

**UNCT Analytical Note and Recommendations on
the Draft Amendment of the Law
on Associations and Non-Governmental Organizations (LANGO)**
26 October 2023

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I. Introduction

1. The United Nations Human Rights Council has reaffirmed that the rights to freedoms of association, and to peaceful assembly are “essential components of democracy, providing individuals with invaluable opportunities to, inter alia, express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable”.¹ The Human Rights Council has also “remind(ed) States of their obligation to respect and fully protect the rights of all individuals to ... associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to ... freedom of association are in accordance with their obligations under international human rights law.”²
2. In August 2015, the United Nations Office of the High Commissioner for Human Rights (OHCHR) in Cambodia provided a general analysis of the Law on Associations and Non-Governmental Organizations (LANGO),³ with the objective of supporting the Royal Government of Cambodia in ensuring that the LANGO complies with international human rights standards, including the International Covenant on Civil and Political Rights (ICCPR).⁴
3. This UNCT Analytical Note is based on selected provisions of the current LANGO⁵ and the corresponding draft amendments proposed by the Government and dated 27 October 2022. The analysis also takes into account specific recommendations issued by treaty bodies and special procedures, particularly the Concluding Observations on the Third Periodic Report of Cambodia by the Human Rights Committee in May 2022,⁶ which are of relevance for the protection of the right to freedom of association in Cambodia.

II. Background

4. In May 1992, Cambodia ratified the ICCPR. As a result, Cambodia was required to adopt laws or other measures as necessary, to give effect to the rights contained in that Covenant, including the rights to freedom of opinion, expression and association, and the right to take part in the conduct of public affairs.⁷
5. The Constitution of Cambodia guarantees the right of Cambodians to freedom of association and to participate in mass organizations for their mutual benefit to protect national achievements and social

¹ Human Rights Council resolution 15/21, preamble.

² Human Rights Council resolution 24/5, para. 2.

³ In August 2015, OHCHR Cambodia prepared and shared an analysis with the Royal Government of Cambodia as a contribution to the consideration and adoption of the Law on Associations and Non-Governmental Organization - https://cambodia.ohchr.org/sites/default/files/OHCHR_analysis_of_5th_LANGO_Eng.pdf.

⁴ Additionally, the right to freedom of association is enshrined in several international human rights instruments, including the Universal Declaration of Human Rights (article 20), the International Convention on the Elimination of All Forms of Racial Discrimination (article 5), the Convention on the Elimination of All Forms of Discrimination against Women (article 7), and the Convention on the Rights of the Child (article 15).

⁵ Articles 1, 7, 8, 9, 10, 11, 20, 24, 25, 26, 27, 30, 31, 32 and 35 of the LANGO.

⁶ CCPR/C/KHM/CO/3.

⁷ ICCPR, arts. 2, 19, 21-22 and 25.

order.⁸ The Constitution also recognizes international obligations on human rights, including covenants and conventions related to human rights, women’s and children’s rights.⁹ These have been interpreted by the Constitutional Council as part of domestic law, and are directly applicable in the Cambodian court system.

6. The LANGO was promulgated on 12 August 2015. The law aims at safeguarding the freedom of associations and non-governmental organizations conducting activities in Cambodia.¹⁰ The law regulates associations¹¹ and non-governmental organizations¹² (NGOs) in Cambodia.¹³ While a “domestic association” is defined as a membership organization established by natural persons or legal entities with the aim of representing and protecting the interests of their members without generating profits, a “domestic non-governmental organization” is defined as a non-membership organization, including foundations, established by natural persons and/or legal entities aiming at providing funds and services in one or several sectors for the public interest without generating or sharing profit.¹⁴
7. According to information provided by the former Deputy Prime Minister and Minister of Interior, Samdech Krolahom Sar Kheng, 2,623 associations, and 3,486 NGOs were registered with the Ministry of Interior (MoI) as of December 2022.¹⁵ As of May 2023, 341 foreign NGOs had a valid memorandum of understanding (MoU) with the Ministry of Foreign Affairs and International Cooperation (MoFAIC).¹⁶
8. On 29 September 2019, 500 civil society organizations (CSOs) requested the Government to review and amend the LANGO.¹⁷ The Government of Cambodia¹⁸ started the process of reviewing and discussing the amendments to the LANGO by establishing a Government Working Group (GWG)¹⁹ tasked with consulting representatives of CSOs on the requested amendments.

⁸ Constitution of the Kingdom of Cambodia, art. 42.

⁹ Ibid, art. 31.

¹⁰ LANGO, art. 1.

¹¹ According to article 4 of the LANGO, *association* refers to both *domestic* and *foreign* associations. An association established under the laws of Cambodia is referred to as a “*Domestic Association*” while an association established outside Cambodia is referred to as a “*Foreign Association*.”

¹² According to article 4 of the LANGO, *non-governmental organization* refers to both *domestic* and *foreign* non-governmental organizations. A non-governmental organization established under the laws of Cambodia is referred to as a “*Domestic non-governmental organization*” while a non-governmental organization established outside Cambodia is referred to as a “*Foreign non-governmental organization*.”

¹³ Article 3.

¹⁴ Article 4.

¹⁵ Address in the 5th Forum on Partnership between the Royal Government and Civil Society Organizations (CSOs) on 12 January 2023. For additional information; <https://www.khmertimeskh.com/501218514/over-6100-associations-and-ngos-recorded-in-cambodia-as-of-december-2022/> [Last accessed on 28 June 2023].

¹⁶ <https://www.mfaic.gov.kh/Page/2021-02-10-List-of-Foreign-NGOs-Which-Signed-MoU-with-the-Ministry-of-Foreign-Affairs-and-International-Cooperation> [Last accessed on 20 June 2023].

¹⁷ Joint Statement on the Result of the Consultative Discussion on the Request for Amendment of the LANGO, 6 July 2020, available at www.cpp.org.kh/details/212379. See also Joint Press Release to call for an acceleration and opportunity for CSOs to continue joining the process of amendment to the LANGO, 26 August 2020, available at www.khmerkromngo.org/wp-content/uploads/2020/08/COMFREL-LANGO-ENG.pdf.

¹⁸ Former Deputy Prime Minister and Minister of Interior, Samdech Krolahom Sar Kheng, provided the green light for an amendment of the law during the Government-CSOs Partnership Forum in September 2019.

¹⁹ The GWG is composed of government line ministries, including the MoI, the Ministry of Justice, the Ministry of Economy and Finance, and the General Department of Taxation. The GWG is chaired by H.E. Bon Honn, Secretary of State of the MoI.

9. Between November 2019 to July 2020, the GWG held six consultative discussions with civil society representatives. After these discussions, the CSOs requested to amend 15 articles of the LANGO.²⁰ On 27 October 2022, the GWG shared the draft of the amendments proposed by the Government²¹ and invited representatives of CSOs for a discussion related to the content of the provisions of the law that were suggested for amendment. Since the last discussion on 27 October 2022, no final agreement has been reached between the GWG and CSOs on the proposed amendments of these provisions.²² The draft amendment is currently being reviewed by the GWG before submission for further consultations.

III. Observations and recommendations

10. The observations and recommendations herein are a result of discussions within the review team of the United Nations Country Team (UNCT) in Cambodia. These observations and recommendations aim at providing technical advice to the Government in line with the international human rights obligations of Cambodia, inter alia, in relation to guaranteeing the enjoyment of the right to freedom of association, while taking into account the link with other human rights, including the rights to freedom of opinion, expression, peaceful assembly and to take part in the conduct of public affairs.
11. The analysis of respective articles of the LANGO and related proposed amendments and recommendations are grouped under the following sub-topics:
- a. Functioning of domestic associations or NGOs
 - b. Compulsory Registration
 - c. Lawful Relationship and Cooperation
 - d. Reporting
 - e. Non-compliance and Sanctions
- a) Functioning of domestic associations or NGOs**
12. Article 24 of the draft amendment prescribes that “*domestic NGOs, foreign NGOs, or foreign associations shall maintain their neutrality toward political parties and shall not conduct any political activities.*” Articles 30 and 33 of the draft amendment provide authority to the Government²³ to issue a warning letter, temporary suspension, and de-registration of any association or NGO that fails to comply with article 24.
13. The ICCPR guarantees the rights to freedom of association, opinion, expression, peaceful assembly and to take part in the conduct of public affairs, subject only to specified limitations. Article 22 recognizes the right to freedom of association, which may only be restricted if prescribed by law and necessary in a democratic society for certain specific purpose. Article 19(1) protects the right to hold opinions without

²⁰ Provisions of articles 1, 7, 8, 9, 10, 11, 20, 24, 25, 26, 27, 30, 31, 32 and 35. The CSOs requested amendments in the language in 12 of these articles, and the elimination of articles 24-32. The details of the 15 articles whose amendment was requested by the CSOs is attached in the Annex.

²¹ Responding to the request of CSOs, the GWG consolidated the inputs, and produced a draft amendment of the provisions of the law covering 16 articles, including articles 1, 7, 8, 9, 10, 11, 20, 21, 24, 25, 26, 30, 31, 32, 35 and 36. The detail of 16 amended articles proposed by the Government is attached in the Annex.

²² According to the Joint Press Release to call for an acceleration and opportunity for Civil Society Organizations (CSOs) to continue joining the process of amendment to the LANGO dated 26 August 2020.

²³ MoI or MoFAIC.

interference; this is not subject to any restrictions and it includes opinions of a political nature.²⁴ Article 19(2) guarantees the right to freedom of expression, which includes “freedom to seek, receive and impart information and ideas of all kinds”. The Human Rights Committee has clarified that freedom of expression encompasses political discourse, commentary on one’s own and on public affairs, and discussion of human rights.²⁵ Furthermore, while freedom of expression may be limited, if prescribed by law and necessary for two limitative areas, such restrictions must be proportional and may not jeopardize the right itself. In particular, the ICCPR places particularly high value on uninhibited expression “in the circumstances of public debate concerning figures in the public and political domain.”²⁶ The Human Rights Committee has clarified that freedom of expression, assembly and association are essential conditions for the effective exercise of the rights to take part in the conduct of public affairs and to vote, protected by article 25 of the ICCPR. In particular, the right to freedom of association includes “the right to form and join organizations and associations concerned with political and public affairs” as an essential adjunct to the rights protected by article 25.²⁷

14. The proposed amended article 24 of the LANGO specifies that NGOs and foreign associations “*shall maintain their neutrality toward political parties ... and shall not conduct any political activities*”. Such wording directly limits the right to form associations concerned with political and public affairs. It thus infringes on the rights to freedom of expression, freedom of association, and to participate in public affairs as guaranteed by the ICCPR.

Recommendation

15. Remove **article 24** of the LANGO to ensure compliance of the law with articles 19, 22 and 23 of the ICCPR. The terms “*political neutrality*” and “*political activities*” stipulated in article 24 are inconsistent with the guarantees of the rights to freedom of expression, freedom of association and to take part in public affairs guaranteed by the ICCPR.

b) Compulsory Registration

16. The LANGO sets out a regime of procedures and requirements for the compulsory registration of both domestic and foreign associations and NGOs. Article 6 requires domestic associations and NGOs to register with the MoI, while article 12 requires foreign associations or NGOs to register with the MoFAIC by signing a Memorandum of Understanding (MoU). The draft amended article 8 of the LANGO stipulates that the MoI shall examine the application documents of a domestic association or NGO and decide whether to accept or not the registration within 45 working days or, in the case of an application where corrections were required, within 15 working days. In case of failure by the MoI to make a decision within the respective 45 and 15 days, the domestic association or NGO shall be deemed registered. The article specifies that the MoI may deny registration of a domestic association or NGO whose purposes and goals “would endanger the security, stability and public order”, and that a domestic association or NGO whose registration is denied has the right to appeal to the courts.

²⁴ See Human Rights Committee, General Comment no. 34, paras. 9-10.

²⁵ Human Rights Committee, General Comment No. 34, para. 11.

²⁶ Ibid, para. 38.

²⁷ Human Rights Committee, General Comment No. 25, paras. 8, 12 and 26.

17. Article 9 of the LANGO stipulates that a domestic association or NGO shall become a legal entity from the date it is registered by the MoI. The article further states that any domestic association or NGO that is not registered shall not be allowed to conduct any activity within the Kingdom of Cambodia.
18. Article 32 of the draft amendment allows the competent authorities to take measures to immediately stop any domestic association or NGO from conducting any activities without registration with the MoI, and imposes penalties, including fines in the case of resistance,²⁸ and in the case of repetition, a “complaint to the courts for legal action, regardless of other criminal punishments”. In addition, article 30 of the draft amendment prescribes circumstances where the MoI shall remove a domestic association or NGO from the register, which includes any domestic association or NGO “that conducts activities that would endanger the security, stability and public order”.
19. With respect to foreign associations or NGOs, article 34 provides that the competent authorities “shall take measures to immediately stop “any foreign association or NGO that conducts activities without registration or whose MoU is terminated by the MoFAIC, with the possibility of additional measures involving expulsion under the Law on immigration. Article 35 of the proposed amendment prescribes that the MoFAIC may terminate the validity of a MoU when a foreign association or NGO “fails to properly comply” with it, or where a foreign association or NGO “conducts activities which harm security, stability, and public order”.
20. The ICCPR recognizes the right of everyone to freedom of association with others, and clearly stipulates that “no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights of others.”²⁹ Although States can regulate freedom of association, the standard that is recommended under international human rights law is that of the State adopting expeditious regimes of “notification”, whereby associations or NGOs are considered as legal entities as soon as they provide basic information of their existence and activity to the relevant administrative authorities.³⁰ Regimes of declaration are preferable to registration. The right to freedom of association applies equally to associations that are not registered, and associations should be presumed to be operating legally until it is proven otherwise.³¹
21. Where a registration process is in place, the Special Representative of the Secretary-General (SRSG) on human rights defenders has recommended that it should be expeditious, with short maximum time limits for the authorities to respond and failure to provide a response resulting in the NGO being considered legally operative. Furthermore, registering bodies should be independent from the Government and include representatives of civil society. Decisions to deny registration must be fully explained and cannot be politically motivated, and failure to provide detailed grounds for the decision should result in the NGO being considered to be operating legally.³²

²⁸ Subjected to a fine from Riel 5,000,000 to Riel 10,000,000 by MoI. In case of repetition, the competent authorities shall file a complaint to the courts for legal action, regardless of other criminal punishment. It also applies to any domestic association or non-governmental organization that is delisted or whose activity is suspended by MoI but continues to carry out activities in Cambodia.

²⁹ Article 22.

³⁰ See A/59/401, para. 82(b). This approach has also been recommended by the Special Rapporteur on the rights to freedom of peaceful assembly and of association: see A/HRC/20/27, paras. 56-62 and 95-96.

³¹ See report of the SRSG on human rights defenders, A/59/401, para. 82.

³² A/59/401, para. 82.

22. Article 8 of the LANGO grants sole authority to the MoI to control the establishment and registration process of associations and NGOs. In addition, the period of 45 days to process applications for registration is a lengthy period, during which associations and NGOs are prohibited from exercising their right to freedom of association. The grounds to justify the denial of registration under article 8 of the draft amendment are wider than the permissible grounds for restrictions on the right to freedom of association contained in article 22(2) of ICCPR. As stated by the Human Rights Committee, where restrictions are made on the rights recognized by the ICCPR, “States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right”.³³ The mere existence of objective justifications for limiting the right to freedom of association is not sufficient, particularly with respect to the activity of political parties. The State party must further demonstrate that the prohibition of an association is necessary to avert a real and not only hypothetical threat to national security or democratic order; that less intrusive measures would be insufficient to achieve the same purpose; and that the restriction is proportionate to the interest to be protected.”³⁴ Importantly, the permissible limitations set out in article 22(2) of ICCPR cannot be used as a means to restrict associations that dissent from the State’s policies or positions: “*The reference to the notion of ‘democratic society’ in the context of article 22 indicates... that the existence and operation of associations, including those which peacefully promote ideas not necessarily favourably received by the Government or the majority of the population, is a cornerstone of a democratic society*”.³⁵
23. With regards to the suspension and closure of associations and NGOs, these are the severest types of restrictions on freedom of association. International human rights standards recommend that government authorities should not be granted the power to arbitrarily suspend their activities. Such power should be left to the courts alone, and only in situations of clear and imminent danger that could result directly from such activities, and that is objectively ascertained, in compliance with international human rights law. Similarly, actions by the government against the associations and NGOs must be proportionate and subject to appeal and judicial review.³⁶

Recommendations

24. **Amend articles 6, 8, 9, 11, 12, 34 and 35** of the LANGO and its draft amendments to align with article 22 of the ICCPR, including by:
- Considering a regime of notification, whereby an association or NGO is considered a legal entity from the date it has notified its existence to the MoI by providing basic information, such as the name and addresses of the founder(s) and the name, address, statutes and purpose of the organization;

³³ Human Rights Committee, General Comment no. 31, para. 6.

³⁴ Daher Ahmed Farah v. Djibouti (CCPR/C/130/D/3593/2019), para 7.3. and Raisa Mikhailovskaya & Oleg Volchek v. Belarus (CCPR/C/111/D/1993/2010), para 7.3.

³⁵ *Korneenko v. Belarus* (CCPR/C/105/D/1226/2003), para. 10.3.

³⁶ A/59/401, para. 82(r)-(s); A/HRC/20/27, para. 75.

- Should a registration system be used, it should be expeditious, providing for quick registration, with shorter maximum time limits for the State authorities to respond. The grounds to justify the denial of registration, which cannot be politically motivated, should be clearly prescribed by law and consistent with article 22(2) of ICCPR. The registering body should be independent of the Government and be obliged by law to communicate in writing detailed reasons for all decisions to deny registration. All associations and NGOs who are denied registration should have the opportunity to respond in writing, and to challenge the decision in an independent court.
- Suggest revising **paragraph 3 of article 8** to be clearer in cases where the MoI fails to decide on registration within the stipulated period and does not immediately prepare the necessary documents to legalize the registration. This is to make this provision consistent with the provision in article 9, which stipulates that an association or NGO can only become a legal entity on the day it is registered.

c) Lawful Relationship and Cooperation

25. Article 21 of the draft amendment stipulates that an association or NGO, which has registered or signed a MoU, shall be entitled to enter into contracts to cooperate with its partners for implementing its activities according to the existing laws of Cambodia.
26. Although article 21 of the draft amendment reiterates a basic principle of civil law that a legal entity can enter into contracts with natural and legal persons for any lawful purpose, this article appears to limit the possibilities of entering into cooperation agreements, including for funding to associations and NGOs considered by the Government to be registered. The Special Rapporteur on freedom of peaceful assembly and of association (SRFOAA) has noted that the ability for associations to access funding and resources is an integral and vital part of the right to freedom of association, and highlighted that “any associations, both registered or unregistered, should have the right to seek and secure funding and resources from domestic, foreign and international entities”.³⁷

Recommendations

27. Suggest removing **article 21** of the draft amendment to ensure that all associations are able to enter into cooperation and funding agreements, as an integral part of the right to freedom of association under the ICCPR.

d) Reporting

28. Article 10 requires domestic associations or NGOs to inform in writing all of their operation bank accounts in the banks in the Kingdom of Cambodia to the MoI and the Ministry of Economy and Finance (MoEF) within 30 days from the date of registration. In addition, a domestic association or NGO must inform the MoI in writing within 15 days of any amendment of its statute, relocation of its office, replacement of its president or executive director, or a change of its bank account information. Article 25 of the draft amendment imposes additional reporting requirements on domestic and foreign NGOs, requiring them to submit activity and financial reports within specified timeframes. This article also provides that the MoEF

³⁷ A/HRC/20/27, paras. 67-68.

or the National Audit Authority may check and audit an association or NGO, at the request of the MoI or MoFAIC.

29. In addition, articles 30 and 33 of the draft amendment provides for sanctions for non-compliance with the requirements in articles 10 and 25. Those sanctions include the possibility of suspension or de-registration for associations or NGOs.
30. The Human Rights Council, in its resolution 22/6, called upon States to ensure that reporting requirements “do not inhibit functional autonomy” of associations. The SRSG on human rights defenders has recommended that “NGO laws should preclude overly burdensome requests for unnecessary documents”.³⁸ The SRFOAA has highlighted concerns about legislation that creates burdensome requirements for associations, and that threaten associations with deregistration or loss of legal existence for non-compliance.³⁹
31. Articles 10 and 25 impose extensive reporting requirements on domestic associations and NGOs, as well as on foreign NGOs, requiring them to submit information on their bank accounts, annual activity, financial reports, project documents and financial agreement with donors, while giving the MoEF or the National Audit Authority discretion to check and audit associations and NGOs. This widens the possibility of governmental interference with the right to freedom of association. Furthermore, articles 30 and 33 prescribe significant sanctions for failure to comply with these heavy reporting requirements, which include the deregistration or termination of the MoU of the association or NGO. As noted above, suspension and closure are the severest types of restrictions on freedom of association, and international human rights standards require that only courts should be entitled to order a suspension, and only in situations of clear and imminent danger that could result directly from the activities of an association or NGO, and that is objectively ascertained.⁴⁰
32. Finally, as further detailed below, section 32 imposes the threat of fine or legal action for domestic associations or NGOs that conduct activities without registration. The numerous reporting requirements, as well as the threat of significant sanctions, infringe the right to freedom of association guaranteed by the ICCPR. Moreover, as noted by the SRFOAA, such a legal regime can have “the effect of destabilizing and intimidating associations by generating confusion and increasing the administrative burden of continuing their activities, while instilling fear of action among their members”⁴¹ – thus creating a further chilling effect on fundamental freedoms protected under international human rights law.

Recommendations

33. The following amendments are suggested;
 - a. **Articles 10 and 25** should be revised to ensure that reporting requirements are simple and preclude overly burdensome requests for unnecessary documents from associations or non-governmental organizations.

³⁸ A/59/401, para. 82(f).

³⁹ A/HRC/38/34, para. 28.

⁴⁰ A/59/401, para. 82(r)-(s); A/HRC/20/27, para. 75.

⁴¹ A/HRC/38/34, para. 28.

- b. Further amend **articles 30 and 33** to remove the authority to deregister or terminate associations or NGOs from the Government authorities. The power to deregister or terminate associations or NGOs should be left with the courts and limited to situations of imminent and clear danger that objectively could result directly from the activities of associations or NGOs, as prescribed by international human rights law.

e) Non-compliance and Sanctions

34. Chapter 7 of the LANGO provides for “Administrative measures and penalties”. Within Chapter 7, article 30 of the draft amendment permits the MoI to issue warnings, temporarily suspend or even remove associations and NGOs from the register in different situations of non-compliance with the law. Article 32 stipulates that the competent authorities shall take measures to immediately stop domestic associations or NGOs from conducting activities without registration with the MoI. The article also provides for fines of between 5 and 10 million Riels “in case of resistance”, and states that in case of repetition, the competent authorities shall file a complaint to the courts for legal action, regardless of other criminal punishments.
35. Similarly, article 33 prescribes that in case a foreign association or NGO fails to comply with article 24 or 25(3) of the LANGO, the MoFAIC shall issue written warnings, and in the case of repeated non-compliance, a written decision to terminate the validity of the MoU.
36. Article 34 prescribes that the competent authorities shall take measures to immediately stop any foreign association or NGO that conducts activities without registration or which MoU is terminated by the MoFAIC. Additional measures involving expulsion under the Law on immigration may be undertaken against any foreigner working for a foreign association or NGO for committing the above offence, regardless of other criminal punishments.
37. In addition, according to article 35, the MoFAIC may terminate the validity of a MoU where a foreign association or NGO fails to properly comply with the MoU it has signed with the MoFAIC, or where it “conducts activities which harm security, stability, and public order”.⁴² The terms ‘security, stability and public order’ are not defined in the LANGO.
38. As noted by the SRFOAA, the right to freedom of association applies for the entire life of associations, and their suspension and involuntary dissolution are the most severe types of restriction on freedom of association. Permissible restrictions should only be possible when there is “a clear and imminent danger, resulting in a flagrant violation of national law, and must be implemented in compliance with international human rights law”.⁴³ These should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient. Additionally, any restriction on the ground of “public order/morals/ethics” and any criteria meant to limit the right to freely associate must be clearly defined, and any human rights-related activities must be clearly excluded from these restrictions.⁴⁴ Furthermore, the SRSG on human rights defenders has stressed that “Government authorities should not be granted the power

⁴² To terminate the MoU of a foreign association or NGO for failure to submit annual narrative and financial report, and the report of all their funding agreements including the narrative and financial reports that they submitted to donors within 30 days if they received funding from the donors. The provision also applies if the foreign association or NGO does not follow their statute kept at the MoFAIC.

⁴³ A/HRC/20/27, para. 75

⁴⁴ A/59/401, para. 82 (o).

to arbitrarily suspend or dissolve human rights groups. The courts alone should be entitled to order a suspension, and only in situations of clear and imminent danger that could result directly from such activities, and that is objectively ascertained, incompliance with international human rights law”.⁴⁵

39. The administrative measures and penalties currently set out in the LANGO and its draft amendments violate several international human rights standards. Firstly, they contravene the principle that registration of associations should not be compulsory. Secondly, the current wording of articles 30 and 33 give power to the MoI or MoFAIC (as the case may be) to suspend, de-register or terminate the MoUs of associations or NGOs, while international human rights law calls for courts alone to have such authority, and only in situations of clear and imminent danger that could result directly from the activities of associations and NGOs. Thirdly, the terms “security, stability and public order” are not defined and are wider than the permissible restrictions under article 22(2) of the ICCPR. Finally, the LANGO provides for the threat of heavy fines, legal action and expulsion of third country nationals, which are significant penalties that can have a chilling effect on fundamental freedoms protected under the ICCPR. Any such possible sanctions should be strictly circumscribed and determined by a competent court according to the principles of legality, necessity and proportionality.

Recommendations

40. Consider revising **Articles 30, 32, 35 and 36** to ensure that they align with Article 22 (2) of ICCPR; particularly that the judiciary is provided with the exclusive authority to investigate and sanction associations or NGOs for engaging in criminal activities; removing or strictly defining the grounds for suspension or termination of associations or NGOs, which should be in line with international human rights law; and ensuring that administrative irregularities or non-essential changes in the specifics of an organization are not considered as sufficient grounds to suspend or terminate associations or NGOs. In this regard, the Government should:
- a. Consider removing the articles of the LANGO requiring that associations or NGOs should be registered or have valid MOUs before operating.
 - b. Suggest revising **Articles 30, 32, 35 and 36** to eliminate the power to arbitrarily suspend associations and NGOs from Government authorities. The power to suspend associations and NGOs should be provided to the judiciary, with exclusive authority to investigate associations and NGOs that are suspected of violating Cambodian criminal law, as well as to issue orders on fines, de-registration or termination of the MOUs of associations and NGOs after due process.
 - c. Consider revising **Article 35** to allow the MoFAIC to initiate discussions with the concerned foreign associations or NGOs that are found to be operating with irregularities, with the aim of rectifying these irregularities. It is recommended to add specific procedural safeguards in this article for foreign associations and NGOs to be able to appeal MoFAIC’s decisions to a competent court.

END.

⁴⁵ Ibid, para. 82(r).