



September 9, 2011

Navanethem Pillay  
Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais Wilson  
52 rue des Pâquis  
CH-1201 Geneva, Switzerland

**Re: New law threatening the operations of NGOs and associations in Cambodia**

Dear Navanethem Pillay,

We write to bring your immediate attention to very serious developments in Cambodia concerning the recently released third draft of the Law on Associations and NGOs, which we understand is under consideration by the Council of Ministers. The implications of this law could not be more serious. As written, it will allow the Royal Government of Cambodia (RGC) to intimidate and potentially shut down local, national, and foreign NGOs, associations, and informal groups that criticize the government or government officials.

There is little time before the draft law is sent to the National Assembly for final adoption. As such, we urge you to:

- Press the RGC to end efforts to promulgate this law.

- Make it clear to the RGC that if the law is adopted in its current form your agency will be compelled to reassess your programs and assistance with a particular emphasis on projects directly involving RGC agencies.

As national development contributes to growth in commerce and industry, it should also benefit the wider population. Civil society actors, both local and foreign, play a vital role in this development through monitoring, community development, poverty alleviation, humanitarianism, research, and advocacy. The draft law threatens to severely restrict civil society's right to freedom of association and expression, therefore preventing civil society organizations and NGOs from fulfilling these roles. As such, the law will limit the ability of Cambodia's development partners to ensure that programs reach their intended grassroots beneficiaries.

It is also likely that efforts to ensure transparency and accountability in project implementation will be negatively affected as civil society groups monitoring government projects face tighter, and potentially hostile, government scrutiny. The United Nations has long stood in support of human rights-centered policies, and should therefore recognize that this legislation will endanger rights-centered approaches to local development. In the year marking the 20<sup>th</sup> anniversary of the Paris Agreements that ended Cambodia's civil war and launched the United Nations Transitional Authority in Cambodia (UNTAC), this law threatens one of UNTAC's most enduring legacies—the creation of a thriving NGO community and the blossoming of voluntary, community-based civic groups, informal associations, and grassroots networks.

In fact, if the RGC passes the draft law in its current form, we believe that it will threaten the viability and sustainability of multiple sectors of development activity in the country. Such a grave threat should elicit a serious response from Cambodia's development partners, who have poured billions of dollars into efforts to support just and sustainable development in Cambodia.

While we recognize that governments have a legitimate regulatory interest in the activities of non-profit entities, the UN has an obligation to ensure that registration schemes should not be used to undermine freedom of association, expression, or assembly. These fundamental rights are protected under the Cambodian Constitution and under the International Covenant on Civil and Political Rights (ICCPR), an international treaty that Cambodia has ratified. The third draft of the Law on Associations and NGOs clearly infringes on these fundamental rights by stating that associations and organizations, defined in the broadest possible sense, will not be permitted to operate unless and until the government has formally approved their registration applications. The draft law does not adequately define terms or set clear guidelines for the lengthy approval process, opening the door to arbitrary decision-making by officials, and it creates burdensome and expensive reporting requirements that will particularly disadvantage grassroots citizens' associations and groups.

Recently, the RGC took actions that clearly demonstrate its intent in seeking wide-ranging powers over Cambodian and international civil society organizations. In what may be a harbinger of the future of NGOs and associations if the current draft law passes, on August 2, the Ministry of Interior (MOI) sent a letter (see attached) to local NGO Sahmakum Teang Tnaut (STT), suspending its activities for five months. The letter accuses STT of failing to modify its leadership structure and failing to make a revision to its statute “according to the instruction of a specialized department.” The RGC has failed to clarify which current law or regulation authorizes this suspension. On August 13, MOI publicly accused STT of “incitement” of persons to oppose development projects, implying a threat of prosecution for incitement under the new criminal code.

STT is one of Cambodia’s preeminent civil society groups conducting technical research on resettlement. STT has recently surveyed displacement connected to the rehabilitation of Cambodia’s railways, a project supported by the Asian Development Bank and AUSAID. STT has also surveyed the planned development of Boeung Kak Lake by Shukaku Inc., a company chaired by Sen. Lao Meng Khim, a close associate of Prime Minister Hun Sen. STT’s independent, quantitative research on the impacts of these development projects should be regarded as the type of vital data collection and research assistance that will guide both current and future development projects to better serve the Cambodian people.

The STT case provides a clear indication of how RGC intends to use the mandatory registration requirements laid out in the draft law. Past history in Cambodia indicates that these provisions, if enacted, will be used to target and punish NGOs and associations critical of the government. We are also concerned that because unregistered civic associations, grassroots networks, and informal community-based groups may not be able or willing to register, the law will simply prevent them from taking any action at all in furtherance of their interests.

The RGC has orchestrated a tightening of space for civil society, freedom of speech, and peaceful political opposition. In the past two years, representatives of UN agencies, including the head of OHCHR and the UN resident coordinator, have been targeted and intimidated by the RGC for expressing views in defense of human rights and participatory development. Government pressure has been particularly intense for organizations and community associations involved in human rights and related areas, such as labor, the environment, land rights, and governmental transparency. Since 2009, numerous critics of the government have been prosecuted for criminal defamation and disinformation based on complaints by government and military officials. It is clear that government’s desire to silence critical voices appears to be driving the promulgation of numerous restrictive laws, perhaps most obviously the draft Law on Associations and NGOs.

The RGC already has a detailed legal framework for the registration and operation of non-profit entities in the new Civil Code, which will take effect in November 2011. The Civil Code and the Law on Implementation of the Civil Code include requirements for the formation and

registration of both local and foreign organizations and associations, as well as numerous provisions governing management, dissolution, and liquidation. Foreign NGOs already obtain legal standing through Memoranda of Understanding with the appropriate government offices. We believe that donor partners of Cambodia should encourage the effective, transparent, and rights-respecting implementation of the Civil Code and other relevant Cambodian laws, rather than the fundamentally flawed Law on NGOs and Associations.

We thank you for your attention in this important matter.

Sincerely yours,

Brad Adams, Asia Director  
Human Rights Watch

Souhayr Belhassen, President  
International Federation for Human Rights (FIDH)

Agnes Callamard, Executive Director  
ARTICLE 19

Brittis Edman, Program Director, Southeast Asia  
Civil Rights Defenders

Enrique Eguren, Program Director  
Protection International

David J. Kramer, President  
Freedom House

Mary Lawlor, Director  
Front Line Defenders

Eric Sottas, Secretary General  
World Organization Against Torture (OMCT)

Simon Taylor, Founding Director  
Global Witness

Gayathry Venkiteswaran, Executive Director  
Southeast Asian Press Alliance (SEAPA)

Cc: Country Representative  
N° 10, Street 302,  
P.O.Box 108 ,  
Phnom Penh, Cambodia  
*Fax: +855 23 212 579*