

NGO Law in Cambodia: top issue on government's agenda, the civil society in jeopardy?

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For thirteen years now, the bill concerning non-governmental organisations (NGOs) and local associations has been at the heart of the controversy and is once again fuelling debates and worrying the Cambodian civil society. The latter fears that the text might restrict the freedom of action, efficiency and independence of some 2,200 NGOs and associations working in Cambodia. The government, for their part, put the stress on the need to take preventive action against terrorist activities which could be led in the name of screen organisations. The regulation of organisations within a specific legal framework was therefore brought to the rank of top priority issue by the government, who wish to see it enforced some time in 2009.

CHRAC

A controversial law

In June 1995, the Council of Ministers of Cambodia initiated the idea of a bill about the regulation of non-governmental organisations (NGOs) and local associations and gave the Ministry of Interior the responsibility of elaborating a draft law, in collaboration with the United Nations High Commissioner for Refugees (UNHCR) and local NGOs, as pointed out by Sieng Lapresse, under-secretary of state for the Ministry of Interior and in charge of the dossier. A year later, a text made of ten chapters and thirty-five articles was ready, but its examination had to be suspended straight away due to disagreements over its content.

Five years later, in September 2000, just after a reunion between Ministries, the Council of Ministers handed in the dossier, asking for Prime Minister Hun Sen's advice. The latter, at that time, claimed he did not wish to make it a priority issue during his second mandate and preferred enforcing a text only regulating the procedure for the creation of NGOs and local associations as well as their registration at the Ministry of Interior, without defining their role or activities. Today, according to data communicated at the end of November by Chann Chansopheak, head of the Registration Office for NGOs and associations at the Ministry of Interior, 2,234 NGOs and local associations are legally declared in compliance with the text elaborated eight years ago.

Another five years and two laws later – the one on terrorism and the other on money laundering in 2005, the Prime Minister eventually asked for the re-examination of a bill meant to prevent terrorist activities led via funds passing through NGOs. The World Bank backed up the Cambodian government's initiative with US\$2.8 million, meant to help set up a group that would specifically work on the document. The Ministry of Interior, together with several other Ministries, the World Bank and representatives of the Civil Society, thus started working on the issue.

“Thirty-five NGOs agreed on the principle of a law, but asked for some time to examine the text. However, a few NGOs like ADHOC, LICADHO and the Cambodian Centre for Human Rights strongly disagreed and estimated that such a text could impose high pressure on them and hinder their freedom. Their reaction caused the suspension of the examination of the text by the World Bank and the dossier is still dragging on today”, Sieng Lapresse reported.

The law is not a priority issue, according to the civil society

NGOs, some of which have been officially active in Cambodia for more than fifteen years, fear that the legal document's true purpose might be to limit their scope of action and independence. Above all, they do not see why its adoption is all of a sudden branded a priority matter when many other laws, starting with the anti-corruption bill, are still on the waiting list at the Council of Ministers.

In a press communiqué, made public on Wednesday December 3rd, the Cambodian Human Rights Action Committee (CHRAC), a coalition of 21 NGO members, explained that today, there are enough legal frames controlling the work of NGOs, whether it be the Constitution of Cambodia, the UNTAC transitional law or the Prakas issued by the Minister of Interior concerning the registration of NGOs, to which the new codes of civil and penal procedure have recently been added. “In the near future, the new penal code should be adopted by the National Assembly and the Senate, and will create a legal frame around NGOs without any need to enforce a specific law to regulate associations and local organisations”, the representatives of the CHRAC pointed out, stressing that up until now, NGO missions had “not generated any destruction” or had “never put the population and the country in danger”.

The CHRAC then added that NGO finances were managed accurately and were regularly examined by international audit companies after requests from financial backers themselves, which eliminates risks of corruption within the organisations. “Very few NGOs have made the money vanish. But when it has been the case, donors punished them and stopped funding them”, the CHRAC representatives claimed, urging in the meantime the government to prioritise matters and favour the adoption of the anti-corruption law and the penal code.

Preventing terrorist activities or restricting NGOs' freedom?

For the Prime Minister, the law is now a matter of urgency. During the meeting of the fourth legislature Council of Ministers at the end of September this year, Hun Sen turned the examination and adoption of the NGO law into its top priority, even before the penal code. The head of government claimed to be outraged by the systematic opposition of NGOs who, according to him, refuse to accept the law and constantly want to stand above the government. But the Prime Minister mainly used the fight-against-terrorism argument. To him, without this law, Cambodia is at risk of becoming a haven for terrorist organisations which could hide behind the name of an NGO and calmly lead their activities...

For his part, Thun Saray, director of the Cambodian Human Rights and Development Association (ADHOC), reckons the government only has to enforce the existing law relating to terrorism to quell terrorist activities, without any need to resort to another law on NGOs. "Thousands of NGOs receive funds from abroad and the government masters things well", the Human rights campaigner observed, reminding that the government intervened in time in the case of the Um Al-Qura school, managed by an Islamic association in the suburbs of Phnom Penh. A few members of the association had been accused of being affiliated with the Jimaah Islamiyah network, close to Al Qaeda. "However, what the government cannot control yet is the voice of the civil society. The purpose of this legal text could then be to limit our freedom of expression", Thun Saray feared.

NGO representatives also fear the government might control the funding they receive, which would allow ministers and high-ranking officials to, according to them, put pressure on their work. "We heard that the funding would have to come first via the Ministry of Economy. If it is the case, our work will be neither efficient, nor independent. Also, it will be difficult for us to pay our employees on time, and this is without mentioning problems of corruption within the Ministry", Ou Virak, president of the Cambodian Centre for Human Rights (CCHR), estimated, worried. Thun Saray, on the same line of argument, denounced what is to him the government's hidden intentions: imposing budget restrictions on NGOs so as to hush up their voice and only grant financial help to organisations it will care to choose.

Another sensitive topic: according to the lines of the draft law, associations and NGOs must not lead any activity serving the interest of political parties or bringing in means intended to support them financially or morally. "If this point is approved, then my NGO will have to close down, because we will not be able to talk politics. The thing is, we work on the question of Human rights, and it is in direct connection with politics. This also means that we will not be able to shake the hands of politicians either", Ou Virak deplored.

NGO Law promised for 2009

Be that as it may, Sieng Lapresse reported that the examination of the text would continue with or without the consent of NGOs, until its adoption in 2009. "We are not putting any pressure on NGOs and we are not restricting their voice. Besides, there is already a law regulating demonstrations. Since NGOs work together with the government for the alleviation of poverty, the government only wants to collaborate with them by going by a law", the under-secretary of state argued, precisising that the government did not have any "hidden intention" and had no desire of keeping the financial help given by backers. "We only want to set up a procedure that obliges them to keep us informed about the source of their funds, so that we can proceed to the necessary verifications", Sieng Lapresse concluded.

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