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국제학석사 학위논문

Stunted nexus between civil society and political opposition

**: A Study of “Law on Associations and NGOs” and its
legislation process in Cambodia**

캄보디아의 “협회 및 NGO 에 관한 법” 및 입법과정
연구: 위축된 시민사회-정치사회간의 연계성

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Abstract

Cambodian civil society is facing threats to its survival and operations with state's repressive law. The Law on Associations and Nongovernmental Organizations (LANGO) was passed in August 2015 and it prevents expansion of democratic space in Cambodia, thereby undermining further social, political, and economic development. As often referred to have been developed with a vibrant NGO sector, legislation process provokes questions on the inability of civil society advocacy to oppose the law. The thesis looks into Cambodian civil society and political opposition party to understand what caused the failure of reaching the goal: the withdrawal of LANGO. By drawing theoretical framework from state-society synergy, it argues that the absence of synergetic relations between the civil society and the party contributes to ineffective response to legislation. Findings from the analysis of the opposition party (Cambodian National Rescue Party) and of the civil society organizations, such as network CSOs and human rights organizations, suggest that there has been a lack of synergy. There are number of factors such as fragmentation within the civil society, which lead to reduced influence of advocacy and the weak political opposition vis-à-vis the ruling party, which has not prioritized the issue of LANGO in its political agenda.

Keyword: Cambodia, civil society, NGO, state-society synergy, Law on Associations and NGOs, Cambodia National Rescue Party

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List of Acronyms

ADB	Asian Development Bank
ADHOC	Association pour les droits de l'Homme et le développement au Cambodge (Cambodian Human Rights and Development Association)
CCC	Cooperation Committee of Cambodia
CCHR	Cambodia Center for Human Rights
CNRP	Cambodia National Rescue Party
CPP	Cambodian People's Party
CSO	Civil Society Organizations
FUNCINPEC	Front Uni National pour un Cambodge Indépendent, Neutre, Pacifique et Coopératif (United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia)
HRP	Human Rights Party
INGO	International Nongovernmental Organizations
LANGO	Law on Associations and Nongovernmental Organizations
LICADHO	Ligue Cambodgienne de Defense des Droits de l'Homme (Cambodian League for the Promotion and Defense of Human Rights)
MoU	Memorandum of Understanding
NGO	Nongovernmental Organizations
NGOF	NGO Forum on Cambodia
ODA	Official Development Assistance
OECD DAC	Organization for Economic Co-operation and Development Development Assistance Committee
OHCHR	Office of the High Commissioner for Human Rights
PIC	Policy Influencing Continuum
SRP	Sam Rainsy Party
UN	United Nations
UNDP	United Nations Development Programme
UNTAC	United Nations Transitional Authority of Cambodia

I. Introduction

International aid donors have been promoting democratic governance in recipient countries to enhance the effectiveness development programmes and projects. The discourse on governance was first used to demand recipients' adherence to 'proper administrative process' and to utilize 'efficient policy instruments' in achieving the goals of development assistance (Doornbos 2001). This agenda allowed opportunities to form new patterns of interaction among the donors, the state, and non-state actors such as market and civil society. Among them, civil society organizations are considered central in democracy promotion, expanding the concept of development to a political arena. Against the backdrop, civil society organizations have been the major channel of official development assistance (ODA), in both Global North and South. OECD DAC member countries have worked with these non-governmental organizations with several objectives: to reach objectives on service delivery, stimulate awareness on development cooperation, encourage democratic processes and accountability – creating an enabling environment for civil society, and to build capacity of NGOs (OECD DAC 2011).

The democracy promotion literatures have also emphasized the positive role of civil society, contributing to the donor policies. For instance, Diamond (1999: 233) suggest that civil society helps “to generate transition from authoritarian to (at least) electoral democracy and by deepening and consolidating democracy once it is established.” Despite the theory and the aid from donors, there has been growing tendency of backlash against democracy aid. It is illustrated by Dupuy, Ron and Prakash (2016), where it

statistically showed the relationship between ODA channeled to domestic civil society and an increase in political and/or legal restriction on civil society. This is also growing in Southeast Asian region. Bangladesh imposes strict controls over the international NGOs financial flows. Pakistan forcedly closed down one office of INGO (Save the Children) in 2015. Cambodia has strict regulations on both domestic and foreign NGO through the recently passed in 2015, the Law on Associations and Nongovernmental Organizations (LANGO).

Cambodian civil society has rapidly grown since the 1990s, the post-conflict period. It was first dominated by international/foreign NGOs but Cambodian organizations also grew with the financial support from international community on the grounds of development and democratization. Often, the development NGOs appear to be most active but human rights NGOs and community-based organizations also emerged, especially the latter grew with government's decentralization. There had been growth of NGOs from 0 in 1991 to more than 500 in 1996, including local NGOs and INGOs active in Cambodia (Clarke 2006). The number increased to more than 3,000 local NGOs, which are registered to Ministry of Interior (Oxfam 2013). These organizations include development NGOs, human rights NGOs, environmental NGOs and other coalitions and network NGOs. The value of Cambodian case is presented by how vibrant and active Cambodian civil society are. In comparison with other contexts in Southeast Asia, the ability of civil society is well documented by international development organizations such as Asian Development Bank (ADB 2011).

The case of Cambodia simultaneously presents repressive mechanism over civil society and well developed NGO sectors which allows research on civil society advocacy in reaction. If the civil society were to be inactive, evidence of advocacy would be non-existence. It is thus questionable to why the civil society has not been able to counter the government to block the legislation of the repressive law, the Law on Associations and Nongovernmental Organizations. As the main subject of the law and primary stakeholder, civil society organizations should engage with the government to prevent enactment, as the guardian of democratic space in societies. However, the prima facie outcome suggests that the law was enacted and they have not well responded to it.

The thesis looks into the situations in Cambodia surrounding the legislation and actors involved in the process of enactment include government (such as Ministry of Interior and Ministry of Foreign Affairs and International Cooperation), political parties (namely the ruling party, Cambodia People's Party and the opposition party, Cambodia National Rescue Party) and civil society organizations (CSOs). The subject of analysis are CSOs and the opposition party, as they share common understanding that the law is unnecessary and unjust, inspired by the state-society synergy. This state-society synergy is drawn from a sociologist Peter Evans which suggests understanding the dynamics of development as the interactions of state and society. By modifying the theory to a synergy between the political parties and civil society organizations, the thesis tries to argue that the presence of interaction between these stakeholders would lead to a different picture of legislation. The analysis focusing on these two primary stakeholders will uncover the

factors that lead to failure to prevent the passage of LANGO, and explain why the two actors were incapable of reaching the common goal: the withdrawal of LANGO.

This thesis is structured as follows: the second chapter begins with the background of research. It will be followed by the third chapter on analytical framework, grounded on the state-society synergy. Fourth chapter discusses the changes made throughout the different versions of drafts and its impact on civil society. The subsequent chapter focuses on the political context to review the power transition between the ruling party and the opposition, and how the opposition party takes LANGO. Sixth chapter deals with the advocacy of civil society and distinguishes the responses by time period. The final chapter concludes the paper by synthesizing the findings from the analysis, with implications and suggestions for further studies.

II. Review of Previous Studies

2.1. Literature Review

In a broader sense, the failure to block the enactment of LANGO can be attributed to donor governments, the state, and civil society. Large volume of literatures focus on donor-CSO relations to explain the failures in advocacy and/or service delivery. These authors looked at how donors' practices result in NGOs weak performance in the field (for instance: Bebbington 2005; Hulme and Edwards 1996; Banks, Hulme and Edwards 2015; Mercer 2003; Parks 2008).

Hulme and Edwards (1996) claims that donors' influence, compromises the performance of NGOs, distort the accountability, and lessen the legitimacy. The local objectives and long-term goals are compromised with donor's interests which negatively affect the performances and creates an accountability mechanism that shifts the focus from self-regulating to obligation for the rules from above. Parks (2008) also had similar observation with analysis of the impact of donors influence on advocacy NGOs. These advocacy NGOs must re-align their goals to the donors to secure funding and these lead to legitimacy and effectiveness crisis. As a solution, Banks, Hulme and Edwards (2015) suggests the need to foster membership-based organizations which are empowered that can work for social change, rather than NGOs which could potentially be dependent of donors. More, Mercer (2003) contends that donors engage handful elite NGOs to pursue its neoliberal agenda, leading to weakening of civil society as a whole in the recipient countries, in the case of Africa.

The literatures on donor-CSO relations could be applied to the context of Cambodian civil society and LANGO. Drawing the core arguments from these literatures, the LANGO legislation and ineffective response by NGO community can be the result of donor's influence over these Cambodian NGOs. Donors prioritize their own interests which may not align the priority of the NGOs in the developing countries. In addition, funding preferences over handful number of NGOs could cause inequality of resources among the NGO sector. Donor-funded NGOs not working effectively with other NGOs in pursuit of common agenda prevents adequate influence for successful advocacy. NGO dependence on donors can be the results of failure of advocacy as seen in the case of Cambodia with LANGO. Thus, such dependence on donors caused depoliticization of NGO activities which gradually move away from political advocacy.

There are also literatures that emphasized the relations of state and NGO. The characteristics and the rules employed by state explains the failure of NGO sectors (for example: Carbone 2005; Fowler 1993; Gerard 2015; Rahman 2006; Spicer et al. 2011).

Carbone (2005) argues, with the case of Botswana, that weak civil society could be attributed to a hard state, which has continuously denied the role of civil society as a significant actor to development. In similar vein, Fowler (1993) contends that the strong state's control poses limits to NGOs legitimacy and the state does not grant a legal status for NGOs. Rahman (2006) also makes similar explanation that national political space is eroded by government's perception of NGO sectors and the attempts to place regulations on them. On the other hand, Gerard (2015) and Spicer et al. (2011) looked at the government's perception of NGOs that critically limits their participation. The

governments tend to view them as service providers, less likely to be positioned as advocates for policy influence. If the NGOs were to be included in the participatory form of policy development, the nature is rather tokenistic that does not yield any influence.

The findings from these literatures on state-society relations do resemble the case of Cambodia. Cambodia has been facing threats to democracy with long years of rule by Hun Sen, the Prime Minister since 1993 and one party dominance of the Cambodian People's Party. The factors behind the enactment of LANGO is partly due to Hun Sen and CPP's perception of active civil society. They may see the civil society as future risk to political power and wants to restrain further growth to consolidate the current standing.

Political parties and its relations to civil society could also provide important analysis on the failure of civil society. For instance, Gershman (2004) argues that these two are important channel of democracy assistance as there are interdependence; when parties and civil society work closely together, it result in successful in achieving the common goal, whereas failure to see common interest results in deteriorating outcome for both. This provides underpinning rationale of the claim that Cambodian civil society could work closely with the political parties for a common goal.

To the contrary, Bénit-Gbaffou (2012) argues that in case of South Africa, political party provides a better platform for mobilization than civil society, since it has stronger presence in the local areas, replacing the function of locally formed CSOs. This restrict further development of civil society to challenge for a radical policy change, apart from the political party. In addition, Debrah (2014) mentions that civil society and parties can

only form a sustainable relationship for achieving successful outcome, only when they respect each other's autonomy. It stresses the importance of civil society in maintaining political neutrality to avoid unbiased relationship of being subordinate to the political party. These literatures suggest that partnership between civil society and political party should be considered with caution for favourable outcome for both, to avoid moving in the direction of zero-sum relationship.

Table 1. List of literatures

Donor-CSO & CSO failures	State-CSO & CSO failures	Political parties-CSO & CSO failures
- Bebbington 2005	- Carbone 2005	- Bénit-Gbaffou 2012
- Hulme and Edwards 1996	- Fowler 1993	- Debrah 2014
- Banks, Hulme and Edwards 2015	- Gerard 2015	
- Mercer 2003	- Rahman 2006	
- Parks 2008	- Spicer et al. 2011	

2.2. Purpose of Research

As the review of previous researches indicate, there exist large number of analysis on the relations between donor-NGO and government-NGO that could possibly offer an explanation for this Cambodian case of LANGO. The former provide implications on the analysis that donors have influence the inability of civil society to pursue successful advocacy, while the latter suggest that CSOs lack strength to counter the hard state that restrains them. However, it is inadequate to take donors and state as the main stakeholder in explaining the legislation process of LANGO. It is unclear how influential donors can greatly impact the civil society advocacy of LANGO, although they have been engaging in them by diplomatic relations. In addition, donor's influence on civil society advocacy in Cambodia requires further research, beyond the scope of this research. Moreover, state's motivation on placing controls on civil society have been well researched which does not require reiterations (for example, Gershman and Allen 2006; Dupuy, Ron and Prakash 2016).

Thus, there is a need to bridge the gaps in previous literatures and the implications to the case of Cambodia. As this thesis deals with the case of legislation process, the relationship between civil society and political parties are critical for analysis, as the main primary stakeholders. By including the political parties into the analysis, a hypothetical assumption is developed, what would be the crucial factor for a successful withdrawal of legislation process by the state. Such is recognized by democracy promotion strategies of development agencies in supporting opposition parties to be a catalyst for democratization, to counter against one-party dominance or authoritarianism. The

underpinning theoretical framework is drawn from state-society synergy, which will be elaborated in the subsequent chapter. This study rests on the ideal claims that political party and civil society synergy will result in the withdrawal of the law.

The thesis tries to contribute to the knowledge on Cambodia, especially in regards to civil society, as it is under researched topic compared to other contexts in Asia such as South Korea, Taiwan, Thailand, and the Philippines (Waibel, Ehlert, and Feuer 2013). Cambodian civil society has been mainly discussed in the context of development aid and peacebuilding process, and democratization and consolidation. This research aims to look at advocacy in particular, as an effort to provide a rationale as to why civil society advocacy should engage political means or partner with political parties, in the case of legislation. It also contributes to literatures by looking at the recent case of LANGO, which has yet to be dealt in academia. There has been only one article on LANGO (Anstis 2012) that deals with its consequences on human right defenders; however, the paper deals with the contents from “drafts” since the law had not been passed at the time of publishing.

2.3. Research Question

As the purpose of the research indicate, this thesis seeks to find out what the factors are that contributed to the legislation of LANGO. To narrow the scope of research, it will concentrate on the actions of civil society and political parties to counter the state on legislation. The below are the research questions:

[RQ1] What is the role and the influence of political opposition party in the law-making process of LANGO?

[RQ2] Why weren't civil society able to influence the withdrawal of the legislation of LANGO? Is there any evidence of shifts in priorities and influence over the law?

[RQ3] How have the two actors worked together? Is there any evidence of cooperation or alliance in between?

To answer the question, the below propositions are developed and will be validated through the analysis:

[P1] The opposition party could not counter the ruling party due to its weak position in the legislature vis-à-vis the ruling party.

[P2] Civil society advocacy was ineffective to influence the legislation due to limitation to work in cooperation.

[P3] The lack (or absence) of synergetic relationship between political party and civil society led to failure to influence the legislation.

III. Analytical Framework

3.1. State-society Synergy

This thesis broadly draws theoretical background from the state-society synergy (Evans 1997). In development literature, analytical frameworks have seen divisions between state-centric approach and society-centric approach. State-centric approach include how state has been effective in development, by producing macroeconomic changes. This is exemplified by public administration theories and developmental state thesis that emphasizes the role of formal institutions and bureaucracy (for instance, see World Bank 1993). There are other varieties, economists in support of market as magic bullet for development in the context of neoliberal governance and social capital theorists that values the role of norms and networks that create economic assets. On the other hand, there has been society-centric approach which suggest that ties within the society are critical to facilitating the betterment of living conditions. Improvements of welfare can be sustained on the condition that people trust each other and work together, as seen in social capital theories.

Dichotomy in analysis of state and society created views on how the two forms a zero-sum power relations. Taking Max Weber's notion of what constitute a state, on how state acts to dominate the society through monopoly of means of force (Weber 1978), one can expect that as state expands its activities, it can diminish the social networks and norms in a community. Such zero-sum relation makes the claim that social networks

must be strengthened for development with lesser role of the state or that the lack of social capital suggests to be a cause of underdevelopment.

While it is uneasy to generalize such relations, state-society relations became important analytical lens to see dynamics of development. As Migdal (2001: 57) suggests, state and society “are constantly *becoming*”. The state and society influence one another and transforms constantly. They are not static or fixed entities; states are constrained by the environment which society creates and societies are shaped by opportunity and limitations that state imposes. Thus, as seen in Koo’s literature on South Korea, state-society relations offer explanations on dynamics of social and political changes (Koo 1993).

The idea of synergy of state and society stems from social capital theory that “civic engagement strengthens state institutions, and effective state institutions create an environment in which civic engagement is more likely to thrive” (Evans 1997). Evans conceptualizes synergy with complementarity and embeddedness. These two concepts are interdependent in constructing successful (development) outcomes. He suggests that “complementarity creates objective grounds on which cooperation between government and citizens can be built but that embeddedness generates the normative and interactional basis for realizing the potential joint gains” (Ibid. 8). In other words, complementarity is when a combination of different means used by the public actor and the private actor result in efficient production, whereas embeddedness is to form norms of trust and reciprocity that can sustain the actual activity of production. To elaborate on the conceptualization of complementarity, Aoki (2001) lays out the concept of

institutional complementarity. The complementarity is defined as one agent's function in one domain affecting other agents in different domains in an interdependent way. As each agents influencing the strategic choices of the other, they form an institutional complementarity. When the complementarity exists, it "implies that a viable overall institutional arrangement, across different domains, constitutes a coherent whole and individual institutions therein may not easily be altered or designed in isolation" (Ibid. 225).

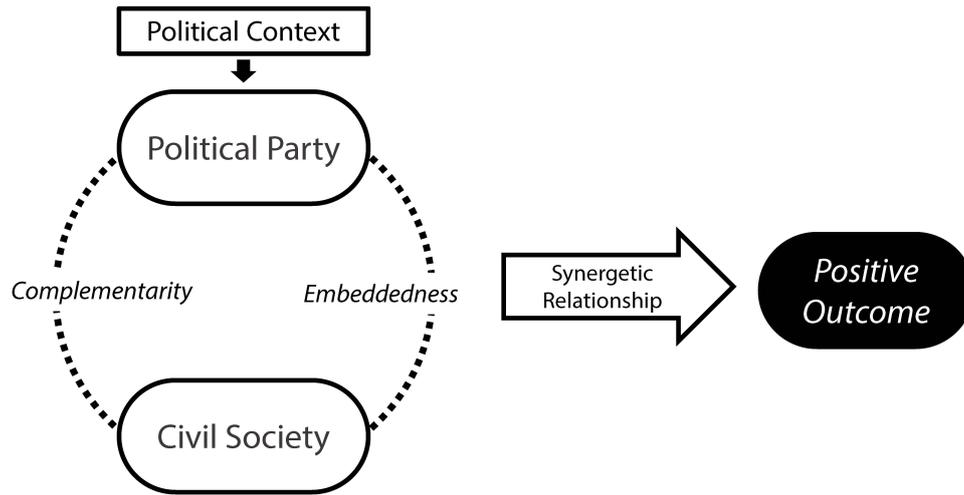
3.2. Proposed framework

Applying the aforementioned framework, the proposed framework for this study adjusts to looking at the interactions between political party and civil society that result in positive outcome. Complementarity can be demonstrated when the two identify a common goal and cooperate to achieve it. There should be a clear division of labour pertaining to each other's means. This would mean for opposition political party to work within the legislature in influencing the agenda, to vote against the passage and persuade the ruling party for a political bargain. Civil society outside the legislature work to change the public discourse, persuading the citizens to influence the lawmakers. Embeddedness is observed when two actors interact more frequently and develop to share a common normative ground. Political party sees interest in the withdrawal of LANGO to act to put an end to further consolidation of current ruling party and to secure more electoral supports from those with keen interest in sustaining democratic principles. Civil society recognizes the importance of political party in legislature and

interacts to provide inputs to shape preventive mechanism for further legislation of similar repressive mechanism on civil society. As they share the common goal, they start to engage in shaping certain agenda in preventing unjust legislations that deteriorates democracy. Then, the two actors form a synergetic relationship which leads to positive outcome.

In the case of Cambodia and the Law on Associations and NGOs, the government (and the ruling party), political opposition parties, and civil society organizations are the stakeholders. As the study aims to understand the factors behind the failure of stopping the law from being enacted, the main components of analysis are political opposition parties and civil society. Nonetheless, the two stakeholders cannot be thoroughly analyzed without looking at the action of the government and the ruling party, the strong drivers of the legislation. Thus, the political context is included as a reference to the government's position and the structural factors that the opposition parties and civil society are surrounded by. The below Figure 1 describes how the propositions were constituted and will be validated throughout the study.

Figure 1. Proposed Framework

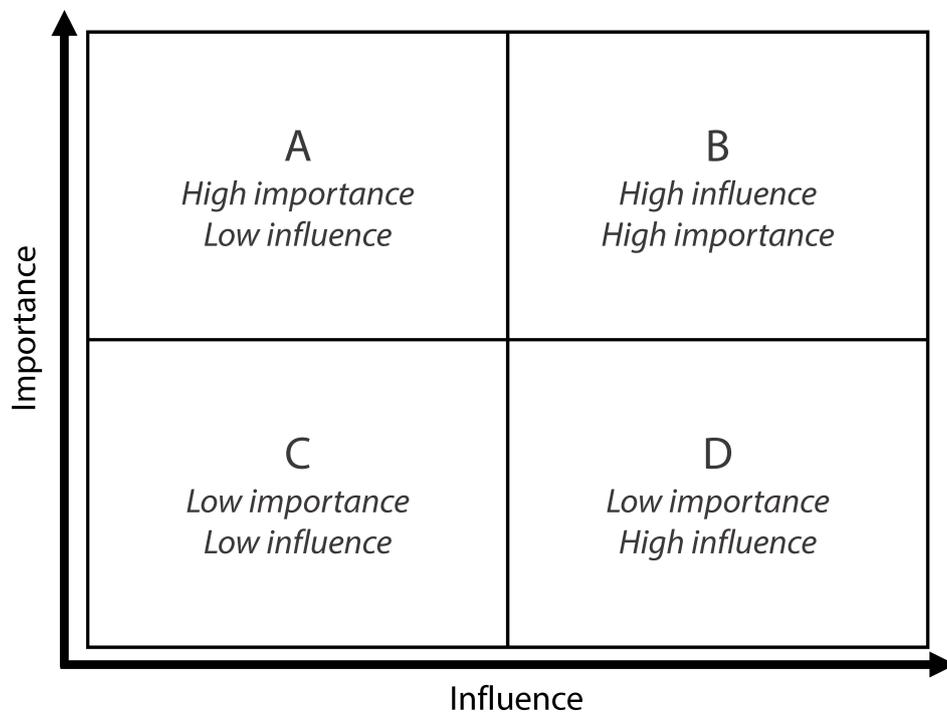


Source: Evans 1997, *modified by the author*

For detailed analysis of actors, stakeholder analysis or “Importance/Influence Matrix” are used. The analytic tool is often seen in development project context, employed by agencies such as Department for International Department, UK (DFID 2003). As the stakeholder analysis are used in variety of contexts, the analysis for civil society organizations sets the objective of the activities of CSO advocacy as to stop the government from legislating the LANGO. In the Matrix, influence is defined as

stakeholder's power to successfully meet the objectives; importance is how much the stakeholder prioritizes the objectives, depending on how much it satisfy its needs. Political party and the organizations, mainly the domestic NGOs, will be placed on the matrix, as seen below, to better identify where civil society stands against the LANGO.

Figure 2. Importance/Influence Matrix



Source: DFID 2003.

3.3. Methodology

This study is explanatory research and takes document reviews of various sources including Cambodian press, field researches, academic literatures, and policy papers from civil society and political parties. As the tendency to control media by the state could be increasing, the articles on media might be biased to favor the government. Nonetheless, Chandler (2010: 231) explains, while Hun Sen tries to control Khmer language media, “the French- and English-language press in Phnom Penh, however, staffed by competent writers, continued to print critical news about Cambodia, a privilege that would be unimaginable in Vietnam or Myanmar.” Thus, objective observations and interpretation of English-language media articles contributes to enhancing the accuracy of sources. Majority of the news articles are sourced from *The Cambodia Daily* and *The Phnom Penh Post*, which are independently operating English-language newspaper since 1992 and 1993.

As for the Importance/Influence Matrix, the degree of importance and influence cannot be quantitative measurements. These rather shows the changes in relative terms by time period and are evaluated on a qualitative basis. The case of LANGO offers two time periods: 2010-11 and 2015. In less than two years from 2010 to 2011, the drafts were being discussed to be legislated while in 2015 the law was finalized and was legislated. The thesis tries to look at the changes of party and civil society’s influence and importance towards the LANGO. For the political party, changes of influence can be drawn from the increase in the number of seats, positions vis-à-vis the ruling party, and the ability to shape political agenda. Civil society organizations’ influence include which

organizations often represent civil society as a whole at the national level and the ability to coordinate different meetings, conferences, and workshops. More, it also is associated with ability to lead public mobilization or awareness-raising events. Importance will be qualitatively evaluated by statements and priorities of the party and its members, and organizational mandates, policies and annual activity plans of CSOs.

3.4. Case selections

3.4.1. Political context and political parties

Following the fourth chapter on review of LANGO, chapter five begins by reviewing political contexts and accounts different elections to see how the political actors gained or lost power. It takes the documented evidences from annual surveys in *Southeast Asian Affairs* and *Asian Survey*. The journals provide reviews of political, economic, and social changes within a year in Cambodia. The elections results show the shift of power among Cambodian People's Party (CPP), Front Uni National pour un Cambodge Indépendent, Neutre, Pacifique et Coopératif (FUNCINPEC), Sam Rainsy Party (SRP), Human Rights Party (HRP) and Cambodia National Rescue Party (CNRP).

The political party in the analysis is the opposition party in Cambodia. There have been various parties in opposition but in the context of LANGO, the primary stakeholder is the **Cambodia National Rescue Party (CNRP)**. The party was formed after a merge between Sam Rainsy Party and Human Rights Party in 2012 (Meyn 2013). Both headed by renowned activists, Sam Rainsy and Kem Sokha, the merge was grounded on a

political deal to better respond to the ruling party during the national election in 2013. At the time of merge the party had 29 seats (26 from SRP and 3 from HRP) but currently holds 55 seats in the National Assembly, out of 123, as the result of 2013 election.

3.4.2. Civil society organizations

While the term non-governmental organization and CSO are used interchangeably, the concept of “civil society” takes broader concept of actors in the society that are self-determined, and is an interlink between the family and the state (Parekh 2004). It constitute diverse actors including non-profit organizations, service delivery (development) NGOs, human rights organizations, advocacy NGOs, community-based organizations, social movements, faith-based organizations, and trade unions (Banks, Hulme and Edwards 2015). As in the case of Cambodia and for this study, civil society organizations are mainly the coalition or network of NGOs, development NGOs, and human rights NGOs.

Since there has been great number of CSOs in Cambodia (Ou and Kim 2013), it is necessary to select key actors within the civil society. The selected organizations are the domestic CSOs: Cooperation Committee of Cambodia (CCC), NGO Forum on Cambodia (NGOF), Cambodia Center for Human Rights (CCHR), Cambodian League for the Promotion and Defense of Human Rights (LICADHO, acronym in French), and Cambodian Human Rights and Development Association (ADHOC, acronym in French). These organizations are the cases to be analyzed as they have been well

documenting their activities via online websites and are frequently featured in news media. These organizations also have explicit organizational mandates on advocacy.

To describe each organizations, Cooperation Committee of Cambodia (CCC) and NGO Forum on Cambodia (NGOF) are the coalition or network of NGOs, which is categorized as central NGOs in this thesis. Centrality is attributed to its representation of member NGOs in dialogue or consultation with the government and its organization characteristics of a coalition or network. CCC is a Phnom Penh-based body with 156 members (as of 2015) which consist of both domestic and international NGOs present in Cambodia (CCC 2016). It works to foster professionalism of CSOs, strengthen cooperation and partnership with government, development partners, private sector, and civil society. Its main activities include Governance and Professional Practice (GPP)¹, research and capacity building, and advocacy and networking. NGOF, on the other hand, has 89 members (as of 2013) and works for various operations including core, development issues, environment, and land and livelihoods programmes.² It works to serve its members interests and works on development issues such as development policy, economic development policy, national budget, and aid effectiveness. For environment programme or land and livelihoods programme, it works to raise issues on climate

¹ GPP is a self-regulating certification mechanism established in 2004, to establish code of conduct and ethics and to enhance the quality of services provided by CSOs. The main rationale is to make CSOs accountable and transparent which is to qualify for donors' funding; it has been noted that donors have preference over certified organizations in their budget planning and implementation partner selections (Norman 2014).

² NGO Forum on Cambodia website. <http://www.ngoforum.org.kh/> (Accessed 16 October 2016).

change, and advocate for protection of the rights of communities, especially in case of land grabbing, land disputes, or involuntary resettlement due to infrastructure development.

Human rights organizations active in CCHR, LICADHO and ADHOC. CCHR is a human rights organization that primarily works with civil and political rights, established in 2002.³ Its activities include using media and public forums/campaigns for awareness raising on human rights in general and violations. The area of projects include, business and human rights, acid violence prevention, sexual orientation and gender identity, community trainings, and human rights defenders. LICADHO is one of the oldest human rights organization, established in 1992, working for (1) monitoring and protection programmes of state violations, women's and children rights, and prison monitoring, and (2) promotion and advocacy programs on supporting unions, grassroots organizations and networks, and public advocacy and outreach.⁴ Its supports to community empowerment focus on capacity building for advocacy and network and alliance building. Lastly, ADHOC is the oldest human rights organization, established in 1991.⁵ Main activities are: (1) human rights monitoring for broader situations and human rights defenders and disputes over land and natural resources, and (2) programmes for women's and children's rights. It works in as an association, which has a headquarter office and provincial offices in 23 different areas throughout the country.

³ CCHR website. <http://cchrcambodia.org/> (Accessed 16 October 2016).

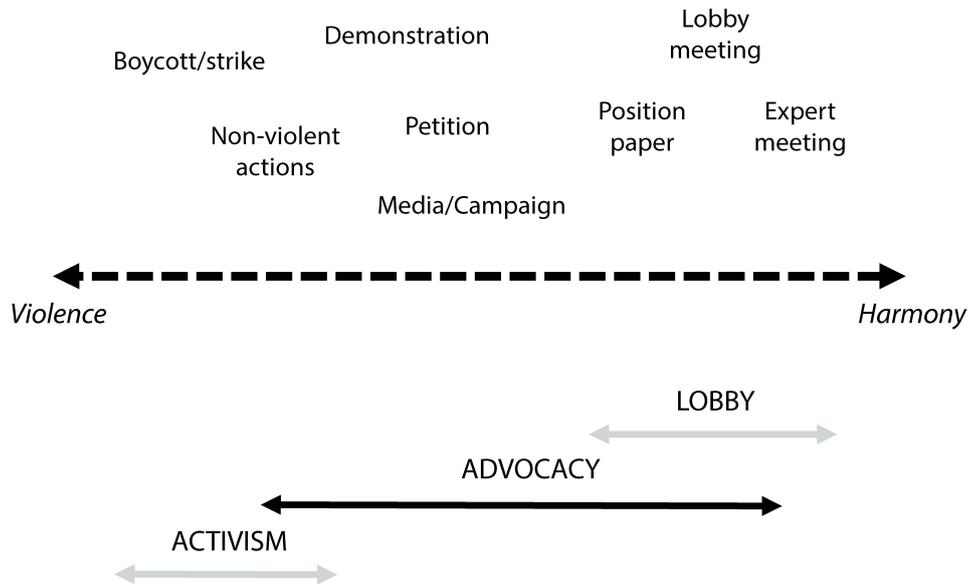
⁴ LICADHO website. <http://www.licadho-cambodia.org/> (Accessed 16 October 2016).

⁵ ADHOC website. <http://www.adhoc-cambodia.org/> (Accessed 16 October 2016).

The above mentioned CSOs conduct advocacy, which is defined as to influence the government for policy development. NGOs regard it as an act of counterbalance or alternative to service delivery, as “a strategy for making poverty reduction work more sustainable by addressing the structural causes of poverty” and “for improving the effectiveness and impact of NGO” work in development (Lewis and Kanji 2009). Acknowledging the varieties of strategies and activities of advocacy, the Policy Influencing Continuum (PIC)⁶ captures some examples of activities that fall into each category of activism, advocacy, and lobby.

⁶ Coined by TACSO (Technical Assistance for Civil Society Organisations) in TACSO. 2011. “Manual on Advocacy and Policy Influencing for Social Change”. <http://www.tacso.org/documents/otherdoc/?id=5039> (Accessed on 16 October 2016).

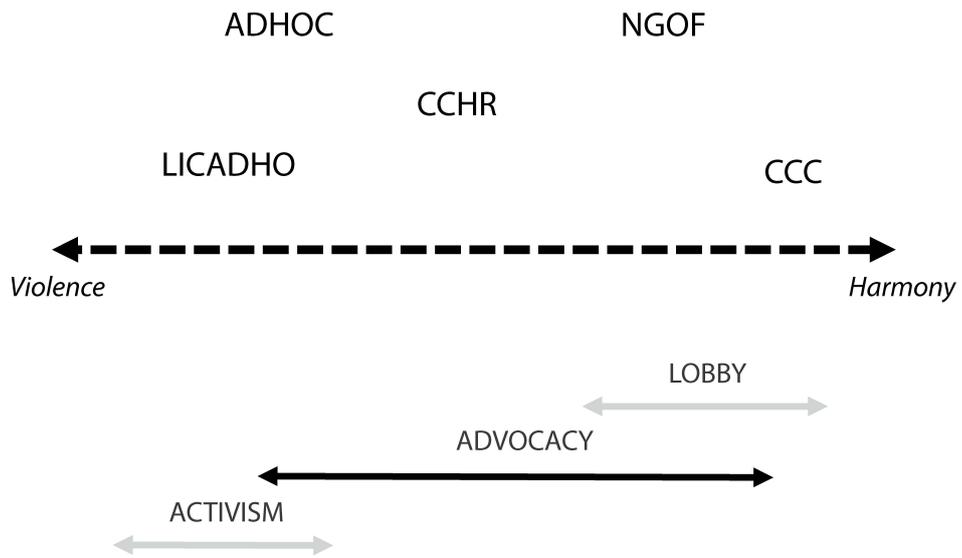
Figure 3. Policy Influencing Continuum (PIC)



Source: TACSO

As stated by Öjendal (2013), these organizations are characterized, in terms of advocacy, by oppositional/confrontational and adapted. The former is closer to CCHR, LICADHO and ADHOC where works to create new norms and counters the state, which can be closer to activism on the continuum. Contrastingly, the latter character is associated to NGOF and CCC that aligns with the state's activities and tries to solve the problem with voice inside the system, which can be closer to lobby on the continuum.

Figure 4. CSOs on PIC



IV. Analysis of LANGO

This chapter lays out how the law underwent through changes as the government released different versions of drafts, analyzes how some provisions are in conflict with existing law and how these may influence the civil society in Cambodia. The LANGO has in total of four drafts and fifth and final outcome bill and the following are the date of government's draft releases:

- First draft: 15 December 2010
- Second draft: 25 March 2011
- Third draft: 29 July 2011
- Fourth draft: 12 December 2011
- Fifth draft (final version): 13 July 2015

Followed by the review, how some provisions are in conflict with other legal instruments will be explored, for instance, the law collides with international human rights treaties that are both legally and non-legally binding. Subsequently, how law can impact the civil society will be analyzed. It consist of three parts: the impact on the domestic associations and NGOs, international NGOs, and overall potential impact on the civil society in general. The analysis takes into account how the law can impose limitation in operations, arbitrary interpretation of law with vague languages in the provision, and expected outcome after the enforcement on further strengthening of civil society of Cambodia.

4.1. Review of revisions in LANGO drafts

The first draft of LANGO consists of 11 chapters and 58 articles which affect domestic associations and NGOs, alliances of associations or NGOs, and foreign (international) NGOs. It lays out: (1) registration requirements for associations and domestic NGOs, alliances of associations or domestic NGOs, and foreign NGOs; (2) resources and properties of associations and NGOs; (3) rights, benefits, and obligations; (4) activity postponement, dissolution, and termination; (5) violations and penalties; (6) transitional provisions. On the other hand, the fifth and final version of the Law, adopted in August 2015, has been substantially revised in the due course. The contents have been reduced to 9 chapters and 38 articles, which is somewhat clarified in the use of terms, compared to the first version. Comparing the first and the final version of the Law, the following has been revised from the first draft:

- Removal of articles regarding “alliances of associations and alliances of domestic NGOs”
- Reduction of founding member requirements for domestic associations from 21 members and 7 leaders to 3 founding members
- Removal of registration fee
- Removal of articles on foreign NGO’s MoU signing ceremony
- Removal of recruitment requirements of Cambodian nationals for foreign NGOs
- Change of exemption on import tax/duties to tax benefits under the existing law

- Removal of obligation to re-register within 180 days, after the legislation

In the final version, the following provisions has been newly inserted:

- Right of government to demonstrate denial of registration
- Right of applicants to appeal to court when the registration has been denied
(only for domestic associations and NGOs)
- Obligations to maintain political neutrality to political parties
- Obligations to report all activities, including financial transactions

Although the core purpose is to control the civil society, revisions in the different versions of drafts indicate that state-civil society interactions did occur. The subsequent section traces the content changes in each transition phases, beginning with the first draft.

4.1.1. Second draft revisions

Released in December 15, 2010, the first draft introduced heavy burdens on associations and NGOs especially with strict requirements in the registration process. It consists of 11 chapters and 58 articles and lacks clarity in use of terms, which could lead to flexible or arbitrary interpretation. The next draft did not show any drastic changes but became more articulate and simplified than the previous version.

As for the beginning chapters, firstly observed change is the conditions for registration of associations. The member requirements for founding association were eased from minimum 21 founding members and 7 governing members to 11 and 5

(Article 8). Nevertheless, the list of registration documents to extended to include bank statement of the organization (Article 15), which applies the same to foreign NGOs as well (Article 30). This grants authorities greater power to investigate and track financial flows, which potentially hinders the independence of organizations. The government also extended the duration for decision making on acceptance or rejection of registration from 45 working days to 90 days, which could delay and postpone the activities of associations and NGOs (Article 17). Moreover, when two or more domestic associations and NGOs work in collaboration, it must be reported to the Ministry of Interior (Article 27).

Other than the registration part, articles on the obligations of reporting activities, budget status and action plans have been specified. It originally mandates the submission of reports within the month of January of the preceding year but the exception was given to foreign NGOs where the fiscal year ends after February (Article 46). Another part is on prior notification of auditing and examination by public authorities. The first draft only mentioned that the Ministry of Economy and Finance or the National Audit Authority will conduct examination and auditing of financial report and assets of NGOs and associations. The later draft included that, although the government still possesses the right, a written notification will be issued before the auditing process begins (Article 48). The last revised article is concerning the transitional provision. While the previous draft stipulates mandatory re-registration of all associations and NGOs within a maximum of 180 days after the law is enforced, the later draft extended to 365 working days (Article 55).

4.1.2. Third draft revisions

In this transition, only minor revision can be observed, in the articles pertaining to domestic associations and NGOs. Exceptions that are not covered by the Law were: “...mass organizations created locally inconsistent with conditions set forth in this law and operated in compliance with other existing laws for mutual assistance.” (Article 3). However, coming into the third draft, this part was eliminated to expand the scope to all organized entities. Another difference can be noted in Article 6 on prohibiting provisions; the second draft indicated the illegality of any activities conducted by unregistered domestic organizations and the international NGOs without the MoU. This later changed to:

“Any association or non-governmental organization, which is not registered or has not signed a Memorandum, **shall not enjoy any benefits from this law**, and may not operate the activities in the name of an association or non-governmental organization in the Kingdom of Cambodia. **The signing of a Memorandum of Understanding shall not be mandatory for any foreign non-governmental organization operating their activities less a year, but a written notification about their aid projects, duration and locations of their operation to the Ministry of Foreign Affairs and International Cooperation.**” (Emphasis added, Article 6, Third Draft)

The bolded indicate state’s attempt to frame this law as a “benefit”, rather than a means of control, as claimed by civil society organizations and international community.

The other part on foreign NGOs can be interpreted as a way to loosen the control on short-term projects. This implies two intentions: these less-than-a-year projects may not be used to materialize benefits for political gains of the ruling party and the government, and the administrative burden could hinder efficient control on NGOs.

While there has not been any noticeable changes, Article 17 was a major change. First paragraph showed that it returned back from 90 days to 45 days, on the duration for decision making on acceptance or rejection of registration. In addition, when the submitted documents require modification, MoI also must provide a written notification of what criteria it has failed to meet and what part is to be modified, within 45 working days. If the modified documents are acceptable, the ministry is to approve the registration within 15 working days. More, the most significant clause is the fourth paragraph of the article, on the right to appeal to the court when denied of registration. This provides a minimal safeguard that enables taking action against government's arbitrary use of the law.

4.1.3. Fourth draft revisions

Coming into the fourth draft in less than five months, the law went through a substantial change. Compared to the previous version, there have been following changes: reduction of the number of articles, revised wording on the purpose of the law, distinguishing community-based organizations from other NGOs, simplification of registration requirements, and elimination of articles on domestic associations.

The number of articles have been reduced drastically from 10 chapters and 58 articles to 9 chapters and 34 articles. The very aim of the law changed its wording as well; the third draft sought to set forth regulations and conditions on the registration of domestic associations and NGOs and MoU agreement with international NGOs. However, the following is the purpose on the fourth draft:

“This law aims at safeguarding the rights and freedoms and promoting the movement to create associations and non-governmental organizations of Cambodian citizens in the Kingdom of Cambodia in order to protect their legitimate interests and to protect the public interests as well as to enhance the partnership cooperation between the associations and/or the non-governmental organizations and the Royal Government of Cambodia.” (Article 1, Fourth Draft)

Such change shows how state is seeking to strengthen its position and to avoid controversy concerning the rationale of enacting the law. The purpose of the law has been simplified as in Article 2, to ‘legally recognize the associations and NGOs’ and ‘to establish relationship between these organizations and the government’, which shows rather ambiguity but detailed in the latter provisions.

There are some improvements that are favorable to civil society as well. In Article 4, what was present in the second but eliminated in the third draft, has been mentioned again. Clauses on community-based organization have been included to distinguish its peculiarity; it defines CBOs as “a group of Cambodian citizens who voluntarily to establish, manage and conduct its activities to serve and protect the interests within its

local community.” These CBOs have been distinguished since they are not subject to mandatory registration, but voluntarily could provide the name and the objectives of the organization and its leaders’ name to the local commune authorities (Article 5). In addition, the prohibiting provisions which originally stated that unregistered organizations are “prohibited” to conduct any activities have been removed. Instead, it states that such organizations will “not have legal capacity” (Article 5), slightly different in its implication.

Regarding the registration, Articles 8, 9, 10, 11, and 12 of the previous draft have been integrated into one (Article 6), simplifying the founding members requirement to at least 3 Cambodian nationals as founding members. The articles on the determining authority of the registration fee was removed, although it may be still required in the process. What has been newly introduced, however, is the requirement to report any change of status of the registered organization. It stipulates that a notification shall be sent to MoI when a registered organization has amendment of its statute, relocation of its office, and/or replacement of president positions (Article 10). This allows the government to uninterruptedly track all details of the organization.

The entire articles on the alliances of associations or NGOs (Articles 19 to 27 in the third draft) have been eliminated. This could be a move to equate the alliances as a single organization, or to remove redundancy.

Regarding the foreign NGOs, most of the articles remains similar to the previous draft but the third paragraph of Article 17. This article introduced a new provision that MoFAIC is able to terminate the MoU validity in the case when the organization

“conducts activities which jeopardize peace, stability and public order or harm the national security, national unity, culture, customs and traditions of the Cambodian national society”. This part is problematic as it allows flexible interpretation; it is also shows that the state wants to prevent these organizations from destabilizing the current state-society relations. In Article 18, as same with the domestic organizations, it was added that, the organization must report to the MoFAIC when relocating its representative office or replacing the country representative.

Last revised part is the article concerning the administrative measures, in case of non-compliance. The previous draft mandated that the registered organizations and international NGOs with MoU must comply with the organization statute and the memorandum. However, such provision has been removed; the fourth draft only emphasizes the need to report changes in office location, statute amendment, and leadership position (Article 10 for domestic NGOs and 18 for international NGOs), and to submit annual reports of activities and budget status (Article 25). Overall, the fourth draft does lack details but have improvement to become less rigid than the earlier versions.

This fourth draft has shown substantial changes as they reflect some inputs from civil society, especially in regards to the recognition of community-based organizations and reduction of founding members required for registration. Although this is an evidence that governments were taking concerns raised during consultations with the civil society, the law still is harmful to the civil society’s right to freedom of assembly and association.

4.1.4. Final revisions

There is a significant time gap of approximately three years, between the fourth and the final draft. The government has initially decided to postpone the enactment to 2014, after the fourth draft was released. This final draft was made public in 2015, after the sudden announcement by Hun Sen to push for the legislation. The contents have introduced provisions that place severer limitation to the civil society activities. The final bill, however, is rather comparable to the third draft than the fourth.

To begin with the domestic associations and NGOs registration, the clauses on community-based organizations have been removed. This allows extending the scope of subject of the law, to include these CBOs, thereby enabling the government to exercise control on all forms of associations and NGOs. In addition, in Article 8, fourth paragraph has been newly added that MoI may exercise the right to deny the registration of the organizations “whose purpose and goals are found to endanger the security, stability and public order, or jeopardize national security, national unity, culture, traditions, and customs of Cambodian national society”. This provision was only pertinent to international NGOs in the fourth draft but has been equally applied to domestic organizations as well. More, the previous draft only mentioned that unregistered “shall not have legal capacity”, but the final version mandates that such “shall not be allowed to conduct any activity within the Kingdom of Cambodia” (Article 9). Finally, the law demands submission of all banking information, which had been a provision in the third draft.

Regarding the international NGOs, it mandates that all projects should be implemented after signing of the MoU, where in fourth draft did not require for on the short-term projects less than one year. The law also asks submission of all banking information, same as the domestic organizations (Article 17) and must report if there are any changes with the bank account within 15 days.

There has been some changes in the rights, benefits, and obligations. First, Article 20 states that the registered and MoU-signed NGOs will receive tax incentives and exemptions in accordance of existing laws. Earlier drafts have specifically addressed that import tax and duties will be exempted, thus it may not necessarily be a benefit. On the other hand, the provision regarding maximum recruitment of Cambodian national staffs have been removed, which reduces burden on the NGOs, especially the international. However, several obligations have been introduced or specified in the latter articles. Problematic is the Article 24 that requires the organizations' maintenance of "neutrality towards political parties in the Kingdom of Cambodia". More, reporting documents have become more specified, it obliges submission of all financial transactions, especially if received support from donors. In such case, the organization should provide a copy of documents "within 30 days from the date which they are sent to the donors" and is applied to foreign NGOs as well (Article 25). The government can also audit and examine the organization but without any prior notification, as it were in the third draft.

Chapter 7 on the administrative measures and penalties have become lengthier, from 2 articles in the fourth draft to 7 articles. What could be seen as an improvement is extending the right to appeal to court for domestic association and NGOs. The fourth

draft only mentioned the right to appeal when denied of registration but is changed to appeal in the case of “the denial of registration, suspension of the activity, deletion from the register, and fine”, within 30 working days from the notification (Article 31). However, the rest of the provisions places strict control. First, the law again includes the provision to penalize the organization on the non-compliance of its own statute, as in the third draft (Paragraph 2, Article 30). Article 32 stipulates that government will take actions to stop unregistered organizations’ activities. It can also be fined, from 5,000,000 to 10,000,000 Riel.⁷ If repeated, the government can prosecute the organization. In case of international NGOs, the punishment is to stop the activities without the MoU and may involve expulsion of staffs under the Law on Immigration. In addition, other added provision is concerning illegal activities; it penalizes any organizations “conducting activities which endanger the national security or involves money laundering, terrorist financing or terrorist crimes, or other criminal offenses, shall be punished according to the existing criminal law of the Kingdom of Cambodia” (Article 36).

Finally revised provision is Article 37 which does not require re-registration after the law is enforced. Up to fourth version, it required all NGOs and associations to re-register with MoI or MoFAIC. However, the final bill states that the already registered will “automatically receive status of a legal entity”. This could be interpreted as a way to either prevent any negative response from NGOs to resist the re-registration or to provide incentives for the existing NGOs to comply with the law.

⁷ It amounts approximately 1,200 USD to 2,400 USD, as of September 11, 2016. <https://finance.yahoo.com/currency-converter/>

Table 2. Summary of Revisions

1 st Draft to 2 nd Draft	2 nd Draft to 3 rd Draft	3 rd Draft to 4 th Draft	4 th Draft to Final
- Reduction of member requirements for founding association from minimum 21 founding members and 7 governing members to 11 and 5	- Revision of provision stating the illegality of any activities conducted by unregistered domestic organizations and the international NGOs without the MoU to no rights to claim for benefits of the law	- Reduction of articles from 10 chapters and 58 articles to 9 chapters and 34 articles	- Removal of the clauses on community-based organizations
- Expansion of required registration documents to include bank statement of the organization	- Mandatory MoU to a written notification on project details for less than a year aid project	- Reframing of purpose of law from “regulations/conditions” to “safeguarding of the rights and freedoms and legitimate interest of organizations”	- Insertion of the right to deny the registration of the organizations by MoI
- Extension of the duration for decision making on acceptance or rejection of registration from 45 working days to 90 day	- Revision of duration for decision making on acceptance or rejection of registration from 90 to 45 days	- Insertion of clause on community-based organizations, which require voluntary notifications on activities	- Insertion of clause that unregistered organization shall not be allowed to conduct any activity within Cambodia.
- Insertion of provisions on reporting to MoI when two or more domestic associations and NGOs work in collaboration	- Insertion of provision on the right to appeal to the court when denied of registration	- Reduction of founding member requirement to at least 3 Cambodian nationals	- Insertion of article that requires the organizations’ maintenance of neutrality towards political parties
- Insertion of provision on governments issuing a written notification prior to the auditing process	- Insertion of provision on the right to appeal to the court when denied of registration	- Insertion of clause on the requirement to report any change of status of the registered organization	- Extending reporting documents to require all financial transactions, especially submission of reports on donor funding
- Change of re-registration period of all associations and NGOs from within 180 days to 365 days, after the law is enforced	- Insertion of provision on the right to appeal to the court when denied of registration	- Insertion of clause that MoFAIC can terminate the MoU validity of INGOs	- Insertion of the clause on the right of the government to audit the organization without any notification
		- Extension of reporting requirements on changes in office location, statute amendment, and leadership position to submit annual reports of activities and budget status	- Insertion of provision on the right to penalize the non-compliance of the law, the right to prosecute and/or expulse foreign staffs (INGOs)
			- Automatic re-registration of already registered NGOs to MoI.

4.2. Provisions in conflict with other existing rules

The law includes provisions that may be in conflict with already existing legal mechanisms. First and foremost, civil society actors and international observers emphasize how LANGO threatens upholding of the international human rights standards.⁸ The law, by large extent, is an infringement of one of the most fundamental human rights concerning civil society – the right of freedom of association and assembly. These rights must be protected to allow individuals to take collective action, which is a constitutive basis of the role of civil society organization. The law lays out provisions on mandatory registration and unclear criteria for denial of registrations that violate such rights. The freedom of association is a right set forth by Universal Declaration of Human Rights, which states: “Everyone has the right to freedom of peaceful assembly and association”.⁹ The same is articulated by the International Covenant on Civil and Political Rights (ICCPR) under Article 22.¹⁰ Cambodia became a signatory in 1980 and has ratified the ICCPR in 1992, thus has obligations to promote and protect such rights. In addition, provision on maintenance of neutrality towards the political parties may

⁸ ICNL. “Civic Freedom Monitor: Cambodia”, last modified 21 June 2016. <http://www.icnl.org/research/monitor/cambodia.html> (Accessed 20 September 2016). LICADHO. 2010. “Draft Law on Association & NGOs - Cambodian Civil Society Under Threat”. <https://www.licadho-cambodia.org/reports/files/150LICADHOBriefNGODraftLaw2010.pdf> (Accessed 20 September 2016).

⁹ UN. “The Universal Declaration of Human Rights”. <http://www.un.org/en/universal-declaration-human-rights/> (Accessed 20 September 2016).

¹⁰ UN OHCHR. “International Covenant on Civil and Political Rights”. <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (Accessed 20 September 2016).

affect the freedom of expression. Paragraph 1-2 in Article 19 of ICCPR guarantees “the right to hold opinions without interference” and “the right to freedom of expression”.

Although not a legally binding document, “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”¹¹ or as known as “The Declaration on human rights defenders”, adopted in 1998, reaffirms the importance of these rights being secured for human rights protection. In particular, Article 5 guarantees the rights “to meet or assemble peacefully, to form, join and participate in non-governmental organizations, associations, or groups, and to communicate with non-governmental or intergovernmental organizations”. The law does not interfere with the key principles within the Declaration and states are to fully support them, after being adopted at the UN General Assembly.

In terms of domestic law, the Constitution guarantees the right of the freedom of association and assembly, and the freedom of opinions.¹² Article 41 states, “Khmer citizens shall have the freedom to express their personal opinions, the freedom of press, of publication and of assembly. No one can take abusively advantage of these rights to impinge on dignity of others, to affect the good mores and custom of society, public order and national security. The regime of the media shall be regulated by law.” Two

¹¹ UN OHCHR. “Declaration on Human Rights Defenders”.
<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx> (Accessed 20 September 2016).

¹² Constitutional Council of the Kingdom of Cambodia. Constitutions of Cambodia:
http://www.ccc.gov.kh/english/basic_text/Constitution%20of%20the%20Kingdom%20of%20Cambodia.pdf (Accessed 20 September 2016).

paragraphs of Article 42 write, “Khmer citizens shall have the right to create associations and political parties. This right shall be determined by law. Khmer citizens may participate in mass organizations meant for mutual assistance, protection of national realizations and social order.”

Adding to the Constitution, Cambodia’s Civil Code 2008 also has provision on NGOs. The Code has been in place already to describe registrations regarding the non-profit organizations. Article 49 and 50 specify the requirements on registration for all juristic persons, including non-profit juristic persons such as NGOs.¹³ Relatively simple procedures collides with the provisions in the LANGO. More, the Civil Code does not stipulate that the registration is mandatory, where the only purpose of registration is to grant the legal existence of the organization. These articles require amendments of either the Code or the LANGO.

4.3. Potential impact on civil society organizations

As the previous section suggests, LANGO does have provisions in conflict with international legal instruments of human rights, as well as domestic laws. The law can

¹³ Requirements on registration on Art. 50 are: (a) the objects; (b) the name; (c) the principal office and secondary office(s); (d) if grounds for dissolution have been provided in the articles of incorporation, such grounds; (e) the names and addresses of the directors and supervisor(s); provided that in the case of an unlimited liability incorporated association, the names and addresses of the members shall be stated; (f) if there are any directors who do not represent the juristic person, the name(s) of the director(s) who do represent the juristic person; and (g) if there is a provision for more than one director jointly to represent the juristic person, such provision.

further have negative impact in civil society as a whole, including international NGOs active in Cambodia. The following are the provisions that may cause the detrimental impact on the existence and the operations of domestic civil society organizations and international NGOs.

4.3.1. Impact on domestic civil society

Domestic associations and non-governmental organizations are compelled to register, where the Ministry of Interior holds the authority to decline or accept. To reiterate, this is a violation of the right of freedom of association and assembly. Where denied of registration, the entity faces the consequence of illegality of any activity conducted within Cambodian territory. As it allows to penalize the unregistered, those who do not qualify cannot form an association and NGO. Informal organizations/networks and community-based organizations active in the local areas cannot bear the required administrative burdens. These forms of organization may not necessarily have such formal rules and statutes on internal management, they may not even have founding members as leaders; they may only engage in association without any significant financial activities.

The law also does not offer transparency in terms of the criteria on denial of registration. This allows greater leverage on the officials with flexible interpretations of clauses. The most problematic is the Article 8; what can be a harm to security, stability, and public order, or a threat to Cambodia's national security, culture, traditions, and customs are unknown. The prospect could be the showing bias towards the organizations

that are less-critical or government-oriented, or using the law to bar any new entrants that could potentially question the regime. As the result, cooptation behaviour of the state will likely to be more evident.

Finally, the requirement on the bank account reporting permits the state's tracking of financial affairs of the organizations. Even after the registration, the organization must report when there is any change of the banking information. In addition, statute amendment, office relocation, and president or executive leader replacement are all to be reported. This continuous reporting is burdensome administrative work and some organizations may not have such capacity and human resources. Further, it can limit the independence and autonomy of the associations and NGOs.

4.3.2. Impact on international NGOs

Foreign NGOs and associations also face limitation in their projects, to begin with. Article 12 limited the activity time span to short-term, narrowly defining its implementation scope and capacity. In terms of the validity of MoU with the government, a maximum of 3 years is given as well. This is a revert from what diverse actors and scholars in the international development cooperation agrees upon that long-term projects produce meaningful changes, thus more effective, compared to short-term. This will cause international NGOs to make compromise to their original development models and negotiate with the partners and the government at all phases of renewal.

Partners for implementation of the projects cannot be solely selected by the NGO but has to be discussed with the government, as in Article 15. Although it is unclear how

this process will take place, partner selection criteria is yet to be defined by the government as different expertise are required, depending on the sectoral focus of the project. This may lead to only choosing those that are favored, involved with political or personal relational motivations of the bureaucrats in charge. One can also expect that this may trigger competitions among local agencies, possibly lobbying for more opportunities of implementations to the government.

Lastly, international NGOs are not guaranteed with the right to initiate remedy process in the case of denial of registration, activity suspension, or MoU termination. Only domestic organization can appeal to the court against the decisions of the MoI, as in Article 31. If a foreign NGO continues to conduct activities after the MoU becomes invalid, the government can even take measures, in accordance with the immigration law, to repatriate the staffs. In case of organizations that work in opposition of the government, the only possible solution is to terminate all operations and activities, choosing the exit option.

4.3.3. Overall impact on civil society

The clause on maintaining political neutrality is one of the critical part of the law that weakens civil society. It is problematic since what is meant by neutrality towards political parties show ambiguity. This also contradicts with the very role of civil society to engage in advocacy activities; advocacy is inherently political since it involves political goal or agenda to mobilizing the public and to influence certain policy. For instance, if the goal of advocacy is to legislate or amend certain law, civil society organizations will

target the government, political actors, and other relevant stakeholders. These interactions cannot be apolitical or politically neutral (Lewis and Kanji 2009). In the environment where hostility towards the function of advocacy ensue, civil society organizations that are heavily involved in service delivery will only survive.

Another concerns include the constant reporting of the activities and funding sources and the right of the government to audit the organization. Again, such heavy workload on reporting will increase the administrative cost, by reducing the efficiency. More, the Ministry of Economy and Finance or the auditing authority do not provide any prior notification to the organizations being audited and examined. Organizations that are less favorable to the government will constantly be controlled by the state; preferential and targeted investigations to crack down may easily take place.

In general, lack of clarity in languages used in the law suggest civil society is faced with greater threats. The government and the ruling party wants civil society organizations to remain outside the political arena and only engage in service delivery in the areas where state fails to provide. This means NGOs are narrowly defined, disregarding other organizations such as environment NGOs or human rights defenders. These types of organizations have demonstrated stronger civil society capacity that are able to produce meaningful changes – development. It is clear that this law that undermines the democratic governance and the state is using it to strengthen the current regime.

V. Political context and opposition parties

This chapter aims to analyze the political context and the opposition parties as the main stakeholder in the LANGO legislation process. It begins by reviewing the historical background on what may contribute to the political context and the emergence of political actors. Subsequent section starts with neopatrimonialism that characterizes the political system and the level of democracy. In addition, the following section tracks the elections, after UNTAC period, to look at how power shifted among different parties. This will explain the environment faced by the opposition in the legislature and the action of the dominant party. The final section includes the opposition's position in the legislation process and will be analyzed on whether they have influence and their attitude towards the law.

5.1. Historical background

Cambodia experienced radical changes in 20th century with colonialism, civil war, coup, regime changes, and revolutions. After the independence from the French in 1953, the King Norodom Sihanouk had been dominating the state for 17 years until 1970 (Chandler 1996). The Vietnam War had been spread over to Cambodian territory and Sihanouk was overthrown by General Lon Nol, as a result of a failure of pursuing neutrality with its neighbours. Nol pursued right-wing movement that had closer ties

with the US, renamed the country the Khmer Republic.¹⁴ However, the country faced another violence; the Khmer Rouge led by Pol Pot took the control of the country in 1975 with armed forces.

Up to 1979, the Pol Pot regime called the country Democratic Kampuchea and executed radical ways to reconstruct the country involving brutality of killing approximately two million people with genocides and forced resettlements (Hughes 2009b). In 1979, Vietnam invaded Phnom Penh and the Khmer Rouge regime was in resistance in a conflict. The situation developed into a civil war with a characteristic of proxy war; the resistance (former Khmer Rouge) was supported by China, Thailand, and the West while the Vietnamese-backed administration was supported by the Soviet Union (Ibid. 27). The Phnom Penh administration established People's Republic of Kampuchea (PRK), and these comprise a large number of party members of currently dominating Cambodian People's Party (CPP), as well as Hun Sen, the current Prime Minister of Cambodia.

The tragic civil war met with an end, shortly after the end of the Cold War, as the Vietnamese withdrew from the country. This post-Cold War period was met with great number of transitions, from planned to free market economy, from conflicts and violence to peace, and from authoritarianism to democracy (Hughes 2003: 1). The international communities pressured the government and other parties to come to the negotiation for a peace agreement. The parties to the agreement were: the PRK

¹⁴ BBC News. 1998. "Cambodia's Troubled History". *BBC News*, 24 July. <http://news.bbc.co.uk/2/hi/asia-pacific/133533.stm> (Accessed 7 October 2016).

government, led by Hun Sen, and the Coalition Government of Democratic Kampuchea (CGDK) - the resistance group including Front Uni National pour un Cambodge Indépendent, Neutre, Pacifique et Coopératif (FUNCINPEC), led by Sihanouk, Khmer People's National Liberation Front (KPNLF), and the remaining forces from the former Khmer Rouge (Ibid. 2). The agreement was signed on 23 October 1991, commonly known as the Paris Peace Agreement.

Following the provisions in the Agreement, UN Transitional Authority of Cambodia (UNTAC) began its operation in 1992, which aimed to facilitate peacebuilding and democratization. Its intervention includes monitoring of election process, which occurred in 1993. This led to formation of a political terrain that still influences today's Cambodian polity. The major political parties in the election were: CPP (Hun Sen as the leader), FUNCINPEC (led by Prince Ranariddh), and BLDP (Buddhist Liberal Democratic Party, a newly organized party) (Springer 2010). Few violations of the Peace Agreement surfaced, especially by the remnants from Khmer Rouge, attacking the State of Cambodia and disrupting UNTAC operations (Um 1994). As the result, FUNCINPEC won 45%, with 58 seats in the Constituent Assembly, and CPP took 38% of votes with 51 seats, the rest taken by short-lived parties (Ibid. 75). The Constitution requires two-thirds majority to form a government. Thus, the two parties joined into a coalition government, Prince Norodom Ranariddh of FUNCINPEC took the First Prime Minister while Hun Sen had the Second Prime Minister position. In the meanwhile, Sam Rainsy, the currently active opposition to CPP, established Sam Rainsy Party (SRP) in 1995 to prepare for 1998 National Election. This sets the point of

departure for the further discussion on political context of Cambodia and the opposition parties.

5.2. Political context and democracy

Polities of developing countries are characterized by neopatrimonialism, especially in Africa and some in Southeast Asia. Neopatrimonialism is defined as a hybrid system of patrimonial rule by charismatic authority and the bureaucratic system of legal-rational authority (Weber 1978). Cambodia also falls into the same category. (Ngin and Verkoren 2015). It traditionally had a monarchic rule which can be characterized by patrimonialism, beginning from the Angkorian era. This when combined with French colonial rule and the democratization process by UNTAC produced the current culture of neopatrimonialism.

The state uses client-patronage network to gain electoral support in exchange for security; the security issues stem from: the past history of Khmer Rouge and the brutality of genocide, the Vietnamese occupation, and the continued civil wars and conflicts. Generations that have experienced Pol Pot regime do have post-traumatic stress (Frewer 2013) and are willing to support the party that could prevent violence and maintain social stability.

Cambodian People's Party, the dominant party ruled by Hun Sen, took advantage of such condition to strengthen its political position. With several elections, CPP attained strong control over national and local bureaucracies by providing resources, government positions, and profitable business licenses to elites in politics, military, and business (Un

and So 2011). A report from international NGO includes thorough analysis and evidences on how Hun Sen and his family currently dominates the state and most of businesses in Cambodia, allowing him to “near-total control over the country” (Global Witness 2016). CPP’s network requires the beneficiary to bring votes and it reaches even to the lowest grassroots level. There are some field evidences from rural communities that gift giving has been prevalent during election campaigns (Springer 2010).

The widespread network of CPP was facilitated with decentralization process. Government began to spread a village-level development programme named ‘Seila programme’¹⁵. In addition to the programme, commune elections are held to replace the existing unelected district chiefs (Hughes 2009b:216). Such allowed the officials to have discretionary authority over development budget planning and to directly engage with the community members on deciding the priorities. CPP took the strategy in claiming that it is party’s efforts to deliver the gifts (development project funds from donors) to the village. As the decentralization process settled in the community, the villagers only raised their concerns and voice on the village level, which reduced the importance of national-level or urban political agenda (Ibid. 218).

Religion and social values also contribute to this political context of neopatrimonialism. Buddhism is the dominant religion in the society and it influences significantly to public tolerance of hierarchy and maintenance of status quo. Generally

¹⁵ ‘Seila’ or ‘foundation stone’ programme is designed to distribute donors’ resources to village-level projects. See: Öjendal, Joakim, and Kim Sedara. 2006. “Korob, Kaud, Klach: in search of agency in rural Cambodia.” *Journal of Southeast Asian Studies* 37(3): 507-526.

those at the lower social strata accept the status as they are and submit to the superior; higher strata are expected to provide virtuous gifts as a way to conduct good acts for the sake of karma (Kimchoeun et al. 2007). It also sustains the patron-client relations as it is common to view the virtue of a leader in community to provide residents with material benefits. Moreover, the culture of conflict avoidance and 'saving face' is common. Conflict is thought to be negative, should be avoided by all means, especially with those in power (Ibid. 55). Children are typically taught to act in order, with politeness and respect, and not to be rebellious. Such culture does not allow people to express criticism outwardly; this is related to difficulties in applying the concept of accountability and the notion of civil society as in democratic societies to the Cambodian context.

Such political norms and attitudes are empirically found in public surveys on democracy, according to a survey conducted in 2014 (The Asia Foundation 2014). As Cambodia had imported concept of democracy, public attitudes toward democracy are diverse in interpretation of its meaning. In terms of values such as freedom of speech, political tolerance, majority of the respondents agreed that such freedom is guaranteed. They feel they could freely express political opinions and tolerate different vies in politics. In terms of the attitude towards the authority towards, 60% of the respondents said the government-citizens relations are paternalistic and 2% responded that the government is a boss and people are workers. Only 38% showed that they are in equal relationship. Nonetheless, majority of respondents, 85% supported democratic way of selecting a leader in times of crisis; only 14% supported a strong and unelected leader. This shows that Cambodia cannot be dismissed as a conservative society where democratization

progress is weak or nonexistent; there are evidences of changes in discourses of democracy in Cambodia (Lilja 2010). Especially with the opposition parties and civil society movements, after 2010, Cambodia was able to make counteraction to Hun Sen's attempt to consolidate.

5.3. Power transitions among political parties

The subsequent section lays out what caused the current political structure of relative power of Prime Minister and the oppositions. It includes discussions on how the general elections have created the government formation and what triggered the weakening of the opposition parties. After UNTAC's intervention in supervision of elections, there have been four general elections for the National Assembly in 1998, 2003, 2008, and 2013. Every elections caused strengthening of Hun Sen's power and a majority to constitute a government, except for the recent election. The opposition parties have weakened initially due to its internal leadership and compromise with the dominant party. After a continued election victory, Hun Sen's power was consolidated even further and oppositions were faced with crackdowns and threats. Nonetheless, the recent election brought a change, where the percentage of votes for opposition party and the ruling party were almost equal. In this context, what strength opposition parties had will be reviewed, especially in the timeframe when LANGO was being discussed and legislated, to explain why it was unable to stop the law.

5.3.1. The first unmonitored election in 1998

The power-sharing agreement in 1993 ended when a conflict between two parties broke out, a year before the election. CPP had been stronger politically and militarily, as it utilized the existing resources from the pre-UNTAC period; the political violence became worse when Hun Sen took his troop to remove the Prince, in a coup on 5-6 July 1997 (Peou 1998). It caused many international and domestic observers to doubt the country's transition to democracy and its implications in relations to UNTAC activities (see, for example, Lilja 2010 or Bresford 2005). As 1998 elections approached, CPP secured its dominance with patron-client networks, with local supports where village, commune, district chiefs publicly campaigned for the party (Hughes 2009b: 173). The situation was also favorable to Hun Sen, as he accused the Prince of importing illegal weapons and allegedly creating secret connection with the Khmer Rouge, in the process of building National United Front (NUF), a broader political front (Peou 1999).

The election yielded the expected result; CPP achieved victory with 64 seats, where FUNCINPEC and SRP secured 43 and 15 seats (Ibid). This first Cambodia's own democratic election marked the beginning of the one-party dominance of CPP, which continues to this day. With the rise of SRP, Hun Sen agreed to form a coalition with FUNCINPEC and in November 1998, they formed a bicameral system, newly establishing the Senate for the upper house (Langran 2000).

Another important issue in weakening the opposition was the decentralization, as mentioned in the previous section. 2001 was the year to begin the decentralization process, which planned for a commune elections in the subsequent year. CPP had been

opposing decentralization with the fear of losing the patron-client networks but such loss did not occur. Along with the elections, government actively put forward Seila programme, aimed at creating a village-level participatory development programme (Hughes 2009b: 215). This seemed to mark a progress towards democratic consolidation or a shift from top-down to bottom-up governance (Öjendal and Sedara 2006). Nonetheless, this very attempt later created a consequence of weakening the opposition party. It limited the voice for local community members to only take the issue to the local government, not the central government (Hughes 2009b: 179). Local communities began to lose interests in the national-level politics, since they can elect the commune leaders and it is where the interests are aggregated. The voters favored CPP that can bring the benefits in the village development, not the opposition. More, the parties had trouble in opening a local branch office, being resisted by local government; there also have been attacks by local polices and military, destroying offices and interrupting all kinds of activities (Hughes 2001). Thus, it became extremely difficult for the opposition parties to extend its electoral base.

There was also increasing threats to the opposition party members with series of killing; 7 were killed from SRP and 2 from FUNCIPPEC in November 2001, suspected to be executed by those loyal to Hun Sen (Un and Ledgerwood 2002). This continued to the actual commune election of 2002, where 20 people of two parties, mainly from SRP, were either killed or died unexpectedly (Un and Ledgerwood 2003). Having some influence with threat or from removal of the opposition, CPP won the majority in taking

most of the posts by 97% but some councils were taken by the opposition, as the result (Un and Ledgerwood 2003: 114).

FUNCINPEC faced a failure in the commune election, due to the poor leadership of Ranariddh and its relations with the CPP. The latter especially triggered the weakening of the party. Its principles of in the coalition government were “coalition, cooperation, and competition without confrontation”, which provoked disagreements among party members and some moved to join SRP (Un and Ledgerwood 2003: 115). Although peaceful coexistence are important, this FUNCINPEC’s attitude and further crackdown of opposition SRP combined contributed to stronger grip of Hun Sen’s control on state power.

5.3.2. Divided oppositions

The year 2003 saw the third election after the Peace Agreement, the most peaceful election until then, that was expected to provide opportunity to build substantive democratic deliberation (Hughes 2009b: 123). As mentioned above, electoral support for FUNCINPEC faded away while Sam Rainsy Party gained greater popularity, especially in Phnom Penh and other urban settings (Albritton 2004). This is where rural-urban divide is clearly illustrated, and SRP’s weakness in reaching out for more support. CPP achieved the majority with 47.4%, where FUNCINPEC and SRP gained 20.8% and 21.9%, respectively (Ibid. 103). In forming the government for the following year, FUNCINPEC and SRP had initially formed an alliance, to counter the ruling party. However, FUNCINPEC breached this agreement and joined the coalition government with CPP,

as it were before the election, to form the majority (Beresford 2005: 135). This division among two oppositions rather strengthened Hun Sen even more. Such case exemplify that the transition to democracy is regarded superficial and is dominated by intra-elite struggles (Ibid. 139).

The stability in the government, with the two parties cooperating not to attack each other until the next election, resulted in reduction of political tensions. However, SRP was being isolated from the polity. In 2005, Hun Sen filed multiple number of suits against the leader, Sam Rainsy, and the National Assembly removed the immunity of parliamentary. The court sentenced him to 18 months in jail, while he had fled to France (Weggel 2007). Nonetheless, the situation had reversed when Sam Rainsy was granted a royal pardon from King Sihamoni, in 2006. Hun Sen had to negotiate with Rainsy; he suggested to remove lawsuits and hostility in exchange of a Constitution amendment to change the rule on requiring two-thirds majority for the National Assembly (Ibid). It is suggested that this consent to the negotiation weakened the SRP's influence as potential main opposition party. After the agreement, it has been less effective in countering the government, silent in defending the interests of the poor (Hughes 2008: 74). With some human rights activists expressing the discontent, Kem Sokha, another prominent opposition figure tried to form a new opposition party – Human Rights Party, thereby splitting the opposition further (Ibid).

Having less vocal FUNCINPEC and SRP, Hun Sen's party was able to take the majority in the upper house formation. CPP took 45 seats out of 61; 10 and 2 seats were gained by FUNCINPEC and SRP (Weggel 2007). Some of CPP's senators were known to

be businesspeople in close connection to Hun Sen. Such ties of cronyism provided great deal of resources for CPP to utilize for the upcoming 2008 election (Hughes 2008).

5.3.3. Sweeping victory of CPP

July 2008 election resulted in a firm victory of CPP, taking away 90 seats out of 123 (Hughes 2009a). This meets the former requirement of two-third majority rule; this meant no need of a coalition government. CPP captured all of the ministerial positions and the commission leader in the National Assembly. The victory is attributed to the campaign strategy of CPP, in regards to the UNESCO World Heritage Site issue that became a part of electoral debate¹⁶, but also the weak opposition. The opposition parties as mentioned earlier lost the power to bargain politically; more, they been incoherent with the party ideology, especially with the FUNCINPEC. It had relied on its royal root, as the royal families had been in the leadership, for the election campaign. However, this did not appeal to the public anymore, thus leading to only 4 seats. SRP had 26, an increase of two seats compared to the previous election, and the new Human Rights Party took away 3 (Ibid).

This monopoly of legislation and administrative power brought great benefits to the party. It first began to extend the power to secure loyalty of the local leaders and government officials (Ibid. 207). Next, the party went further on decentralization and de-concentration strategy; development planning and service delivery could be

¹⁶ For details, see Hughes 2009a: 211-212.

organized by the provincial-level government to oversee the resources and public services. Again, this makes local politics greater over the national politics, as these local-level authorities had the responsibility in redistribution.

Going further to maximize the opportunity of one-party dominance, the Prime Minister began to misuse the legal mechanism against the political rivalry, what could be retaliatory and preemptive measures (Heder 2001). CPP engaged in several activities that could denounce SRP. In 2010, the leader of SRP, Sam Rainsy was sentenced for 12 years in prison for allegations on his connection with Vietnam's encroachment of Cambodian territory, which could be used to prevent him from participating in the next election. In addition, a great number of activists and party members of SRP were accused falsely and threatened of prosecution. Civil society organizations were also met with hostility and 38 human right defenders were jailed (Ibid).

In the subsequent year 2011, the year when LANGO emerged to the surface, CPP moved against democracy continuously; it was evident that CPP was pursuing "rule *by* law rather than rule *of* law" (Un 2012). Hun Sen even tried to cement his power within the party; he removed Chea Sim, the leader of a second faction in CPP, arresting him with a charge of fraud. Human Rights Party and SRP suffered due to "lack of resources, inter- and intra-party conflicts, and CPP's threat using state institutions", thus unable to counter the ruling party for the upcoming election (Ibid).

A year before, in 2012, CPP's power was fortified with its party leaders' children being appointed to ministerial positions. The party also recruited youth groups, to prepare them as the future party members (Un 2013). Its strategy to crackdown

opposition parties were to deny the access to broadcast media, which almost all Khmer language media are under government's control (Ibid). To respond to this situation of continuous hostility, and to make up a great loss in local commune election in 2012, two parties of Sam Rainsy Party and Human Rights Party have merged to a single party – Cambodia National Rescue Party (CNRP). Some optimism grew that the new party could strengthen its position against CPP. However, the electoral base was expected to be weak to CNRP, as the recent election proved that rural residents and some middle class groups showed continued support for CPP (Ibid). Thus, the oppositions were unable to vocally express the concerns on the LANGO. Since the legislation process had halted, the party did not see the importance of the law being one of their political agenda; it had to concentrate on forming the strategy for election campaigns.

5.3.4. A sudden transition after 2013 election

Surprising results came in after the general election in 2013. CNRP was able to take 55 seats out of 123 (Um 2014). On the other hand, CPP only took 68, a drastic decline from 90 in the previous election. FUNCINPEC did not even secure a single seat, and completely lost the influence in the national politics. A failure of CPP in the election can be analyzed to have been caused by deepening inequality. Such moves to further strengthen party's position in the state affairs proved to only signal corruption to the public. Voters, or the majority of people, that were outside the gift-giving of Hun Sen moved to express their discontent through the election. Land and environment issues related to economic land concessions, agri-business development, and land grabbing and

forced evictions were rampant; resentment also grew strongly from garment factory workers and landless people (Ibid). Soeung (2016), on the other hand, contends that the failure of Hun Sen's party to sustain its power come from its failure to accommodate generational change, younger generations, below the age of 30, with new aspirations over future polity, economy, and society of Cambodia. Lack of legitimacy, as these young electorates do not have an actual experience of Pol Pot regime, will likely to continue to pose long-term challenges to CPP's power.

The two parties were unable to negotiate in forming the government and both did not want to acknowledge each other. CNRP claimed that there were irregularities and boycotted CPP. It organized protests and on 22 December, mass protest of approximately 100,000 people were on streets calling for Hun Sent to step down. (Sokchea and Pye 2013). It was joined by various actors, urban working class, rural residents, monks, and youths. Worrysome of increasing violence, international community stepped in for a resolution, requiring a reconciliation (Chheang 2015). This resulted in the government's fast move towards reforms; Hun Sen made several comments on its commitment to restore trust from the public. After a year later, the two made negotiation where the CNRP takes vice-president position and five of the commission leadership positions, creating minimally an equal setting (Ibid).

5.4. Opposition parties and LANGO

As mentioned in the previous section, finally one leading opposition party has been successfully started to work based on a power-sharing arrangement since 2014. In the

context of LANGO, it is necessary to see how the opposition changed in terms of influence over the legislation process and the priority towards the law.

To begin with the influence of CNRP in 2011, as described beforehand, during first draft to fourth draft, from 2010 to 2011, the oppositions were inactive in the legislature. CPP secured the dominance in the legislature and Hun Sen has been continuing to secure its grip on the rule after 2008 election, without any coalition partner. This period has been more of authoritarian regime. The opposition's 29 seats (Sam Rainsy Party and Human Rights Party combined) were not significant enough to vocally express concerns over the law or any other political agenda.

As for the importance over the law, the two parties had their own priorities for survival, to fight for attacks against party members. The leader of the largest opposition party, Sam Rainsy, made frequent overseas travel, or more accurately was on exile, due to Hun Sen's continuous use of prosecution to prevent him from participating in the 2013 election. He visited several countries including Tunisia, US, Canada, Netherlands, and Belgium to speak about the current political situation and the need to ensure fair and legitimate elections (Sam Rainsy Party 2011). Moreover, there has been another internal issue with parliamentary immunity. National Assembly removed the immunity of SRP's politician Chan Cheng, as CPP allegedly charged him for disappearance of one of its party member (LICADHO 2011c). While there is no report on SRP forming connections or coalitions with civil society organizations for LANGO, it did act to advocate for rights of communities that had to face involuntary resettlements due to World Bank-funded projects. Its members sent letters to World Bank to temporary stop

all funding to Cambodian government on 19 September 2011, as there were demolition of 8 houses (Sam Rainsy Party 2011). Given this environment for opposition parties, LANGO was less likely to be prioritized or of interest.

The situation in 2015 may portray a different picture. The two party fully merged into one and exercised the greater influence. Since CPP had to form a coalition government, it had to reconcile with CNRP in order to stabilize the political environment. Prior to the agreement, the opposition organized several street demonstrations organized by CNRP to demand the election reforms, albeit CPP's use of violence for suppression. In the process of making the political compromise, CNRP could have four members in the National Election Committee, to facilitate reform process. Acknowledging simple calculation of seats under the 50% to block or pass the law, CNRP was taking positions of vice-president and chairperson of five commissions within the National Assembly. With the relatively greater influence, CNRP has been the advocate of human rights and freedom especially in connection with the labour issues.

The partial factor in limiting their response was the importance towards the law. The ruling party and the government's exercise of power was not countered by the opposition. At first, the government continued to claim the rationale of the need of the law, that LANGO is necessary to address the irregularities within the civil society. As the priority was set on passing the law for the ruling party, the government kept denouncing civil society's role in Cambodia's development. One governor claimed that civil society pays demonstrators to protest against the law (Vida 2015). As mentioned in previous chapter, the government also kept speaking of the possibility of terrorist groups being

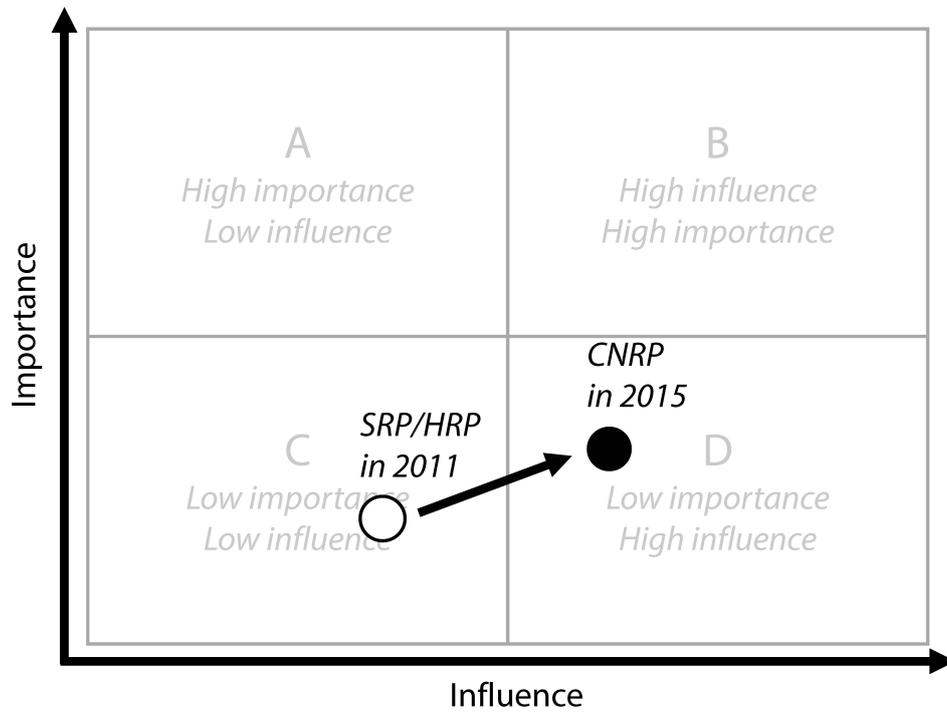
formed through NGOs. Such comments was not well refuted by CNRP. In addition to this, CPP organized commission in the National Assembly to review the law, but excluding those headed by CNRP. It consisted of three commissions of CPP leadership; the Commission on Human Rights were not included in the examination process (Sotheary 2015). Since the oppositions were not in the process, it could not influence the approval process at the National Assembly.

Another factor was somewhat mild stance against the law. It generally agreed that the law will potentially lead to violation of freedom of association. Nonetheless, it did not take action to stop the legislation process but to influence the content changes of few articles. As a way to disrupt the legislation process, CNRP members boycotted the conference organized by the parliament; it wanted to return the law back to the Council of Ministers to amend the content (Radio Free Asia 2015). However, a week later, on 13 July 2015, the National Assembly passed the law and sent to the Senate for approval. Since the CPP had the majority with 68 seats, they voted yes. CNRP tried to block this by boycotting the meeting but its absence did not yield any positive result. A think tank commented that the opposition keeps walking out of the National Assembly, instead of speaking inside with robust claims and cast the vote to disagree (Vida 2015). It was evident that the CNRP's exit strategy was not effective. A comment from the party's spokesperson reads, "We will win the election and amend the law" (Ibid). Although they constitute a great number of seats in the National Assembly, they were ineffective in fully utilizing the given opportunity in engaging with the law.

One may also question whether the party had genuine interest in stopping the law for the civil society; it was occupied with other agenda besides the NGO law. In order to shame the other party and to strengthen its position, the party kept using the rhetoric of anti-Vietnamese sentiments. Cambodia had long disputes with Vietnam on border issues and in 2005, both agreed on peaceful treaty (East Asia Forum 2015). However, the oppositions kept on claiming that the negotiations were illegitimate. It also raised the issue of allegations that Cambodian government is using inaccurate maps, thereby avoiding resolving the border disputes. While several other countries verified the authenticity of the map, CNRP Senator Hong Sok Hou posted a fake version of a treaty between Cambodia and Vietnam (Ibid). Politicization of boarder issue rests on the nationalist sentiment and CNRP members are occupied to fully take the advantage.

All in all, CNRP had been in the government for a year and a half, as LANGO was being legislated. The party in a new opportunity structure is only beginning to start implementing its own political agenda, such as election reform. If it were to fully take action with civil society, the cost of such move is too high. In addition to lack of experience in acting together with NGOs, it could have felt the pressure in breaking the agreement with CPP after short period of time. With possibility of further crackdown by CPP, and increasing violence and threat, CNRP must have had different priorities other than LANGO. Consequently, the party has influence in the legislature but does not regard the importance of the law, enough to risk its secured position.

Figure 5. Stakeholder analysis of political opposition



VI. Civil society organizations

This chapter explores civil society reaction to the LANGO. There have been two significant time periods in capturing the advocacy activities of civil society organizations. Although it is debatable whether it was civil society advocacy that caused Hun Sen to postpone the legislation in 2011, CSOs have acted in union to counter the government from drafting the law. On the other hand, in 2015, the civil society acted in different manner, as organizational characteristics differ. Thus, this chapter is divided into two parts to review the advocacy in 2010-11 and 2015. It distinguished actors by domestic and international; among domestic NGOs, it is divided into central NGOs, of NGOs that are a network of different organizations, and human rights NGOs.

6.1. Advocacy in 2010-2011

In this timeframe, civil society had to deal with frequently changing drafts, starting from December 2010. The government was purposefully prioritizing the legislation and at the same time this provided opportunity for advocacy, as there were some platform of consultation and discussions. Until the fourth draft was released, the civil society organizations, both domestic and international, have been actively responding to oppose the law. Partially owing to advocacy efforts to stop or change the law, Hun Sen announced the legislation of LANGO will be suspended and will postpone until 2014. (Radio Free Asia 2011). National and local NGOs reacted immediately as soon as the

drafts were retrieved. Legal analysis were conducted, mainly by human rights NGOs, and joint statements and letters were published with the lead of coalitions and network NGOs.

6.1.1. Central NGOs

As soon as the second draft was released, 315 organization signed and publicized a joint statement, led by Cooperation Committee for Cambodia (CCC 2011a). To further describe the activities of CCC, it played central role in making united voice on the law. It started with organizing workshops to invite different civil society organizations to facilitate discussion of the law, co-working with other networks such as NGO Forum on Cambodia (NGOF) and Cambodian Human Rights Action Committee. On 23-24 December 2010, CCC hosted a workshop to invite both of its members and non-members. In the next year, it organized 16 workshop and meetings (CCC 2013).

In addition, it issued joint position papers to express the concerns with different stakeholders such as government, international organizations, and donor countries' embassies. CCC sent letters to King Sihakmoni, Senate, and National Assembly. Further, letters were sent to donors, such as EU delegations and international organizations including ADB and UNDP. This was a typical 'boomerang' strategy often used in advocacy (Keck and Sikkink 1998). To broadly call the attention from international civil society organizations, CCC shared inputs on the drafts, with the expectation that these organizations could engage with their own governments for a diplomatic action to Cambodia. Other international channel includes using international human rights mechanism. These organizations made contacts with Surya Subedi who was the Special

Rapporteur on the Situation of Human Rights in Cambodia. This enabled the featuring the situation on the law at the annual report of UN Human Rights Council (UN News 2011).

Lastly, CCC engaged in online advocacy and used social media to share the information among young public and international users. It created an account in Facebook and Twitter since May 2011. The title of the page was “Oppose the Cambodian NGO & Association Law”.¹⁷ Although the number of users that frequently viewed the page were just over 800, it was able to seek attentions from broad spectrum of audiences.

6.1.2. Human Rights NGOs

LICADHO (Cambodian League for the Promotion and Defense of Human Rights; a French acronym), and Cambodian Center for Human Rights were active in working on the legal analysis of how the law will impact the future human rights situations, providing resources for consultations and discussions.

LICADHO published 9 documents containing an analysis of any revisions from the previous versions. These were accurate source of information on the draft and have been circulated online and among domestic civil society organizations. It is one of the organizations that focuses on advocacy activities and works to create alliances and networks with other NGOs, community organizations/grassroots organizations, and trade unions. With its strength, it worked to organize public protests. In connection with

¹⁷ The page can be found at: <https://www.facebook.com/Oppose-the-Cambodian-NGO-Associations-Law-201641269866749/> (Accessed 9 October 2016)

the labour, it was involved in organizing the Labour Day march with 3,000 participants to protest against LANGO as well (LICADHO 2011a). The organization was able to frame the law as a hindrance to association of labour and the right to participate in peaceful assembly. Petition delivery event took place on 20 December 2011, when the fourth draft was released. LICADHO and other NGOs gathered a petition on opposing the law of 10,000 people, collected from 23 provinces. The petition was altogether placed on a 230 meter of cloth; the organization drew attention from public, media, and politicians as it were being unrolled in the front of National Assembly building. (LICADHO 2011b).

On the other hand, Cambodian Center for Human Rights (CCHR) mainly was involved in legal analysis, as an organization focusing on civil and political rights. An extensive analysis on legislation in regards to the government actions of eroding democratic space, potential misuse of the law, and the changes in different versions of drafts. The publication was intended to be reviewed by international observers, namely donor countries, with the expectation of external pressure be given to the Cambodian government. It also stressed the importance of linking the law to broader issues of corruption and development effectiveness. CCHR also operates an online website, a human rights portal, serving as a valuable repository of all information on human rights situation.¹⁸ The website enables users to track different events on human right incidents,

¹⁸ “Sithi” in Khmer means “rights” and the website (<http://sithi.org/>) is operated by CCHR with funding from various organizations such as USAID, East West Management Institute, and Open Society Foundations.

and LANGO is one of the topic that features a timeline of different activities of civil society and government. In summary, these human rights NGOs always showed immediate and quick reaction to government and sharing information with various stakeholders.

6.1.3. International NGOs

International NGOs have been contributing to domestic CSOs by releasing joint statements. CCC's joint statement had originally 315 endorsement and increased to 648 in total by 7 July 2011 (CCC 2011). Among them, 80 are the international and regional NGOs. Some of international human rights and democracy NGOs such as Amnesty International, Forum Asia, Global Witness, and Human Rights Watch called the government to withdraw the legislation in the letter to Hun Sen. ActionAid, CAFOD, Christian Aid, and Oxfam, 4 UK-based INGOs, sent a letter to the Minister of State, requesting for a diplomatic intervention on the legislation in Cambodia (CAFOD 2011). Similar to the domestic NGOs, they aimed to shame the Cambodian government on its attempt to repress civil society. The necessity for the withdrawal was argued on the basis that the law will affect civil society strengthening which in the long run could impede enhancing the development effectiveness. Activities of these INGOs pressured the donor development agencies and multilateral organizations, since they have the decision making authority on the ODA budget to Cambodia.

6.2. Advocacy in 2015

It was an unexpected return of LANGO as political agenda and the actual content was not made public until civil society constantly pressured. The actual consultation only started in 5 June 2015, which was two months after Hun Sen's announcement on the proceeding of the legislation. The civil society was unprepared to conduct advocacy activities immediately. In two weeks, following the consultation with CSOs, the law reached the National Assembly for approval with a minor revision.¹⁹ Despite CNRP's boycott, the CPP voted unanimously for the legislation on 13 July. The law moved onto the Senate and was passed on 24 July. In the following month, on 12 August, the Constitutional Council approved its compliance with the Constitution and at the same day the King, Sihamoni, signed the law. In the process, the government hastily pushed the enforcement thus leaving little room for advocacy. Nonetheless, the civil society showed different patterns of advocacy compared to 2011.

6.2.1. Central NGOs

CCC and NGOF have been the most influential and central in the discussion and consultation process with the government. It first reacted by the joint statement, demanding publicly available drafts of the LANGO and consultative dialogue for

¹⁹ A clause on limiting the portion of budget spent as administrative cost has been removed. In the unrevealed draft, it contained a clause that maximum of 25% of the budget can be allocated as administrative cost. [Source: Naren, Kuch. 2015. "Draft NGO Law Reaches National Assembly." *The Cambodian Daily*, June 17. <https://www.cambodiadaily.com/archives/draft-ngo-law-reaches-national-assembly-85697/> (Accessed 10 October 2016).]

transparency of the law-making procedure. 306 organization had endorsed the statement. These two organizations hosted a workshop with 54 CSOs in Cambodia and launched a campaign on online social media with a title of “Stop and Consult” (CCC 2015b). Workshops and online campaigns were intended for awareness-raising within the civil society and the public in general.

CCC, during its bimonthly meeting with the member organizations, presented five advocacy strategy: (1) promoting cooperation within civil society; (2) strengthening government relations; (3) online media-based “E-advocacy”; (4) sharing evidences at global-level forums; and (5) training CSOs with capacity to handle the aftermath of the enactment (CCC 2015a). These policies intend on building cooperation with the government to consult and change the legal content. On 21 May 2015, the organization took charge of a briefing workshop on LANGO and other policy issues, focusing on policy development. One of the sessions in the workshop enabled the representative of OHCHR Cambodia to issue a statement to the government’s legislation, together with other UN offices (Radio Free Asia 2015a).

As the law was under review by the Council of Minister, NGOF requested the government to release the draft to set up for an open discussion. In addition, representatives of NGOs including CCC met with the opposition CNRP; Sam Rainsy showed the support to stop the law from being passed and to change the law through debates (Vannarin 2015). A day before the national consultation scheduled for 8 July, CCC, NGOF, and CCHR organized a joint workshop for CSOs to provide information on the latest draft. These organization held a press conference, at the day of national

consultation, criticizing the government's co-optation by preventing some of CSOs from accessing the venue (Chanveasna and Takihiro 2015). Lastly, these organizations issued a joint statement, following the King's signing of the law. The statement address problematic articles that should be "rephrased or reworded" (CCC 2015c).

6.2.2. Human rights NGOs

CCHR had been involved in the legal analysis of an unpublished draft. The main message was to call the government to engage with extensive range of stakeholders, namely civil society, in an open and transparent manner. It also expressed concerns via radio talks, together with CCC executives, as a part of awareness-raising activities.²⁰ These talks are archived on the website, which also serves as a repository of updates on advocacy activities to inform other CSOs.²¹

On the other hand, other organizations engaged in direct confrontation with the government. LICADHO and ADHOC were more engaged in protest by public mobilization, although there were some interactions with other civil society organizations. These human rights organizations fundamentally rejected the law and called for withdrawal than consultation on the draft. Along with FIDH, an international alliance of human rights organizations, issued a statement to withdraw the law and establish a transparent law-making procedure (FIDH 2015). After the law was reviewed

²⁰ During 9 April to 3 July 2015, CCHR spoke about LANGO in 6 radio talks at Khmer language media.

²¹ CCHR. "Podcasts". http://www.cchrcambodia.org/index_old.php?url=follow_us/follow_us.php&p=audio_album.php&id=4&show=podcast (Accessed 11 October 2016).

by the National Assembly for approval, several protests were held in the front of the National Assembly. Less than 300 had gathered for the protest against LANGO on 23 June, 28 June, and 8 July. The most intense protest was of 9 July, when the national consultation did not produce any significant changes. Several protests were held with citizens across the country during the Senate's voting on the law; on 23 July, participants in the protest were mobilized from 13 provinces and the large crowd was contained by the police to stop them from marching in Siem Reap and Preah Sihanouk provinces (Titthara 2015). LICADHO and ADHOC released a statement on how the law is contradictory to the Constitution and the international treaties on human rights, while the law was being approved by the Constitutional Council.

6.2.3. International NGOs

INGOs again demonstrated their solidarity with Cambodian CSOs and were in advocacy towards stakeholders and donors to pressure the Cambodian authorities. Human Rights Watch issued several statements on withdrawal of LANGO legislation, on 26 April, 1 June, and 22 June. It also address the issue to donor countries and the EU, along with 9 INGOs (Human Rights Watch 2015). Regional and international NGO alliances such as ADN (Asia Democracy Network), Forum Asia, CIVICUS, and GCAP (Global Call against Poverty) also sent letters to the Deputy Prime Minister. Subsequently, 40 or more INGOs also sent a letter to Hun Sen. On the other hand, on 23 July, Amnesty International sent a letter to King to reject the approval of law passage. Apart from the Cambodian government, INGOs targeted EU institution. With these

efforts, a resolution was adopted by the European Parliament. The resolution urged Cambodian government to withdraw the law on NGOs and trade unions. It specifically calls for Cambodia to withdraw the law, recognize the role of civil society in development, guarantee sufficient time for review and consultation, and adhere to international treaties (European Parliament 2015).

6.3. Fragmentation within the civil society?

In comparison of activities in 2010-11 and 2015, activities and strategies employed by CSOs illustrate dissimilarity. By reviewing key actors involved, in terms of influence and importance over the law, evidences suggest a possibility of fragmentation in the civil society. Central NGOs, namely CCC and NGOF, have been less concentrated on LANGO due to multiple number of agenda they have to strategically prioritize. Human rights NGOs showed diverging discourses on how to position themselves against the government. Additionally, presence or absence of threats to survival of organization affected the degree of cohesiveness of cooperation within civil society, in forming unified voice against the government.

6.3.1. Compromised central NGOs

Cooperation Committee of Cambodia and NGO Forum on Cambodia have been the representative organizations of Cambodian civil society. Their influence as key organizations increased in coming into 2015 with its key priorities in establishing

inclusive partnership with local and central government. For instance, CCC is part of different Technical Working Groups with the government, such as “the Partnership and Harmonization (P&H TWG), Decentralization and Deconcentration (D&D TWG), Planning and Poverty Reduction (PPR TWG), the National Multi-Sectoral Orphan and Vulnerable Children Task Force (NOVTF) of the Ministry of Social Affairs” (CCC 2016a). Being part of these working groups in various ministries, it works to represent the interests of CSOs in shaping development policies. More, these organizations have been the key actors in dialogue with the government, National Assembly, international organizations, and donor agencies during the LANGO legislation process.

Despite being key actors in leading the discourses in civil society at the national level, such involvement with the government led to increased number of agenda and priorities. In addition, working to represent their own members’ interest as a coalition or network NGO and the need to ensure satisfaction of donors for continuous funding are also contributing factors. It has been noted that these central NGOs lack downward accountability to local-level NGOs, which leads to weak connection in between (Ou and Kim 2013). These factors combined resulted in different orientation towards the advocacy in civil society, which led to increased influence but decline in importance over LANGO.

Some signs of reduced importance, to begin with, come from organizational mandates. CCC’s primary have been focusing on fostering professionalism among CSOs, through a self-regulating mechanism to certify them as accountable. Governance and Professional Practices (GPP) is the certification system and is also credited by donors,

reflected in their funding preferences (Norman 2014). Internal organizational structure suggest that GPP is the priority as 8 out of 35, work for this process, compared to 3 out of 35, working for coalition/network building and advocacy is large team. In addition, NGOF also has extensive number of programmes for operation, and is occupied with environment programmes such as climate change, and land and livelihoods programmes, since land grabbing has been the major development issues in local communities.

In addition, the central NGOs have changed its stance on the law, less confrontational and more adaptive to the government, which mostly fit with lobbying type of activities. Social media, as previously mentioned, reflects the shift of stance, from “oppose the law” to “stop and consult”. CCC highlights in its annual report that the most significant advocacy activity was the Facebook and Twitter campaign where 13,600 followers have liked the page in two months (CCC 2016a). Notwithstanding the value of reaching the public for awareness raising, this suggest that primary target of advocacy was set on online users not the government. Presumably, the option of the political party for advocacy partner may have not been favourably accepted by NGOF and CCC staffs. In addition, the actual number or frequency activities of these organizations reduced. In 2015, only 4 events have been hosted, whereas 16 events were held under the theme of LANGO in 2011.

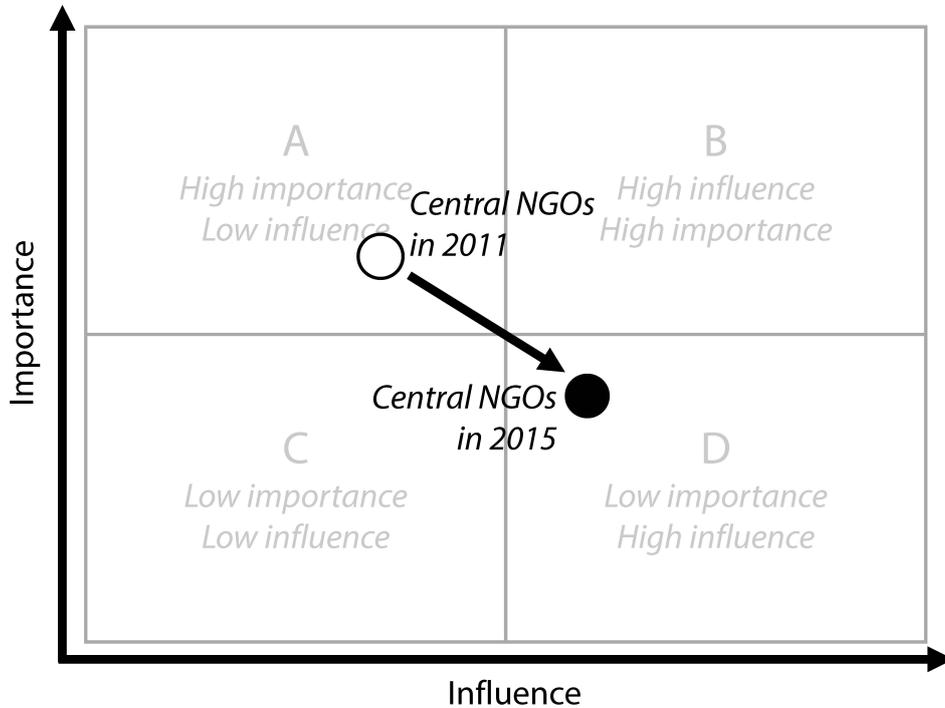
Other observation is that CCC is more focused on technical approach, taking less risks involved in political advocacy. Review of the strategy to counter LANGO, after it has come into force, supports the argument. CCC proposed its strategy for 2016 and it mainly focuses on lobbying activities during its annual meeting, to work in closer

cooperation with MoI to provide inputs in drafting the implementation guideline (CCC 2016b). It fails to mention the need to raise the issue of amendment of the law or to lead the discourse on the need to put forward legal or political actions.

Decline in importance, in general, could be partially explained by the fact the law does not necessarily create hindrance in the activities of development or service delivery NGOs. Especially, with the re-registration requirement removed in the final draft, these member organization to NGOF or CCC face lesser degree of threats to their operations. Importantly, they have been the members of working groups in different ministries which by opposing the government could threaten their current position. They have chosen the “voice” strategy to work within the arranged partnership with the government, engaging in lobbying activities.

In summary, central NGOs have become influential in advocacy towards the LANGO as important stakeholder in representing civil society during dialogue and consultations with the government or even the opposition party, compared to 2011. On the other hand, it reduced its interest in stopping the law; one of the executive staff made the comment, “We do not reject the law, but we would like to have a look at it and see how dramatically changes have been made from the 4th version” (NGO Forum on Cambodia 2015).

Figure 6. Stakeholder Analysis of Central NGOs



6.3.2. Divergence between CCHR and LICADHO

As the central NGOs were taking softer stance, human rights groups that usually took confrontational stance against the government have been involved in 'activism' of organizing protests. LANGO has been predicted to affect human rights organizations the most, with the clauses on the political neutrality and interpretation of the conception of NGOs as mostly service delivery organizations. Moreover, Hun Sen, government, and the ruling party has been consistently showing hostility towards the human rights NGOs. For being critics to government policies that undermines democracy and human rights

standards and the ability to mobilize the public for protests, CPP blamed these human rights NGOs to be the cause of reduced popularity and of seats in the National Assembly after the 2013 elections (Radio Free Asia 2015c). Thus, LANGO has been the top priority for most of the human rights NGOs in both 2011 and 2015 which suggest that there has not been any changes in importance.

However in terms of influence, there has been some observations of diverging views on the draft among the 'human rights' organizations. Such divergence could be a sign of decline in influence since reduced chances of solidarity and cooperation causes inability to form strong opposition vis-à-vis the government's push for LANGO. As they diverge, it also increases the chances of cooptation of government in choosing certain human rights NGOs for consultations and policy dialogue while NGOs that remain critical are excluded. Partly due to this divergence in advocacy, some of the human rights NGOs have been often excluded in government workshop on LANGO, on 8 July 2015 (Chanveasna and Takihiro 2015). Such behaviour of government makes difficult for human rights NGOs to effectively respond to the law.

Initially the human rights groups showed strong cooperation and solidarity, which the government could not easily silence their voice. The solidarity was formed by when the government tried to retaliate one CSO named STT (Sahmakum Teang Tnaut). Starting 1 August 2011, this organization was suspended of operation for five months. STT had been the advocacy organization that works to protect rights of the poor in regards to housing and infrastructure. Prior to the suspension, the organization advocated for the communities that faced involuntary displacement due to "Railways

Rehabilitation Project” financed by Asian Development Bank, Australian development agency, and the Cambodian government. STT and other organization published a report on how the project caused harms to the communities, nearly 4,000 households, and the insufficiency of compensation (STT and BABC 2011). In retaliation of the report and the consequences, MoI penalized STT under wrong claim that it failed to report changes regarding the internal structure and its statutes. The organization had provided the required documentation but still MoI maintained the position to order a suspension. This incident with STT showcased the future prospect of arbitrary use of LANGO by the government if the law were to pass. Most CSOs perceived this as a threat to survival of civil society in Cambodia and 130 organizations signed for a joint statement to condemn the government.²² These organizations, including CCHR, ADHOC, and LICADHO, demonstrated solidarity by affirming that “we are all STT” and “the act to silence STT is an act of oppression against us all” (Ibid. 1).

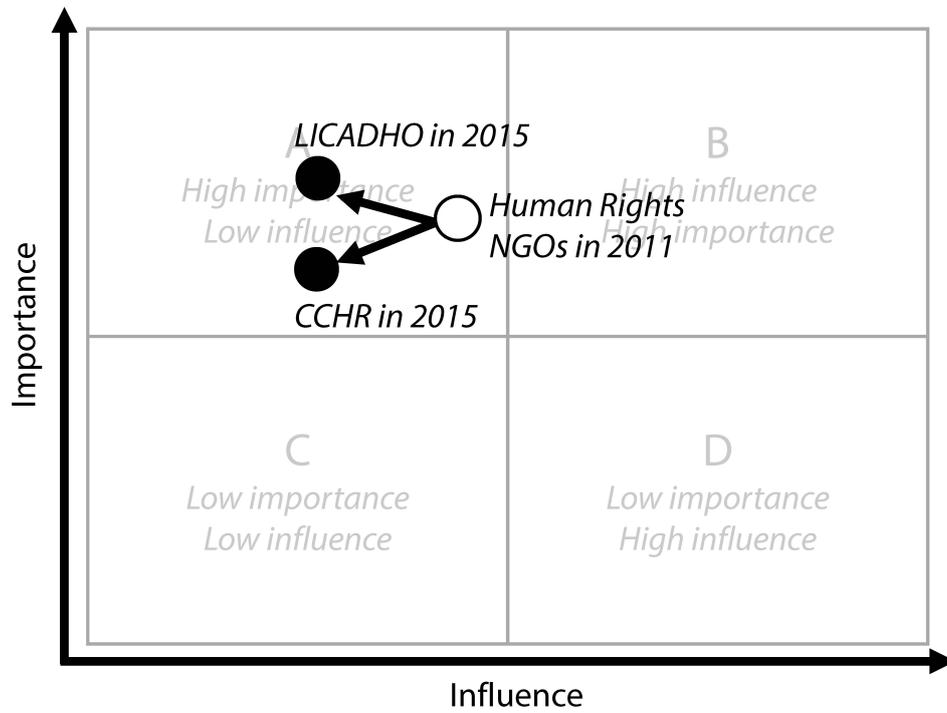
Such firm solidarity or common view on LANGO started to diverge after the fourth draft was released (Di Certo 2011). LICADHO still maintained its strict attitude towards the analysis of the draft. It called the draft to be worse than the previous draft with more confusion and uncertainty. On the other hand, CCHR become less confrontational and expressed satisfaction with positive changes with more clarity. CCHR welcomed the fourth draft as it was able to see that the government put effort to include the

²² Human Rights Watch. “Civil Society and Private Sector Groups Condemn Government’s Arbitrary Suspension of Local NGO” (Undated) [https://www.hrw.org/sites/default/files/related_material/Joint%20Statement%20on%20LANGO%20\(English\)_0.pdf](https://www.hrw.org/sites/default/files/related_material/Joint%20Statement%20on%20LANGO%20(English)_0.pdf) (Accessed 15 October 2016).

recommendation from civil society organizations. As illustrated in chapter 4 of this thesis, there has been significant shift from third and fourth. However, LICADHO asserted that fundamentally the law is the same as there is no process to appeal in case of the government's manipulation of the law.

This contested view of the drafts was the beginning of the divergence between LICADHO and CCHR, in terms of the stance. As LANGO was being discussed in 2015, LICADHO maintained its activism position in advocating, while CCHR continued with a similar approach to the central NGOs in trying to influence the contents, not to stop or prevent the enactment. While denying to suggest that these two organizations would never associate, the degree of inter-organizational cooperation may have reduced. Such reflects CCHR's organizational mandate of non-alignment, to avoid any affiliation with political parties. All in all, despite these organizations showing high priorities in LANGO, their influence over the law have been reduced.

Figure 7. Stakeholder Analysis of Human Rights NGOs



VII. Conclusion

7.1. Findings

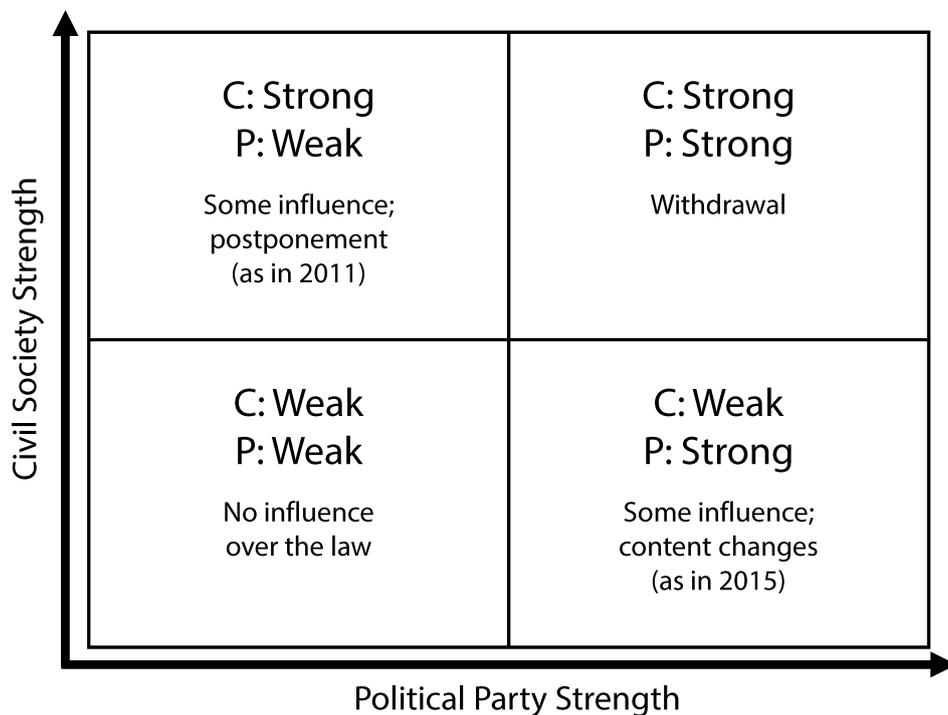
Analysis of both stakeholders, the political party and civil society organizations, shows the lack of linkage in between. In 2011, the party was not available to be a functioning partner at the National Assembly; civil society was struggling to advocate for withdrawal and instead relied on international community to pressure Cambodian government. In 2015, as the party became influential in the politics, there has been some interactions with the CSOs. However, they were unable achieve withdrawal due to lack of complementarity and embeddedness which failed to form synergetic relations.

Complementarity between CNRP and CSOs were insufficient for withdrawal as they did not have clear division of labour; especially CNRP and central NGOs did not work for a common goal of withdrawal by concentrating on “revisions”. CNRP was unable to change the discourse within the National Assembly and to persuade the ruling party through political bargain and in presence within different commissions. In addition, some CSOs were less active in vocally expressing criticism over the law and did not draw greater public attention over the potential harm induced by the legislation.

In terms of embeddedness, the party did not see interest in the withdrawal as the law was not prioritized. The priority was in other political agenda and there has been pressure to sustain the current position in the National Assembly, which was reached through a political deal with CPP after long protests and negotiations. CSOs by having fragmentation did not help creating such embeddedness with the political party.

Although both saw how the law undermines human rights and democratic principles, they trust and reciprocity was not fully developed. Such less developed embeddedness has been found in existing literature (Öjendal 2013). Civil society does not want to engage with the state or political party due lack of merit of partnership, especially in the local context, they perceive that the authorities do not have the power to change the situation. With the opposition parties, the community organization fear that the ruling party will engage in a crackdown and distrust the opposition, suspecting that they are taking advantage for its own sake. Such environment makes difficulties in forming common normative grounds among two actors.

Figure 8. Comparison of relative strengths between 2011 and 2015



In other words, in 2011 the two actors were unable to form a synergetic relationship due to the less influential political party, as it lacked both influence and priority in the law, while the civil society as a whole were highly influential and placed importance in the issue. On the other hand, in 2015, the two failed to structure a synergy, due to the influential but less prioritized party and the fragmented civil society groups. *Figure 8* illustrates that when the two actors are strong they would be able to achieve withdrawal of LANGO. I define the strength of two actors as being placed on D-quadrant of importance/influence matrix, when all actors are able to influence for change and prioritize the issue at hand.

All in all, the attempt of NGOs on forming synergetic relationship with the political opposition could have yielded substantial influence over the law, on the environment which meets the following conditions. First, the fragmentation within the civil society needs to be reduced. The different types of civil society organizations needs to work in complementarity by specializing the means of advocacy under Policy Influencing Continuum. Complementarity of advocacy activities, for instance, could be human rights NGOs mobilizing the public while the public opinion gets delivered to the central NGOs that is able to shape the discourse; this is a form of fulfilling downward (vertical) accountability. Such complementarity will increase the influence as CSOs can rely on both the rhetoric of ‘international norms’ of democracy or human rights standards, and the larger public support. In addition, there should also be embeddedness, to ensure coherence in strategies dealing with the government and the ruling party. The

organizations need to continue to build similar normative grounds by the developing a shared purpose of advocacy – the withdrawal.

Second, the civil society needs to engage with the political party to form embeddedness. When the civil society works on the same goal, stronger narratives on the rationale to ‘withdraw’ rather than postpone the process or revise can be developed. There should be frequent meetings, discussions, and debates that draws large number of audiences for a single cause. Such efforts to form embeddedness starts from seeing the interest to prioritize the issue at hand and to see the mutual benefits by LANGO withdrawal and potential contribution to broader public interests. Strong embeddedness leads to reducing sense of fear towards the government and the ruling party, which hinders proactive measures in advocacy.

Lastly, the two stakeholders need to work in complementarity for increased influence over the ruling party and the government. The party’s priority on certain agenda could be somewhat associated with prospect on how its activities might affect political visibility and broader popular support for its survival. Given that vibrant civil society facilitates information exchange in shaping the public discourse, growth of support for withdrawal could influence the party’s decision over priorities. The party then can engage in political tactics with the ruling party that the lawmaking process does not show bias towards the claims of the state and ruling party. Such combined efforts in political sphere and in civil society can provide effective response to any unilateral moves by the state and the ruling party.

7.2. Implications

I attempt to argue that synergy between political parties and civil society is crucial factor in the context of a legislation, to establish rule of law for development of democratic society, through this thesis. Since theoretical framework rests on ideal claims, other questions can be raised, for instance, on how to develop such party or civil society in developing context. Cambodia is still making its way for economic and political development. More, the context should also take into account the remnant of civil wars and violent conflict, and pessimist prospects suggest that democratization and democracy deepening will not be achieved for a while.

Nonetheless, Hughes (2009: 131) still suggests that there has been an example of such relations between political party and non-state actors. It cites the case of Sam Rainsy Party and trade union partnership that achieved the goal of social changes. The Free Trade Union of Workers of the Kingdom of Cambodia (referred to as Free Trade Union or FTU) was established in 1996, with the contribution from the SRP. The two were in close connection until the late 1990s, which launched campaigns and participated in protests for various issues to support each other. Successfully, the party and the union was able to improve the working conditions and increased the level of minimum wage. The concerted efforts of the two were substantial in achieving drastic increase of wage in garment industry; a monthly wage of \$27 in 1996 rose to \$45 in 2000.

This interaction proved that the party is able to mobilize people for a cause and the trade unions achieves their goals through the cooperation. Although the limited description of these efforts do not accurately prove the existence of complementarity,

embeddedness was strongly formed by each actors to participate in protest or mobilization for each other's agenda. In this vein, the civil society of Cambodia has potential to build synergy with the political party and vice versa.

There is a need to refer to the previous literatures on why the civil society does not build synergy with the party. Although it needs to be thoroughly researched, one could suggest that it is being influenced by the donors' practices. The donors tend to fund "professional" NGOs that meets certain requirements, especially in financial accountability aspect. They also want to avoid risks in challenging the local government. In turn, these professional NGOs could become risk-averse in advocacy, leaning towards lobbying type of activities. Wells-Dang, cited earlier, suggested that community-level NGOs and central NGOs show divisions that the former takes radical stance while the latter prefers dialogues. Such tactical or technical way of advocacy did not produced meaningful changes, and differs from the interests of the local communities.

Furthermore, the apolitical manner of engagement with the state or other stakeholders is in need of reconsideration, whether it produced meaningful results, despite the difficulties in 'measuring' the effectiveness of CSO advocacy. CSOs need to evaluate to what extent the interests of community is reflected in its operation, to avoid being isolated from the society, in pursuing development goals. More, firm and substantive coalition building is necessary for public interest. It should be frequently practiced and reflect the learning from the issue with LANGO to counter any further repression of civil society by the state, which could take further measures before the next general election in 2018.

7.3. Limitation of the study

This thesis has rests on an ideal claim that state-society synergy will occur when the actors act in cohesion. It is limited in providing a robust empirical evidence that the successful advocacy are to be observed with party and civil society's partnership, especially in a context where democratic governance is still on the process of development. It also has limitations in terms of case selection, which only included organizations that are well archived online on the websites and those that frequently covered by English-language media. The findings contribute to understanding of advocacy activities but are not generalizable, as there has been strong concentration of service delivery-oriented CSOs in Cambodia. This can be overcome by solely concentrating on different civil society organizations as the analysis, namely through network analysis to identify the core actors. Accuracy of the study could also be enhanced by equally analyzing civil society relations with both the ruling and opposition party. Further studies could also try to deal the issue of apolitical approach to advocacy by looking at the relations between donor government, INGOs, and the domestic Cambodian civil society.

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논문 초록 (Abstract in Korean)

Stunted nexus between civil society and political opposition

: A Study of “Law on Association and NGO” and its legislation
process in Cambodia

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민주주의 증진을 목표로 하는 공적개발원조가 이루어졌으나 다수의 개발도상국 정부는 이러한 공여국 정책에 반하여 시민사회의 자유로운 활동을 제한하는 조치를 취하고 있으며 점점 증가하는 추세에 있다. 캄보디아의 경우 시민사회가 지속적으로 성장해 왔으며, 사회 전반의 공익을 보호하고 국가주도 혹은 다국적기업 사업에서 지역사회의 이익을 대변하는 등의 역할을 수행하고 있다. 또한 서비스 제공 등 다양한 개발사업을 통해 빈곤경감을 위해 노력해 왔다. 한편 2015년 8월 통과된 협회 및 NGO 에 관한 법(Law on Associations and Nongovernmental Organizations, LANGO)으로 인해 시민사회단체는 그 존립과 운영·활동에

위협을 받고 있다. 해당 법안은 캄보디아의 민주적 거버넌스에 부정적 영향을 미치며 사회적, 정치적, 경제적 발전에 해가 될 것으로 보인다. 본 논문은 양적 및 질적 성장을 이루어낸 캄보디아의 시민사회가 향후 부정적인 영향을 미칠 우려가 제기되는 해당 법안에 어떠한 방식으로 대응했는지에 대한 연구이다. 캄보디아의 시민사회 및 야당을 중심으로 하는 정치사회가 해당 법안의 입법과정에 어떻게 영향을 주었으며 입법철회라는 목표달성에 실패한 원인을 분석하고자 하였다. 국가-사회간 시너지효과의 이론적 배경을 바탕으로 시민사회단체와 정당간의 상보성(complementarity) 및 배태성(embeddedness)의 부재 혹은 결여로 인해 정부와 여당에 효과적으로 대응하지 못했다는 점을 증명하고자 하였다. 본 논문은 “협회 및 NGO 에 관한 법”에 대해 종합적으로 연구하고 시민사회의 애드보커시를 중점으로 다루었다는 점에서 학문적 의의가 있다.

주요어: 캄보디아, 시민사회, NGO, 국가-사회간 시너지효과, 협회 및 NGO 에 관한 법, 캄보디아 구국당(CNRP)

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