1	0.1	
Belgium	-	-	-	-	-	4.0	4.9	3.9	3.7	3.8	
Canada	-	-	-	-	-	10.1	3.7	4.1	5.0	2.4	
Czech Republic	-	-	-	-	-	1.2	1.1	1.3	1.6	1.5	
Denmark	-	-	-	-	1.5	1.4	0.4	0.3	0.1	-	
Finland	-	-	-	-	-	4.6	2.3	2.7	1.0	1.6	
France	4.5	46.5	52.6	19.9	80.6	20.4	19.9	17.0	15.7	17.4	
Germany	-	20.4	-	-	-	40.9	36.9	36.6	42.0	42.3	
Greece	-	-	-	-	-	0.0	0.0	0.0	-	-	
Hungary	-	-	-	-	-	-	0.0	0.1	0.2	0.1	
Iceland	-	-	-	-	-	-	-	-	-	-	
Ireland	-	-	-	-	-	0.7	0.7	0.6	0.6	0.7	
Italy	-	-	-	-	-	1.2	0.3	0.4	0.8	0.6	
Japan	22.9	23.2	27.5	31.6	64.2	120.5	103.8	78.6	109.3	124.7	
Korea	31.2	36.6	32.0	20.4	39.6	32.6	35.9	37.5	36.9	31.6	
Luxembourg	-	-	-	-	-	0.3	0.5	0.5	0.5	0.1	
Netherlands	-	-	-	-	-	0.0	-	-	-	-	
New Zealand	-	-	-	-	-	3.4	5.9	5.8	4.8	4.8	
Norway	21.3	-	-	-	-	7.5	7.9	6.8	6.6	6.1	
Poland	-	-	-	-	-	0.0	0.0	1.0	1.0	0.0	
Portugal	-	-	-	-	-	-	0.0	-	-	-	
Slovak Republic	-	-	-	-	-	0.0	0.0	0.0	0.0	0.0	
Slovenia	-	-	-	-	-	-	-	-	-	-	
Spain	3.3	-	-	-	-	2.0	0.3	0.0	0.2	0.2	
Sweden	-	-	-	-	-	40.5	39.3	24.9	30.9	34.7	
Switzerland	-	-	-	-	-	9.7	13.4	14.8	17.7	19.3	
United Kingdom	-	-	-	-	-	17.1	3.2	4.3	2.8	5.2	
United States	-	-	-	-	-	75.7	80.0	86.6	87.4	91.4	
<b>TOTAL DAC COUNTRIES</b>	<b>83.2</b>	<b>126.7</b>	<b>112.1</b>	<b>71.9</b>	<b>185.8</b>	<b>466.0</b>	<b>439.6</b>	<b>376.7</b>	<b>426.6</b>	<b>446.9</b>	
<b>TOTAL MULTILATERAL</b>	<b>143.5</b>	<b>116.3</b>	<b>113.6</b>	<b>164.7</b>	<b>172.0</b>	<b>177.9</b>	<b>190.2</b>	<b>152.3</b>	<b>139.7</b>	<b>123.9</b>	
<b>OTHER PROVIDING COUNTRIES</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>2.5</b>	<b>4.5</b>	<b>3.8</b>	<b>4.4</b>	<b>10.6</b>	
<b>GRAND TOTAL</b>	<b>226.7</b>	<b>242.9</b>	<b>225.7</b>	<b>236.6</b>	<b>357.9</b>	<b>646.3</b>	<b>634.3</b>	<b>532.8</b>	<b>570.7</b>	<b>581.4</b>	
Memo: EU Inst. + DAC EU Members	7.8	66.9	52.6	19.9	82.1	164.9	165.0	138.7	163.8	159.7	
<b>5. BILATERAL ODA COMMITMENTS: BY PURPOSE</b>							2013	2014	2015	2016	2017
Social Infrastructure & Services	431.7	296.4	285.9	363.8	293.5						
Education	77.7	55.5	68.6	59.9	64.7						
Health & Population	122.2	110.0	94.0	85.3	96.5						
Water Supply & Sanitation	127.2	21.4	40.6	103.4	56.6						
Economic Infrastructure & Services	174.2	314.3	319.1	249.1	594.1						
Energy	14.5	65.4	114.8	13.3	3.6						
Transport & Communications	131.0	200.0	191.5	227.9	381.9						
Production Sectors	73.4	120.9	27.3	45.3	48.0						
Agriculture, Forestry, Fishing	68.7	113.8	23.7	41.5	44.0						
Industry, Mining, Construction	3.1	1.8	2.3	2.2	2.3						
Trade & Tourism	1.6	5.2	1.3	1.5	1.7						
Multisector	38.1	82.0	72.8	117.6	97.6						
Programme Assistance	3.1	5.8	0.2	9.6	0.4						
Food Aid	-	-	-	-	-						
Action Relating to Debt	0.0	-	-	1.0	-						
Humanitarian Aid	0.4	8.6	1.1	2.8	3.6						
Other & Unallocated/Unspecified	3.3	3.3	4.7	7.7	13.7						
<b>TOTAL</b>	<b>724.3</b>	<b>831.3</b>	<b>711.0</b>	<b>796.9</b>	<b>851.0</b>						
<b>6. REFERENCE SECTION: INDICATORS</b>											
Population (thousands)	15023	15271	15518	15762	16005						
GNI (current \$ million)	14575	15826	16945	18788	20800						
GNI per capita (Atlas \$)	970	1020	1060	1140	1230						
Energy Use (Kg oil equiv, per capita)	397	417	-	-	-						
Average Life Expectancy	68	68	69	69	-						
Adult Literacy Rate (%)	-	-	-	-	-						
<b>REFERENCE SECTION (Continued)</b>											
<b>DAC COUNTRIES COMBINED</b>											
<b>OFFICIAL &amp; PRIVATE</b>											
<b>GROSS:</b>											
Contractual Lending						196.3	172.1	219.3	186.8	369.7	
Export Credits, Total						7.0	2.7	16.8	17.9	14.0	
<b>NET:</b>											
Contractual Lending						139.6	121.6	149.0	65.2	243.6	
Export Credits, Total						2.8	2.7	15.6	7.6	-5.9	
<b>PRIVATE SECTOR NET</b>						309.6	398.6	360.2	403.5	412.6	
Direct Investment						234.8	355.0	250.3	391.2	357.2	
Portfolio Investment											

### 3. *Freedom of Expression*

#### **Relevant domestic legal provision (since 2013).**

The study reviewed the extent to which Cambodia's legal framework meets international human rights standards and practices with regard to the right to freedom of expression. While numerous concerns expressed in the 2013 EENA remain valid, this section will mainly look at more recent legislation, however it will begin by looking back at the 2009 Penal law as this remains the primary piece of legislation that can be used and abused to restrict Freedom of Expression

#### **Penal Code 2009:**

The Criminal Code of the Kingdom of Cambodia (Penal Code) contains a disproportionate number of restrictions for the freedom of expression by actually criminalising legitimate expression. Articles 305 and 307 contain the offenses of defamation and insult, respectively. Under both articles, the commission of an offense merely requires that the defamation or insult be "circulated in public or exposed to the sight of the public." Therefore, individuals may be prosecuted for private conversations that may end up being later made public without the individual's consent.

The criminalisation of defamation is not consistent with international best practices. While defamation laws can be a permissible restriction on freedom of expression to protect the reputation of others. The UN Human Rights Committee has made clear that such laws must not in practice stifle freedom of expression. In General Comment 34 the Human Rights Committee further called on ICCPR States Parties to "consider the decriminalisation of defamation".

The crime of incitement, is another provision of the Penal Code that fails to meet international standards. Articles 495, "Incitement to Commit a Crime," and 496, "Incitement to Commit Discrimination", do not require a crime to take place, as a result of the incitement in question, and constitute unjustified restrictions of freedom of expression. The vague nature and overly broad scope of these offenses also fail to meet international standards.

The **Law on the Election of Members of the National Assembly** (LEMNA) was adopted in March 2015, this significantly restricts the freedom of expression, especially during the official campaign period. Articles 84 and 137 of the LEMNA require all domestic and international NGOs and associations to exercise "neutrality and impartiality" relating to the conduct of electoral affairs. This vaguely worded provision may significantly curtail the role of civil society as a public watchdog. Article 152 of the LEMNA further states that "any person who, by all means, publicly insults a political party" shall be fined.

Article 24 of the **LANGO** requires all domestic NGOs, foreign NGOs, and foreign associations to "maintain their neutrality towards political parties in the Kingdom of Cambodia." The term "neutrality" is not defined, and it is unclear what types of activity could be deemed to contravene this article, leaving it open to misapplication or arbitrary enforcement.

Article 34 of the **Education Law** also requires "political neutrality" from educational establishments, while Article 42, requires "advertising and propagandising of educational information" to authorised by the Ministry of Education Youth and Sport. These are significant restrictions to the freedom of expression, as it is have often been used one-sidedly where government representatives have politicised education events.

The **Telecommunications Law** promulgated in early 2016, this places significant limitations on the freedom of expression. It provides the government with sweeping powers to monitor electronic communications and creates a series of criminal offenses related to the use of telecommunications devices. Violations of which are subject to imprisonment and significant fines. Article 80 criminalises any form of expression expressed by electronic means that creates “national insecurity” which is undefined. Such a vaguely drafted provision cannot be considered proportionate, narrowly defined or transparent, and thus violates international standards for freedom of expression. Article 107 makes leaders of organisations vicariously liable for the professional acts of individual staff members. This provision further violates international standards for freedom of association.

For **Trade Union Law (TUL)** –enacted in May 2016, the Cambodian Center for Human Rights (“CCHR”) believes the law contains a number of disproportionate restrictions on the rights of unions to conduct their activities freely, and not consistent with Cambodia’s domestic or international human rights obligations<sup>123</sup>. ILO had noted that the Law had “insufficient protection of the right of all workers and employers to freely set up organisations of their own choosing, and of the right of these organisations to decide on their internal matters without interference”<sup>124</sup>. The TUL also unjustifiably restricts the right to strike, as Article 13 of the Law requires that union statutes must require a decision to take strike action to be made by an absolute majority (50% +1) vote by union members<sup>125</sup>. Article 65 further restricts the right to strike by making it unlawful for unions “to agitate for purely political purposes or for their personal ambitions;” and “to block an entrance and exit gate of the enterprise or establishment or to incite or threaten or to violently disturb or coerce non- striking workers by all means not to work and to close off public roads.” The broad scope and vague wording of these articles makes them open to abuse by authorities seeking to characterise a legitimate strike action as unlawful. CCHR also believe that the (i) TUL contains burdensome mandatory registration requirements, which unjustifiably restrict the ability of unions to carry out their activities. (ii) as well as “burdensome reporting requirements in order to maintain its registration and so continue to function lawfully”. Article 71 prohibits “Interference, incitement and interruptions by any other person(s)” which may limit smaller and minority unions and their members ability to express their views.

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<sup>123</sup> [https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=factsheet\\_detail.php&fsid=71&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=factsheet_detail.php&fsid=71&id=5)

<sup>124</sup> ILO’s statement on Trade Unions law in Cambodia (04/04/2016) [https://www.ilo.org/asia/media-centre/news/WCMS\\_466553/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_466553/lang--en/index.htm)

<sup>125</sup> Ibid