GUIDANCE NOTE TO CCHR’S PROPOSED CHANGES AND RECOMMENDATIONS TO THE DRAFT LAW ON ASSOCIATIONS AND NON-GOVERNMENTAL ORGANIZATIONS

Introduction

Following our initial analysis of the draft Law on Associations and Non-Governmental Organizations (the “Draft Law”) disseminated by the Royal Government of Cambodia (the “RGC”) on 15 December 2010, the Cambodian Center for Human Rights (“CCHR”) issues the second part of our analysis; a “track changes” mark-up of the Draft Law (the “CCHR Amended Draft Law”) which sets out the revisions that CCHR believes are necessary to ensure the Draft Law’s compliance with the rights to freedom of expression and association under international and domestic law. The suggested changes also take into account the Draft Law’s practical application and aim to propose a law that strikes a balance between allaying the concerns of the RGC and allowing non-governmental organizations (“NGOs”) the freedom to continue carrying out their positive and beneficial activities in the interests of the Khmer people and the Cambodian nation.

This guidance note accompanies the CCHR Amended Draft Law and explains the substantive changes proposed by CCHR, and should be read in conjunction with the CCHR Amended Draft Law. Where the same amendments occur more than once, the amendments have not been explained on subsequent occasions. Please note that this guidance note does not explain typographical, grammatical, stylistic, formatting or article numbering alterations, except where necessary for the sake of clarity. Please also note that article references are to the Draft Law rather than to the Amended Draft Law.

This guidance note is written by CCHR, a non-political, independent NGO that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout the Kingdom of Cambodia (“Cambodia”).

Overview of proposed amendments

Preliminary

- **Inclusion of “of Cambodia”** – The RGC should be referred to as the “Royal Government of Cambodia” for the sake of clarity.
- **Inclusion of “draft”** – It should be clearly stated that the existing version is a draft version of the Law on Associations and Non-Governmental Organizations until it is finalized by the National Assembly and signed into law by His Majesty the King.
- **Removal of reference to “associations”** – CCHR considers that the Draft Law should be amended so that it does not apply to “associations” but only to NGOs, both domestic and foreign. Application of the Draft Law, as it is currently formulated, to “associations” would stifle community-based organizations, *i.e.*, informal popular groups/movements and
grassroots networks, which are often convened or created on an ad hoc basis by small groups of concerned individuals to express, promote, pursue and defend common interests or to react to specific issues. Acts to limit such “associations” in the Draft Law violate the rights to freedom of association and expression as well as the right to “participate actively in the political, economic, social and cultural life of the nation” as enshrined in the Constitution of the Kingdom of Cambodia (the “Constitution”).

The purpose of the Draft Law is to regulate the large number of NGOs, not to stifle grassroots civil and political activity throughout Cambodia. All references to “associations”, in addition to articles or parts of articles that relate to “associations”, have therefore been struck from the Amended Draft Law.

**Article 1: Aim**

- **Deletion of Article 1** – This article addresses the purposes of the Draft Law, as does Article 2. The two articles have therefore been amalgamated for the sake of clarity and simplicity.
- **Concerns about “operating”** – A more accurate translation of the Khmer text is “carrying out activities”, which implies that the RGC intends to limit or monitor NGOs’ activities.

**Article 2: Purposes**

- **Substitution of “inalienable” for “practice of”** – The rights and freedoms of Khmer citizens are absolute, universal and should not be able to be compromised. The Draft Law should recognize them as such, and should not just promote the practice of these rights and freedoms.
- **Inclusion of reference to Article 35 of the Constitution** – The Draft Law should recognize Khmer citizens’ right to participate actively in the political, economic, social and cultural life of the nation when regulating the conduct of such activities.
- **Deletion of reference to “personal and public interest”** – The principle of legality requires all laws to be formulated in a clear and precise manner. The principle, which is enshrined in Article 15 of the International Covenant on Civil and Political Rights to which Cambodia is a signatory and which forms part of Cambodian law as per Article 31 of the Constitution, operates so as to preclude the imposition of sanctions for acts or omissions that were not clearly prohibited at the time of commission. The Draft Law should avoid the use of any vague and ambiguous terms – such as “personal and public interest” – which fail to provide the necessary clarity to those falling under the regulatory system proposed by the Draft Law. Such terms, by their very nature, are open to abuse, especially since the courts are not fully independent of the executive.
- **Deletion of reference to “implementing aid projects and programs”** – Again, this term is too vague and should be deleted on the grounds that it conflicts with the principle of legality.
- **Deletion of “encourage the cooperation with Royal Government in the development of Cambodian society”** – This bullet point has been deleted to avoid repetition: the sentiment has been covered in the previous (amended) bullet point. Furthermore, the right to freedom of expression means that NGOs can act contrary to the interests of the RGC so long as activities are not criminally subversive.

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1 Constitution of the Kingdom of Cambodia, art. 35.
Article 3: Scope

- Deletion of “associations” – The Draft Law should only apply to NGOs and not associations.

Article 4: Definitions

- Re-ordering of definitions – Definitions have been re-ordered alphabetically.
- Substitution of “conducting their activities” for “serving public interest” – Please see under Article 2 above with reference to vague terms and below regarding the inclusion of a definition of “issues of national concern”. In order to comply with the principle of legality, it is essential that this article provides sufficient clarity for those who fall under the regulatory scheme proposed by the Draft Law.
- Insertion of “at least two” – A “group” needs to be clearly defined.
- Inclusion of “organization” – This inclusion provides clarity.
- Substitution of “to address issues of national concern” for “serving public interests” – Please see under Article 2 above with reference to vague terms and below regarding the inclusion of a definition of “issues of national concern”.
- Inclusion of a definition of “issues of national concern” – This definition should provide the requisite clarity when assessing the activities that NGOs conduct.

Article 5: Formation of Legal Entities

- Substitution of “all non-governmental organizations” for “legal entities” – The language as it stands is too broad and vague.
- Insertion of “of the Kingdom of Cambodia” – The full name of the Constitution should be used in the Draft Law.
- “All other applicable laws currently in force [...]” – The legislative landscape should be more accurately defined; the language as it stands is too vague.

Article 6: Prohibiting Provisions

- Deletion of reference to alliances of domestic non-governmental organizations – It is impractical and unrealistic to require alliances of domestic non-governmental organizations (as opposed to the organizations themselves) to register.

Article 7: Authorities for Registration

- Insertion of reference to a central public register – It is proposed that all registration records and documents be collated in a central public register of all domestic NGOs so as to ensure full transparency with respect to registration.

Article 8: Conditions of Formation of Association

- Deletion of Article 8 – This article concerns “associations” and has therefore been struck out.
Article 9: Conditions of Formation of Domestic Non-Governmental Organization

- Amendment of three Cambodian national initiators to two – This amendment has been made because any group of more than one individual should be allowed to form an official organization (as opposed to an unofficial association). A group of two people should not be prohibited from doing so, as long as they are willing and able to comply with all applicable requirements.
- Simplification of requirements for preparing formalities and registration requirements – This clause has been simplified for the sake of clarity; the process will be the same in practice.
- Insertion of provision regarding electing a head – One of the two (or more) members should be elected head by the members, though the head need not be the same person who prepares formalities and fulfils the requirements for registration.

Article 10: Charter of an Association and Domestic Non-Governmental Organizations

- Deletion of “leaders” – There is no reason why heads of NGOs should have to prepare charters themselves; the requirement should be on the NGO.
- Deletion of “Purpose and objective” – This requirement is unnecessary and onerous.
- Deletion of “Structure, mandate, role, duty, establishment and functioning of the governing bodies” – Again, this requirement is unnecessary and onerous, as well as being vague and not applicable to many NGOs, especially small and/or provincial NGOs.

Article 11: Use of Names and Logos by Association and Domestic Non-Governmental Organizations

- Amendment to reference to Khmer names – It is logical that the name of an NGO should have an alternative in Khmer if not in Khmer already; it makes less sense to say that the name should have a meaning in Khmer.

Article 13: Determination of Excise Fees for Registration

- Inclusion of reference to fees being reasonable and limited to the actual administrative costs involved in registration – It is at present uncertain what these fees will be. The fees should be established by means of a public document such as a Prakas from the Ministry of Interior (the “MOI”). Registration fees should not be so high that legitimate NGOs are prohibited from establishing themselves and carrying out their work; they should be reasonable and sufficient to cover the administrative costs of a registration application.

Article 14: Documents for Registering an Association

- Deletion of Article 14 – This article concerns “associations” and has therefore been struck out.
**Article 15: Documents for Registering a Domestic Non-Governmental Organization**

- **Insertion of reference to “standard form registration application form”** – Without guidance material or standard forms, the registration process has the potential to be prohibitively onerous for small and/or provincial NGOs.

- **Substitution of “head” for “leader”** – This substitution merely conforms the language for the sake of clarity; no substantive change is being proposed.

- **Restriction of profiles to heads of NGOs** – The stipulation that at least three people from each NGO need to provide profiles is gratuitous and arbitrary: only the head of the NGO should be required to provide one.

- **Deletion of requirement to provide photographs** – This requirement is unnecessary and potentially prohibitively onerous, especially for small and/or provincial NGOs.

**Article 17: Examination of the Application and Response**

- **Insertion of automatic registration provision** – If the RGC (or the relevant ministry) fails to rule on a registration application, automatic registration should be granted; otherwise, there is no incentive for applications to be processed quickly and efficiently.

**Article 18: Rectification on the Contents and Response**

- **Clarification that “days” means “working days”** – This amendment conforms the language to the rest of the Draft Law.

- **Deletion of “inappropriate contents”** – If a standard form is used, any concerns about inappropriate content will be avoided, since NGOs will only provide what is requested of them; concerns would therefore be limited to “defects”, i.e., NGOs’ not filling the application form in correctly.

**Insertion of new provisions**

- **Insertion of new provision regarding rejections of registration applications** – The criteria by which the RGC (or the relevant ministry) may reject a registration application are not mentioned in the Draft Law, with total discretion accorded. Registration applications should be treated impartially without motivation by political factors. Given the absence of any direction in the Draft Law for rejecting a registration application, there are currently concerns that the RGC will be in a position to exploit supposed “administrative errors” as a way of rejecting the registration or re-registration applications of “undesirable” NGOs, i.e., NGOs that are critical of the RGC and its actions. There should be clear and precise reasons given for denying a registration application, with limited discretionary powers accorded to the RGC (or relevant ministry).

- **Insertion of new provision regarding the right to appeal** – There is currently no system of appeal provided for in the Draft Law, which means that the RGC has total discretion as to whether NGOs are registered or re-registered. This omission, coupled with the total discretion accorded to the RGC (or the relevant ministry) to reject registration applications is of grave concern and amounts to a severe threat to the right to freedom of association. The Draft Law should include a right to appeal such decisions by the RGC (or relevant ministry) to the courts, with such right maintained even if the courts are not fully independent of the
executive. All relevant processes should be seen to be fair and transparent.

**Articles 20-27 (Chapter 3)**

- **Tailoring of these articles to be consistent with Chapter 2 (Articles 7-19 of the Draft Law)** – The Articles that comprise Chapter 3 of the Draft Law have been amended in line with the proposed amendments to Chapter 2, including the insertion of the new provisions. Any provisions that are currently included in Chapter 2 of the Draft Law that have not been included in Chapter 3, but which are equally relevant to “alliances”, have also been copied across. Any further amendments are set out under the specific article headings below.

**Article 27: Collaboration Between Associations and Domestic Non-Governmental Organizations**

- **Deletion of Article 27** – This article concerning collaboration between domestic NGOs and the notification that must be given to the MOI has been deleted, since the provision is onerous: it discriminates particularly against small and/or provincial NGOs, although additional criteria and limits on effective and constructive collaboration would be imposed on all NGOs. NGOs should be free to enter into informal partnerships with each other without any need of registration or notification. It is also not clear what the term “collaborate” means in this context.

**Articles 28-37 (Chapter 4)**

- **Tailoring of these articles to be consistent with Chapters 2 and 3** – The Articles that comprise Chapter 4 of the Draft Law have been amended in line with the proposed amendments to Chapters 2 and 3, including the insertion of the new provisions. Any provisions that are currently included in Chapter 2 of the Draft Law that have not been included in Chapter 4, but which are equally relevant to foreign NGOs, have also been copied across. Any further amendments are set out under the specific article headings below.

**Article 30: Documents for Requesting a Memorandum Agreement to Be Submitted by Foreign Non-Governmental Organizations**

- **Deletion of “detailing its purposes”** – The purposes of all foreign NGOs are to assist Cambodia and its people in terms of development and democratization; the permit for running the NGO issued by the competent authority of the NGO’s home country will provide details of its activities and sphere of influence.
- **Substitution of “for the first one-year period” for “at least a one-year period”** – The requirement as it stands is too vague and therefore overly onerous; the amendment has been made for the purposes of clarity.
- **Substitution of “competent” for “responsible”** – “Competent” is the conventional term.
- **Deletion of requirement for “a letter supporting aid projects or programs [...]”** – This requirement is unnecessarily onerous, relating once again to “aid projects or programs”. Furthermore, this requirement is over-and-above the requirements for domestic NGOs, meaning that foreign NGOs would experience undue discrimination due to the additional
administrative burden.

- **Restriction of list of names to management and other key decision-makers** – This requirement as it stands is arduous and unnecessary, presumably necessitating updates for changes of every employee or volunteer, regardless of his or her role or seniority.

**Article 33: Aid Projects or Programs Agreement with Counterpart Ministries or Institutions**

- **Deletion of Article 33** – Again, this requirement relates to “aid projects or programs” and entering into an agreement with the RGC. Aside from the dangers of the vague terminology already discussed, this requirement is unnecessary and onerous and should therefore be deleted.

**Article 34: Preparation and Signing of the Memorandum**

- **Deletion of “of understanding”** – The memorandum that foreign NGOs must sign has been simplified to “memorandum” rather than “memorandum of understanding” throughout the Amended Draft Law. No substantive change is being proposed.
- **Deletion of references to “aid projects or programs” and the related agreement and substitution of “operate”** – Such references have been deleted for the reasons discussed under Articles 30 and 33 above.

**Article 35: Date of Creation of Legal Entities**

- **Deletion of “decides to”** – A foreign NGO should become a legal entity on the day that the Ministry of Foreign Affairs and International Cooperation (the “MOFAIC”) actually signs the memorandum, since the signing is much more clearly evidenced – and therefore more certain – than the decision to sign.

**Article 36: Collaboration Between Foreign Non-Governmental Organizations and Relevant Ministries, Institutions or Authorities**

- **Deletion of Article 36** – Such a requirement imposes an unnecessary and extremely onerous administrative burden upon foreign NGOs, with the result that the work of foreign NGOs would be significantly delayed. The other consequence is that all activities would need to be monitored and approved at the most micro level. Furthermore, this article requires foreign NGOs to inform the municipal or provincial offices and its partner ministries or government institutions if it will be conducting activities in the provinces, which may be exploited by the RGC, the relevant ministry or provincial authorities to limit or regulate the activities of foreign NGOs.

**Article 37: Initial Validity of a Memorandum and Request for Extension**

- **Fixing of validity period to three years** – Given that the NGO’s “aid projects or programs” will not be taken into account, the validity period for a memorandum should be fixed at three years (with extensions possible as stipulated in this article).
Article 38: Resources and Properties of Associations or Domestic Non-Governmental Organizations

- Insertion of “permitted” and “that may be legitimately owned” – These insertions merely provide clarity and do not reflect substantive amendments.
- Substitution of “legal” for “legitimate” – The legitimacy of any gift lawfully given and lawfully received by an NGO should not be open to consideration by the RGC, the relevant ministry or the courts.

Article 39: Resources Properties and Budget of Foreign Non-Governmental Organizations for Aid Projects or Programs Implementation

- Insertion of “fully transparent and accountable” and substitution of “illegal” for “illegitimate” – CCHR feels that this amendment should help allay one of the RGC’s stated fears, namely that NGOs’ resources and properties may derive from illegal sources: this amendment reflects a concerted push by all parties – including the RGC – for increased transparency and accountability on all sides. Likewise, the substitution of “illegal” for “illegitimate” helps to reflect the concern that some NGOs might be a front for illegal activities.
- Introduction of the concept of “average” to NGOs’ administrative budget – This requirement, as it stands, could require foreign NGOs to force out some international staff, depending on how “expenses for administrative purposes” is defined (it is unclear). Current memoranda with the MOFAIC define the term narrowly (i.e., with respect to projects rather than to organizations as a whole), and only require that “average administrative expenses” do not exceed 25%.

Article 40: Rights as a Legal Entity of Associations and Non-Governmental Organizations

- Substitution of “without hindrance” for “legitimate means” – It is a right not a requirement that NGOs conduct their activities by legitimate means; it is their right to be able to do so without hindrance. The freedom of expression of NGO’s and their members should be protected.

Article 41: Recruitment of Staff and Workers by Associations or Non-Governmental Organizations

- Deletion of reference to the number of staff or workers being proportionate to the plan projects or programs – This requirement is vague and open to discretion and abuse, and has therefore been struck out.

Article 43: Field Offices or Activity Implementation of Associations and non-Governmental Organizations

- Insertion of “and/or” – There is no reason why NGOs cannot open branch offices or conduct activities in both Phnom Penh and the provinces. This provision, as it is currently stands, threatens to severely undermine the freedom of NGOs to exercise their mandates to further
the development and advancement of Cambodia and its people.

- **Deletion of requirement to provide documentation** – The requirement to provide documentation in order to operate in the provinces is unduly onerous; if the NGO in question is already properly registered, it should be sufficient just to inform the relevant provincial hall in writing.

- **Insertion of “do their utmost”** – Relevant municipal and provincial halls should only be expected to do their best to facilitate the business and activities of NGOs.

- **Substitution of “activities” for “working performances”** – The phrase “working performances” is meaningless.

- **Deletion of “as a partnership”** – NGOs should be able to work independently with the support of the relevant local authorities; they should not be required to enter into a partnership, whether formal or informal, with the local authorities.

**Article 44: Changing of Names and Logos, Amendment of Organizational Charter, Moving of Offices; Rotation, Termination, Dismissal or Removal of Staff, Members, Presidents or Leaders of Associations or Non-Governmental Organizations**

- **Insertion of “of any amendments to the name, organizational charter, offices or president or leaders”** – NGOs should not be required to notify the relevant ministry with respect to rotations, terminations, dismissals or removals of any staff, regardless of their seniority or role, as such requirement would be impractical and highly burdensome.

- **Insertion of “all relevant”** – Only relevant documents should need to be provided.

- **Insertion of reference to a central register** – All documents should be publicly available as part of an overall push for increased transparency.

**Article 45: Immunity and Privilege of a Foreign Non-Governmental Organization’s Representative Offices, Expatriate and Khmer Staff and Their Family Members**

- **Alteration to year of Vienna Convention on Diplomatic Relations** – The year of the convention was 1961, not 1963.

- **Substitution of “specific” for “special”** – “Specific” is more appropriate terminology; no substantive amendment is intended.

- **Deletion of reference to lack of immunity from judicial actions for staff of foreign NGOs** – The Draft Law attributes legal personality to NGOs, which means that government lawsuits can now be brought against NGOs in the civil courts rather than against individuals in the criminal courts. Criminal proceedings against individuals will therefore not be necessary: imprisonment should not be employed as a sanction for a breach of any NGO legislation, since it is unreasonably severe and can only be levied against individuals.

**Article 46: Annual Reports of Associations or Domestic Non-Governmental Organizations or Alliances of Associations and Domestic Non-Governmental Organizations**

- **Deletion of “lawful”** – It is assumed that all NGOs covered by the Draft Law are lawful.

- **Insertion of language relating to financial reports and statements** – The requirement to generate reports should only apply to financial reports. The requirement as it stands will be burdensome on small and/or provincial NGOs that are loosely organized and/or have little
administrative support. Specifically, there should be no need to submit “reports on activities” and “action plan[s] for the next year […]”; the RGC’s principal concern is that certain NGOs’ funds do not come from legal sources or that certain NGOs are a front for illegal activities, and the submission of annual financial reports detailing their financial statements for the past year, the current status of their budget, and projected financial statements for the next year should be sufficient for these purposes.

- **Insertion of “of each year”** – This language has been inserted for the sake of clarity.

**Article 48: Competency to Examine Financial Reports and Properties of Non-Governmental Organizations and Alliances of Association and Domestic Non-Governmental Organizations**

- **Insertion of reference to court order** – Monitoring and supervision provisions should be clear and specific, providing certainty and limiting the RGC’s powers of discretion, particularly in relation to audits and inspections. The language of this article is sufficiently vague as to be unduly onerous. Governmental powers to interfere with NGOs should be expressly limited, and the RGC or relevant ministry should be required to secure a court order before being able to commit such actions against NGOs.

- **Insertion of requirement to notify NGOs in writing of the reasons for requiring an inspection or examination** – In order to reflect the RGC’s greater drive for transparency with regards to NGOs, such transparency should also apply to the RGC’s dealings with NGOs.

**Article 49: Activity Postponement or Dissolution of the Association or Domestic Non-Governmental Organizations or Alliance of Associations or Domestic Non-Governmental Organizations**

- **Substitution of “Suspension” for “Activity Postponement”** – This terminology is more appropriate; no substantive amendment is being proposed.

- **Insertion of reference to setting out grounds for such decisions and limiting application to persistent violations of applicable criminal legislation currently in force** – Such requirements need to reflect the principles of transparency and proportionality.

- **Inclusion of provisions relating to providing reasons for such decisions, the right to appeal, and the central register** – These provisions reflect earlier additions and amendments to previous provisions and reflect the overall push for increased transparency and accountability.

**Article 50: Activity Postponement or Memorandum Termination of Foreign Non-Governmental Organizations**

- **Deletion of requirement to send duplicates to all relevant ministries** – It is the duty of the MOFAIC to send duplicates to its colleagues.

- **Inclusion of provisions relating to providing reasons for such decisions and the right to appeal** – Again, these provisions need to be included, although the requirement that such decisions be included in a central register is not applicable to foreign NGOs.

**Article 51: Distribution of Resources and Properties in Case of Spontaneous Dissolution or Memorandum Termination**
• **Deletion of “spontaneous”** – This word is superfluous: all that is relevant is the dissolution of an NGO.

**Article 52: Distribution of Resources and Properties in Case of Dissolution or Memorandum Termination Through the Court’s Final Judgment**

• **Inclusion of provisions relating to providing reasons for such decisions and the right to appeal** – Again, these provisions need to be included. CCHR welcomes the fact that neither the RGC nor the relevant ministry is able to confiscate an NGO’s property without proper direction from the courts, but this article as it stands still allows the courts total discretion to dissolve an NGO if it has valuable assets, potentially under pressure from the RGC or the relevant ministry.

**Article 53: Act of Violation of Article 46**

• **Amendment of Article 53 so that it covers the whole Draft Law rather than just Article 46** – There should be provisions to cover violations of any applicable requirements.

• **Insertion of reference to court order** – Again, a court order should be required for the MOI to be able to suspend an NGO’s activities. The executive should not be able to act without following due legal process sanctioned by the courts.

• **Substitution of “until such time as the violation is rectified” for “for a period from one (01) to three (03) months** – This time-frame appears to be completely arbitrary; the NGO should be given the chance to rectify the violation, and should not be able to carry on its business until it has done so.

• **Inclusion of right to appeal** – Again, the right to appeal any decision must be maintained.

• **Deletion of provision relating to foreign NGOs and amendment of provision relating to domestic NGOs to apply to all NGOs** – The provisions relating to breaches of the reporting requirements by domestic NGOs are fairly limited and reasonable, whereas the provisions relating to breaches by foreign NGOs are unusually onerous: a decision shall be issued that postpones the NGO’s activities and invalidates its memorandum. This provision is far too severe: foreign NGOs should be subject to the same requirements as their domestic counterparts and should not be subject to discrimination.

• **Insertion of reference to criminal and civil actions** – Given that the Draft Law accords legal personality to NGOs, criminal proceedings against individuals will no longer be necessary; criminal sanctions brought against individuals would be unreasonable and unduly harsh. These amendments also reflect a commitment to the right to freedom of expression.

**Article 54: Act of Violation of Charter or Memorandum**

• **Deletion of Article 54** – There should not be special provisions for the violation of an NGO’s charter or memorandum, especially as Article 53 has been amended to cover violations of all applicable requirements. Furthermore, such vague terminology as “shall be punished in accordance with the law in force” conceals the possibility of criminal sanctions under existing legislation, such as the Penal Code (for defamation), the Anti-Corruption Law or the Anti-Terrorism Law. Such laws are already in force and do not need to be tied explicitly to a violation of an NGO’s charter or memorandum.
Article 55: Re-registration of Associations and Domestic Non-Governmental Organizations or Alliances of Associations or Domestic Non-Governmental Organizations

- **Insertion of “or registered with any state institution”** – This article should also apply to those domestic NGOs that are already registered as well as those that have already applied for registration. If such meaning was intended by the Draft Law, then this amendment serves the purpose of providing clarity.

- **Amendment of provision to enable registered NGOs to continue their activities without needing to re-register** – All pre-existing NGOs should be automatically deemed registered, especially as foreign NGOs that have already signed a memorandum shall continue to be valid (Article 56). Requiring existing NGOs to re-register will be time-consuming and counter-productive, even if the 180-day time-frame is reasonable. If an existing NGO violates any applicable provisions of the Draft Law, there will be provisions in place to address such violations.

- **Insertion of provision relating to compliance with new documentation requirements within a period of one hundred and eighty working days** – NGOs will need time to comply with the new documentation requirements and CCHR welcomes the reasonable time-frame proposed by the RGC. The number of days has been amended to “working days” so as to ensure consistency with the rest of the Draft Law.

**Article 57: Abrogation of Provisions Contrary to this law**

- **General comment** – It seems counter-intuitive that the Draft Law should over-ride the provisions of other laws, particularly if they have been recently enacted (e.g., the Anti-Corruption Law). Furthermore, this provision conflicts with the principle that the constitution takes precedents over all applicable laws currently in force in Cambodia.

**Conclusion**

CCHR urges both the RGC and the NGO community to consider these proposals, and looks forward to working constructively with all parties during the consultation process with a view to passing a law that represents a positive step in Cambodia’s development and democratization and a commitment by the RGC to uphold the rights to freedom of expression and assembly and the right to “participate actively in the political, economic, social and cultural life of the nation”.

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