

## Japanese NGOs Joint Statement

June 25<sup>th</sup>, 2015

### **Joint Statement: Demanding a thorough revision of “the Draft Law on Associations and Non-Governmental Organizations (LANGO)” in Cambodia**

The Cambodian National Assembly is currently discussing the Draft Law on Associations and Non-Governmental Organizations (hereinafter “LANGO”), which is likely to be approved by the end of June, at earliest. If approved, LANGO would create a mandatory registration system requiring registration of all domestic and international citizens groups, nongovernmental organizations (hereinafter “NGOs”), and associations. Any activities by unregistered organizations will be illegal and subject to administrative penalties. Moreover, the Ministry of the Interior (hereinafter “MOI”) will have discretion over the mandatory registration system for domestic organizations. It is possible that the MOI may dismiss registrations for politically-motivated reasons. Also, registration of foreign civil groups will be strictly regulated by the Ministry of Foreign Affairs and International Cooperation. It is of great concern that the proposed system could have severe impacts on the freedom of association of grassroots citizens groups.

We express concern that LANGO violates the obligations of the Cambodian government to ensure freedom of association, expression, and assembly pursuant to the Cambodian constitution and the International Covenant for Civil and Political Rights (hereinafter “ICCPR”), to which the Kingdom of Cambodia is a party. We requests that the Cambodian government engage in sufficient dialogue with the international community regarding LANGO and revise LANGO in accordance with international human rights standards.

We obtained a copy of LANGO in mid-June. What follows are our concerns about LANGO:

#### 1) Excessive sanctions

Article 9, which bans any kind of activity by unregistered domestic associations and NGOs, restricts the freedom of association guaranteed by Article 22 of the ICCPR. The broad and sweeping definition of associations and NGOs in Article 4 requires the mandatory registration of assembly, grassroots groups and community based organizations. Moreover, LANGO imposes excessive sanctions on activities of unregistered organizations, which could restrict activities of associations and NGOs. Specifically, Article 32 provides that activity by an unregistered domestic association or NGO will be subject to a fine of up to 10 million riel. Further, Article 33 provides for the termination of the validity of foreign associations and NGOs’ memorandum of understanding (hereinafter “MOU”) with the Cambodian government, which is required for their operation, if the organizations violate the financial reporting requirements under Article 17 and

paragraph 3 of Article 25, and the political neutrality conditions under Article 24. Article 34 contains urgent termination measures against foreign NGOs and associations that have not been registered or have had their MOU terminated. It provides sanctions such as deportation or criminal penalties on foreign individuals working for such organizations.

2) Granting the Cambodian government excessive power of surveillance and free discretion on the restriction of association and activities of NGOs

Article 8 grants MOI the power to approve the registration, and further stipulates that MOI may reject the request for registration of any association or NGO if such organization “could adversely affect public security, stability and order, or generate a threat to national security, national unity, or the culture, traditions and customs of Cambodian national society.” This language is not clear and leaves room for subjective discretion, thus posing a risk of arbitrary denial of registration. Moreover, Article 24 requires domestic and foreign NGOs and associations to “adhere to a stance of neutrality vis-à-vis political parties.” However, the definition of political neutrality is vague, and Article 24 allows the government to terminate the activities of an organization that has made critical or disadvantageous reports about the government by cancelling of their registration. Similarly, Article 30 provides that the MOI may delete domestic NGOs and associations from the registry if those organizations fail to maintain political neutrality or violate the financial reporting obligations. Domestic NGOs and associations may also be deleted for activities that “could adversely affect public security, stability and order, or generate a threat to national security, national unity, or the culture, traditions and customs of Cambodian national society.”

Moreover, Article 5 prohibits persons who have “performed a leading role in a domestic association or non-governmental organization that has been deleted from registration” from founding a new association or NGO. However, the term persons “who have performed a leading role” is unclear. There is a risk that the government will use the provision to restrict the activities of individuals critical of the government. Additionally, LANGO unnecessarily imposes strict reporting obligations on associations and NGOs, requiring them to provide financial and new activity records, including bank and donor information.

These provisions give the government excessive discretionary power to put restrictions on the activities of domestic and international NGOs, associations and civil groups. Their vague definition poses a risk that the government will terminate activities for politically-motivated or arbitrary reasons. As such, LANGO undermines the freedoms of association, expression, and assembly guaranteed by Article 22 of the ICCPR.

3) Inconsistency with the Cambodian Constitution and the 2011 Civil Code

LANGO is inconsistent with existing Cambodian laws. The 2011 Civil Code, enacted with the support of Japanese ODA, has provisions that regulate non-profit corporations. However,

LANGO contradicts those provisions and may hinder the development of the democratic civil society envisaged by the 2011 Civil Code. Moreover, NGO regulations stipulated by LANGO constitute excessive restrictions on the freedom of association guaranteed by Article 42 of the Cambodian constitution.

Based on the above concerns, we make the following requests:

1) To the Cambodian Government:

-Release an official version of LANGO to the general public;

-Withdraw the current LANGO and make a thorough revision of it in accordance with international human rights standards including Article 22 of the ICCPR;

-Engage in sufficient dialogue with the international community and the civil groups which will be affected by LANGO;

-Conduct public hearings and take all other appropriate measures to include the voices of civil society groups in the discussion of LANGO in the National Assembly.

2) To the Japanese government and international community:

-Call on the Cambodian government to make necessary revisions on LANGO in accordance with international human rights standards, and engage in dialogue with civil society and the international community.

The following NGOs endorse this statement:

Human Rights Now (HRN)<sup>1</sup>

People's Forum on Cambodia, Japan (PEFOC,J)<sup>2</sup>

Japan International Center for the Rights of the Child (C-rights)<sup>3</sup>

GCAP Japan<sup>4</sup>

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<sup>1</sup> Human Rights Now is a Tokyo based international human rights NGO comprising a body of experienced legal professionals dedicated to protecting and promoting human rights around the world, with a special focus on Asia.

<sup>2</sup> People's Forum on Cambodia, Japan is a network NGO comprised of around 20 NGO groups, researchers, and individuals, who are all involved with Cambodia, and has been active since its establishment in 1993.

<sup>3</sup> Japan International Center for the Rights of the Child (C-Rights), established in 1992, is a certified Non-Profit Organization (NPO) that promotes understanding on the Convention on the Rights of the Child both in Japan and Cambodia. It has been supporting children and community in Cambodia to prevent child labor and trafficking of children.

<sup>4</sup> Ugoku/Ugokasu (GCAP Japan) is a network with 78 member organizations working to end poverty. Focusing on policy advocacy and public mobilization, it currently works on advocacy around the post-2015 development agenda to make it truly transformative and "leave no one behind".

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