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# ***Cambodia: Civil Society, Power and Stalled Democracy***

Stephen P. Marks and RamyaNaraharisetti

*'All power belongs to the people'*. (Cambodian Constitution, Article 51, 1993)

*'The space for civil society is steadily shrinking.'* (Special Representative of the Secretary-General for Human Rights in Cambodia, 2008)

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## **Introduction**

This chapter examines the power relations affecting the capacity and agency of four local Cambodian human rights organizations in the context of the painful trajectory of Cambodia since the political transition of 1992-1993. The pivotal moment in this evolution was the 1993 election of a Constituent Assembly organized by the United Nations Transitional Authority in Cambodia (UNTAC), which adopted a democratic constitution. Although the transition ended decades of extreme deprivation, foreign intervention, genocide, and civil war, it did not resolve most of the underlying power relations that undermine democratic governance, produce unequal development and lead to human rights violations. In the ensuing eighteen years, a vibrant civil society and a genuine political opposition have struggled for political space in the face of the consolidation of power in one party (the Economist 2010: 4), which has frequently engaged in repressive practices.

We explore the proposition that the power-holders in an autocratic regime, operating under a democratic constitution and pressure from civil society and the international community, display rhetorical support for human rights, yet limit the opportunities and the organizational capacities to contest abusive practices and vested interests. To test this hypothesis we explore the organizational

capacity and impact of four non-governmental organizations (NGOs) working in human rights in a dynamic environment, in which some aspects of democracy are advancing while others are backsliding. In sum, the Cambodian government adheres superficially to human rights as set out in its democratic constitution, while civil society contends with diverse power relations in an effort to make the promise of the constitution a reality. Our findings confirm that ‘the formation of a civil society that is playing an increasing role in national affairs is the single most important achievement of the past 10 years.’ (Cambodia Coordination Committee 2009a: 17)

A team of Cambodian researchers, under the direction of MeySovannara, was recruited by the Cambodia Coordination Committee (CCC) in early 2009 to provide information and analysis of the political and institutional context in which civil society organizations and movements advance human rights and pro-poor agendas (context mapping) and specific information regarding selected institutions or movements (organizational studies). Research for the context mapping took place between 5 February and 23 March 2009 on the basis of published and unpublished materials in various languages, as well as personal knowledge by the researchers. The second phase of the research took place from 22 September to 12 October 2009, and involved site visits to four organizations and review of documents in accordance with a research protocol and ten research questions provided by the project. The four organizations, described in the section below on ‘human rights organizations selected for this study,’ were chosen to reflect a range of establishment dates, thematic agendas, geographical scope and modes of operation. (Cambodia Coordination Committee 2009b)

In the next section, we chronicle the historical roots of the present political landscape, the growth of civil society, and the sources and impact of human rights discourse. In the third section, we describe the various types of power constraints on human rights NGOs in Cambodia. The fourth section discusses spaces of engagement and the fifth section examines the building of countervailing power against repression. The sixth section concludes by examining whether and how the transformation of power structures can take place.

## ***Context of human rights and power relations in Cambodia***

### ***Historical and political background***

The political economy and history of Cambodia provide essential background to understand the constraints and challenges faced by civil society organizations in their experiences of power. Cambodia suffers not only from a recent history of large-scale political violence but also from widespread corruption<sup>1</sup> and poverty.<sup>2</sup> The potential for civil society to exercise countervailing power is hampered

<sup>1</sup> Cambodia scores 2.1 and ranks 154 out of 178 countries on the Corruption Perceptions Index 2010. Transparency International, *Corruption Perceptions Index 2010*, Berlin, Germany: Transparency International, 2010, p. 3. In 2008, the score was 1.8 and rank 166. The CPI Score ‘relates to perceptions of the degree of corruption as seen by businesspeople and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt)’.

<sup>2</sup> 25.8 per cent of the population currently lives below the income poverty line of \$1.25/day UNDP ranks Cambodia 124 out of 169 on the Human Development Index. UNDP, *Human Development Report 2010*, New York: Palgrave Macmillan Houndmills, 2010, p. 162. See also the World Bank’s *Cambodia Poverty Assessment* at

by Cambodia's rapid economic growth<sup>3</sup> and consequent employment opportunities, which encourage support for the government in power. The country is improving with respect to primary education, child mortality, and HIV/AIDS, but is not doing as well in reducing maternal mortality and ensuring environmental sustainability.(Cambodia Coordination Committee 2009a: 18)

Like many countries in Southeast Asia, Cambodia's political traditions derive primarily from eastern culture, the absolute rule of God-kings, and Buddhist beliefs. Attitudes toward human rights and law in general continue to be affected by past traditions dating from the age of the Khmer empire, which ruled from the distant Angkor from the ninth to the fifteenth centuries (Chandler 1993; Sharan 1986; Vickery 1986). The king was distant from the people, who rarely saw him. Even in the nineteenth century, villagers had only a vague idea of the king, generally believing him to have the power to influence the weather, to 'dispense true justice' and to be 'the only political source of hope among peasants.' (Chandler 1993: 107) Patronage and clientship at the village level remained an essential part of the social structure up to the nineteenth century, as the 'rectitude and permanence of these relationships had been drummed into people from birth' (Chandler 1993: 105).

The social structures of the past and the place of the individual in the Khmer cosmology were adapted under modern ideas of government, but not entirely eliminated by the introduction of constitutions in the mid-twentieth century. In fact, and to the surprise of the international community, the drafters of the 1993 Constitution not only referred in the preamble to Cambodia's 'grand civilization of a prosperous, powerful, and glorious nation whose prestige radiates like a diamond' and to 'the prestige of Angkor civilization,'<sup>4</sup> they also restored monarchy. As one constitutional scholar has observed, 'monarchy has witnessed the most glorious moments of Khmer civilization. Its millennial embedding makes it the principal feature of the political tradition that still prevails among the peasant masses' (Martin1993).

Beyond these historical and cultural influences, the power structures in Cambodia are deeply affected by nearly seventy years of French colonialism (1887-1953)and over twenty years of civil war (1970-1991). Along with a legacy of exploitation and repression for two-thirds of a century, the French brought the first legal system, and a formal constitution of 1947 defining the functions and powers of national institutions, which were in place when France granted full independence to the Kingdom of Cambodia under King Norodom Sihanouk in 1953. These systems remained until Sihanouk was overthrown by US-supported forces of Lon Nol in 1970 and the establishment of the Khmer Republic. The Communist Party of Kampuchea (CPK), which later became the Party of Democratic Kampuchea (PDK) and popularly known as the Khmer Rouge, defeated Lon Nol's forces in 1975 and proceeded to devastate the country, killing some 2 million people by execution, forced labour and starvation. In 1978 the Vietnamese invaded the country, and from 1979 to 1991 the People's Republic of Kampuchea (PRK) was run by the Khmer People's Revolutionary Party (KPRP), renamed Cambodian People's Party (CPP) in 1991. In 1982 the resistance to the PRK formed an alternative Coalition Government of

<sup>3</sup> GDP annual growth between 1998 and 2008 was almost 10%, interrupted in 2008-09, but is expected to recover in 2010-11 to of 6.7 %. See World Bank country brief for Cambodia at

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/CAMBODIAEXTN/0,,menuPK:293865~pagePK:141132~piPK:141107~theSitePK:293856,00.html>

<sup>4</sup> Constitution of 23 September 1993, Preamble.

Democratic Kampuchea (CGDK) consisting of firstly, the royalist party of then Prince Norodom Sihanouk and his son Ranariddh, called the United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia (FUNCINPEC); secondly, the non-Communist Khmer People's National Liberation Front (KPLNF); and thirdly the Khmer Rouge (PDK). The power of the PRK and the three components of the resistance was derivative of global and regional power relations representing the influences of the Soviet Union (through Vietnam on the PRK), China (through the PDK), the US (through the KPLNF) and the traditional nationalist forces (through FUNCINPEC).

The end of the Cold War severely weakened the political support each faction received from foreign nations, and the military stalemate led them to accept a comprehensive peace agreement at the Paris International Conference on Cambodia (PICC) in 1991. There all four factions agreed to a peace process centring on withdrawal of the Vietnamese forces, transitional powers of the UN (under UNTAC) and the Supreme National Council (SNC) (consisting of all four factions under the presidency of Prince Sihanouk), the election of a constituent assembly, leading in turn to a new constitution and government reflecting basic elements of liberal democracy. These arrangements were consigned in four final agreements, including an annex containing constitutional principles.<sup>5</sup> Following UN-run elections in 1993, the Constituent Assembly adopted a relatively democratic constitution. However, political and ethnic violence plagued the 1993, 1998, 2002, 2003, and 2008 elections, although all were relatively free and fair under the circumstances. During this period, the Cambodian People's Party (CPP), headed by Hun Sen, has consolidated its grip on political power, after initially sharing power with Prince Ranariddh of the royalist party (FUNCINPEC) from 1993 to 1997 before forcing him to flee in a veritable coup in 1997. Since then, the Sam Rainsy Party (SRP), founded by Sam Rainsy, a former finance minister, emerged as the only significant opposition party. A former head of an independent human rights NGO, KemSokha, founded a smaller opposition party, the Human Rights Party (HRP) and formed a coalition with SRP called the Democratic Movement for Change. In the 2008 election, CPP won 90 of the 123 seats in the National Assembly, to 26 seats for SRP and 3 for HRP, with FUNCINPEC and other smaller parties winning 2 or fewer seats each. The CPP also made gains in the 2009 provincial and district council election. The opposition is hoping to make gains in the 2013 election.

### ***Human rights discourse and rights debate***

Human rights discourse in Cambodia results from the mix of the cultural traditions and political history alluded to above, along with the universalist influences of the UN-managed transition. These latter influences built on the exile experience of the Cambodians who fled the Khmer Rouge or the PRK in the 1970s and 1980s, and expanded through the implementation of the Paris Agreements and the adoption of the Constitution in the early 1990s. The introduction of this discourse is connected with the dynamics of power insofar as it altered the expectations of large segments of civil society and of their international supporters. Those altered expectations suggest a shift from a fatalistic acceptance of arbitrary exercise of power by traditional elites, to a sense that regime legitimacy may be measured in

<sup>5</sup> Agreements on a Comprehensive Political Settlement of the Cambodian Conflict, signed in Paris on October 23, 1991, at the final meeting of the Paris Conference on Cambodia. The comprehensive settlement comprises four documents: the Final Act of the Paris Conference; the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, with five annexes (Annex 5 contains constitutional principles); the Agreement Concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia; and the Declaration on the Rehabilitation and Reconstruction of Cambodia. Reprinted in 31 I.L.M. 174 (1992). This compilation will be referred to below in the plural as the Paris Agreements; the singular Paris Agreement will refer to the second of the four documents. The full text of the agreements is available at

[http://www.usip.org/files/file/resources/collections/peace\\_agreements/agree\\_comppol\\_10231991.pdf](http://www.usip.org/files/file/resources/collections/peace_agreements/agree_comppol_10231991.pdf).

human rights terms and that those responsible for violating human rights must be held accountable. This complex dialectic of Cambodia's difficult transition is characterized by the superficial introduction of human rights and democracy through elite interactions, on the one hand, and the deeper appropriation of these concepts by civil society, on the other, due in large part to its experience of this troubled history. (Marks 2005)

### ***Human rights discourse through elite interactions***

Political elites representing the four factions participated in the negotiations that eventually produced the 1991 Paris Agreements, fielded candidates in the Constituent Assembly elections of 1993, and drafted the new constitution, which contained a number of human rights provisions (Marks 1994). An annex to the Paris Agreements set out the required human rights elements to be included (Ratner 1993). It was at this elite level that Cambodia became party to the major human rights treaties<sup>6</sup>, where attempts were made to reform the judiciary and legal system, and that the constitution was drafted, all of which drew upon human rights discourse but were essentially gestures by elites seeking political advantage rather than being driven by popular forces.

An important tool used by UNTAC to introduce human rights discourse and practice was a law called 'The Provisions Relating to the Judiciary and Criminal Law and Procedure applicable in Cambodia during the Transitional Period' or 'Transitional Provisions' (also known as 'UNTAC law') of 10 September 1992, which was designed to incorporate into domestic law the most relevant standards of international human rights law. These provisions set out rules for an independent judiciary, the conduct of law enforcement officials, conditions of arrest and detention, a fair trial and the definition of crimes and misdemeanours and the penalties for these infractions. It was used until 2007 when the National Assembly adopted a new penal code<sup>7</sup>, although its provisions have been improperly interpreted for purposes of political harassment, including of NGOs (United Nations 2010a: para. 33).

### ***Human rights discourse introduced by civil society***

The emergence of Cambodian NGOs using explicit human rights language is a direct result of the formal commitment in the 1991 Paris Agreement that 'all persons in Cambodia shall enjoy the rights and freedoms embodied in the Universal Declaration of Human Rights and other relevant international human rights instruments' and that Cambodia undertakes 'to support the right of all Cambodia citizens to undertake activities which would promote and protect human rights and fundamental freedoms'. (Paris Agreements (1991): art. 15.)

<sup>6</sup> The Supreme National Council, on behalf of Cambodia, adhered to these seven international human rights treaties: the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights the Convention on the Elimination of Discrimination Against Women, the Convention Against Torture, the Convention on the Rights of the Child, the Convention and Protocol on the Status of Refugees. Cambodia was already a party to The Convention on the Repression and Punishment of the Crime of Genocide and the Convention on the Elimination of All Forms of Racial Discrimination. Other, more technical, treaties, such as the UNESCO Convention on Illicit Traffic in Cultural Property, would belong to a more exhaustive enumeration of human rights treaties but are not relevant for present purposes. The authority to ratify derived from Article 15 (2) (a) of the Paris Agreement by which Cambodia undertook 'to adhere to relevant international human rights treaties.'

<sup>7</sup> Part of the Penal Code came into force in December 2009 and the rest entered into force in December 2010. The Assembly has adopted over 300 laws since 1993. A compilation of laws currently in force in Cambodia published by UNCOHCHR. See also <http://www.national-assembly.org.kh/>.

According to the report of the UN Secretary-General of 1992 setting out the UN mandate during the transition of 1992-1993, 'The development and dissemination of a human rights education program is foreseen as the cornerstone of UNTAC's activities in fostering respect for human rights...' (United Nations 1992: para. 12; Marks 1997) This mandate included introducing human rights into government school curriculum at all levels (United Nations 1992: para. 13), within a broad expectation that 'Cambodians must fully understand both the content and the significance of those rights and freedoms in order to be in a position to know when and how to protect them properly.' (United Nations 1992: para. 12) The strategy and plan of action by UNTAC's Human Rights Component focused heavily on civil society (defenders, human rights associations, women's associations, journalists, monks, and health workers). It also set up a post-election Constitutional Literacy Programme, including a constitutional forum, which concluded with the formation of a coalition of 14 groups called *Ponleu Khmer* (Cambodian Illumination) and an NGO strategy for lobbying the Constituent Assembly in order to press for strong human rights provisions, especially with respect to the rights of women. The strategy was implemented with a remarkable degree of courage, initiative and perseverance and, to a certain extent it was an inaugural event for post-UNTAC independent, civil society human rights promotion. For example, the spokesperson for *Ponleu Khmer* found the draft of August 1993 contradictory in that it 'specifies human rights fairly clearly and stipulates a separation of powers, but ... it concentrates the decision-making power of the state in the hands of a few people. ... When power is concentrated in the hands of only a few people, how can human rights be protected?' *Ponleu Khmer* denounced the secrecy of the drafting process as a denial of participatory democracy. (Brown 1993: 7) The NGOs favoured detailed human rights provisions based on international standards, with effective enforcement procedures, but were disappointed by the secrecy of the process and the weak provisions in the draft constitution. Nevertheless, *Ponleu Khmer* continued after the proclamation of the Constitution and the departure of UNTAC in 1993 to educate the population about participatory democracy and to push for a sense of accountability on the part of elected officials and civil servants.

Since the departure of UNTAC, local and international NGOs and the Cambodia Office of the UN High Commissioner for Human Rights have organized hundreds of large-scale training projects, including for teachers, law enforcement officials, monks, health professionals, judges and defenders. (Leang 1998)

## **Overview of civil society organizations**

### ***Emergence of human rights-promoting organizations***

The proliferation of NGOs, independent of the state and party structures, has been the 'first step towards a civil society in Cambodia after its destruction between 1975 and 1978'. (Kirby 1994: para. 165) Courageous and enterprising Cambodians, aware of the mobilizing value of human rights from their experience in exile or in border camps prior to the arrival of UNTAC, set up human rights NGOs, which UNTAC registered quite liberally. Five human rights groups were functioning in Cambodia during the transitional period, with combined membership claimed to be over 150,000. The CCC study attributes the establishment of human rights NGOs in the early 1990s to 'the presence of a large number of overseas NGOs, when the political climate stabilized with UNTAC's presence (1991-1993)' (Cambodia Coordination Committee 2009a: 8; Kamm: 230).

### ***Current array of NGOs functioning in Cambodia***

According to the CCC, of the 2,000 or so NGOs registered with the Interior Ministry and operating in Cambodia, 47 local NGOs may be considered as working in the field of human rights or on human

rights promotion and protection.<sup>8</sup> These NGOs cover a range of issues related to general promotion and protection of human rights, women's rights, housing and land rights, disabled persons' rights,<sup>9</sup> children's rights,<sup>10</sup> health or HIV/AIDS, as well as landmines, and environmental protection.

### ***Human rights organizations selected for this study***

The four organizations reviewed here address the most pressing human rights issues facing Cambodia and their experiences of power is analysed in the next sections. Two are general human rights organizations with a long history and broad programmatic focus, while the other two are newer and have a narrower focus, one on legal representation, and the other on advocacy for disability rights. The four organizations are:

#### Cambodian League for Promotion and Defense of Human Rights (LICADHO)

LICADHO is a membership organization engaged in monitoring and policy promotion. Since its establishment in 1992, LICADHO has primarily focused on civil and political rights; however, its mandate was extended, around 1995, to include economic, social and cultural rights in response to violations of land rights, the right to adequate housing and indigenous rights. Through its headquarters in Phnom Penh and 12 provincial offices, LICADHO pursues its mandate through seven programme areas, namely, advocacy, education, monitoring, medical, torture, children's rights and women's rights.

#### Cambodian Human Rights and Development Association (ADHOC)

ADHOC, founded in 1991 by a group of former political prisoners, engages in monitoring, education, promotion of women's rights, and human rights advocacy. Originally, it functioned out of a Buddhist temple in Phnom Penh, relying on volunteers until it received financial assistance from UNTAC and foreign donors, which allowed it to develop two main programmes, namely, investigation of human rights violations and human rights training. It has a central office in Phnom Penh and 23 provincial offices.<sup>11</sup> The offices carry out the different programmes in communes and villages. By establishing the link between human rights, development and poverty reduction, ADHOC takes a structural approach to power relations and seeks to address rights deprivation by providing affected populations with knowledge and understanding of human rights, law and democracy and of how to defend them (Cambodia Coordination Committee 2009b: 18).

<sup>8</sup>□ The 47 organizations identified as working in human rights are listed in CCC, *Context Mapping Report*, pp. 27-28. CCC used the following source for the list of all NGOs: <http://www.yellowpages-cambodia.com>

<sup>9</sup>□ Given the tremendous toll of years of armed conflict, it is not surprising that some 21 international and local NGOs fall into this category. The CCC noted that between 650,000 and 1.4 million Cambodians live with a disability, and the exact count may be higher. In addition to the local NGOs working on disability in Cambodia, the six international groups are especially active in this area. See <http://www.apcdproject.org/countryprofile/cambodia/>.

<sup>10</sup>□ These organizations deal with such issues and the cross-generational psychological impact of Khmer Rouge atrocities and civil war, infant mortality, low literacy, limited access to education, especially beyond primary school, violence and sexual abuse, trafficking and dangerous forms of child labour. In addition five organizations have children's programmes.

<sup>11</sup>□ Cambodia has one capital and 23 provinces (the Sub-Decree No. 18 of the Royal Government of Cambodia, dated 12 January 2009, signed by Hun Sen). Previously, Cambodia had 3 municipalities and 21 provinces. Now Phnom Penh is the only Capital of the Kingdom of Cambodia.



### Community Legal Education Centre (CLEC)

CLEC engages in legal education, advocacy and litigation in high profile cases. CLEC is a non-profit, non-partisan, local human rights NGO, created in 1996 as legal resource centre, promoting the rule of law, justice and democracy in Cambodia. From 1996 to 2001, CLEC operated as an arm of the University of San Francisco School of Law, funded by USAID. In December 2001, CLEC became a Cambodia registered NGO. CLEC began with programmes on election law, decentralized dispute resolution and the justice system at the communal level. Currently CLEC has four major strategic programs dealing with (1) land and natural resources; (2) labour rights and industrial relations; (3) access to justice; and (4) good governance.

### Cambodian Disabled People's Organization (CDPO)

Finally, CDPO represents disabled people and their rights in Cambodia, working in large part in cooperation with government agencies. This NGO helps the nearly 658,000 persons with disabilities in Cambodia, 4.7 per cent of the total population (Cambodia Coordination Committee 2009b: 29, note 24). CDPO promotes the human rights of persons with disabilities at the national level through committees and working groups to influence decision-making and policy development bodies, both governmental and non-governmental. The CCC describes CDPO as having 'strong networks of persons with disabilities from the village level up to the national level' and 'as one of Cambodia's most courageous, competent federations of members with disabilities [which] covers 24 provinces, reaching villages, districts and provinces' (Cambodia Coordination Committee 2009b: 33).

### *Types of power*

These NGOs face all three types of power, ranging from the more obvious, visible power, to those that occur behind the scenes, namely, hidden power (i.e. barriers that preclude the entry of certain actors and issues as a matter of public discourse and negotiation) and invisible power (i.e., conflict that is hidden through internalisation of powerlessness or lack of awareness) (Gaventa 2005: 15).

#### **Visible power**

The sustained efforts by the organizations studied have drawn attention to visible power of the government and the need to strike a balance between challenging power relations and maintaining a working relationship with government entities.

The Public Interest Litigation Project of CLEC challenges both government and business interests connected with government officials and government interests. CLEC has challenged, in court, evictions of the urban poor for both private and public development without fair and just compensation. Despite criticism from the government about its methods, CLEC manages to get its cases heard and has been successful on some but not all. (Cambodia Coordination Committee 2009b: 14. Exact figures were not provided.) CLEC has also functioned collaboratively, such as winning a bid to provide its contractual services in the Access to Justice for the Indigenous People Project, a joint programme of the Ministry of Justice and the Ministry of Interior, funded by UNDP for 2007-2009. Under this programme CLEC worked with the ministries to provide assistance to the indigenous communities in Monduliri and Ratanakiri (through training workshops to grassroots organizations as well as to government and law enforcement officials, legal aid, radio and TV programmes on land and indigenous rights, and publications and T-shirts) (Cambodia Coordination Committee 2009b: 34).

Although LICADHO provides technical and advisory support to communities for peaceful demonstrations and complaints challenging the government, it also cooperates in ways discussed below

under ‘invited spaces’. However, LICADHO’s reporting on human rights abuses is usually criticized by the Ministry of Interior and the National Human Rights Commission for being overly critical of the government’s actions (Cambodia Coordination Committee 2009b: 33).

These examples of strategies employed by the three organizations have proved to be successful in challenging but not actually transforming visible power structures. Part of the explanation is that, these strategies occur in a context which the CCC describes as ‘still worse and unreconstructed from its authoritarian roots’, concluding, ‘Cambodia is covered by a culture of impunity, corruption, power abuses, land grabbing, extra-judicial killing, illegal arrest and detention, political violence, persecution, threats and intimidations.’ (Cambodia Coordination Committee 2009a: 23).

State power over the opposition is reflected not only in the coup of 1997 which removed co-prime-minister Prince Ranariddh but in subsequent events, especially regarding former FUNCINPEC finance minister Sam Rainsy. He was expelled from the party in 1994, founded an opposition party in 1995, which he renamed the Sam Rainsy Party (SRP) in 1998. When his parliamentary immunity was lifted, he went into exile in 2005 to avoid arrest. He was tried in absentia in 2005 and sentenced to 18 months and a fine for defamation but was pardoned by the king and returned in 2006. In 2009 an arrest warrant was issued on charges of inciting racial discrimination and destroying demarcation posts, his parliamentary immunity lifted again and he was sentenced to ten years in prison, resulting in his decision to live abroad (BBC 2010). The Cambodian Supreme Court rejected his appeal on other charges and confirmed his sentence to two years, making a total of 12 years he would serve if he returned (Phnom Penh Post 2011). His party gained 9 seats in the January 2012 senate elections and in March 2012 he appealed to the UN and the US to assist him in return in time for the June 2012 commune elections and the July 2013 National Assembly elections. (Sakada 2012) Moreover, the deputy head of the Sam Rainsy Party, Mu Sochua, a former human rights activist and minister (Mydens 2010), was also stripped of parliamentary immunity and sentenced on defamation charges in 2009 and threatened with two years imprisonment for failure to pay. She left and courageously chose to return in 2010 and face the possibility of prison. The fine was deducted from her pay and restoration of her parliamentary immunity was under consideration in early 2012 (Reaksmey 2012). Mu Sochua has been the most outspoken voice challenging the ‘visible power’ of the regime and is very prominent in civil society activism, having run a woman’s rights organization and been instrumental in *Ponleu Khmer* (discussed above under ‘human rights discourse introduced by civil society’).

A third example of visible power is the impunity for the Khmer Rouge and the failure of the Extraordinary Chambers in the Courts of Cambodia (ECCC, the ‘Khmer Rouge Tribunal’) to indict more than a handful for former PDK leaders and to convict more than one suspect, as of mid-2011 (Mydens 2010).<sup>12</sup> ADHOC runs The Khmer Rouge Tribunal and International Criminal Court Monitoring Programme, which publishes critical reports on developments of the Khmer Rouge Tribunal (Cambodia Coordination Committee 2009b: 23-24). The issue is significant from the perspective of ‘visible power’ as the government has so far been successful in resisting pressure from the UN and civil society to make the tribunal an effective instrument of accountability.<sup>13</sup>

<sup>12</sup> In July 2010, the trial chamber sentenced Kaing Guek Eav, alias Duch, to 35 years in prison for war crime and crimes against humanity, which the Supreme Court increased to a term of life in February 2012. See <http://www.eccc.gov.kh/en> for the official web site and note 13 below for additional critical monitoring.

### ***Hidden power***

Cambodia's authoritarian government exercises 'hidden power' by blocking NGO access to critical issues. The most significant manifestations of both 'visible power' and 'hidden power' affecting relations with Cambodian human rights NGOs are government restrictions on NGO freedom of action and access to resources, in spite of protective provisions in the Constitution. NGOs flourished under UNTAC (1992-93) thanks to ease of registration and the presence of a large number of international organizations, thus checking the 'hidden power' of what became the dominant political party. Post-UNTAC, registration with the Ministry of the Interior has become a long and torturous procedure, fraught with bureaucratic delays. Moreover, according to the CCC study, 'the government has imposed a number of restrictions on their activities, especially the activities of human rights NGOs' (Cambodia Coordination Committee 2009a: 23). The Ministry of the Interior issued guidelines in 2005, which, in CCC's view, 'restrict the activities of NGOs, especially the holding of public forums' (Cambodia Coordination Committee 2009a: 24). The government has utilized anti-terrorism legislation to justify restrictions on funding<sup>14</sup> and has prepared a draft law placing even more constraints on registration and stringent financial reporting requirements, which the Prime Minister uses from time to time to intimidate NGOs. Drawing on information from some NGO workers, the CCC study concluded that 'the government's attitude toward local NGOs is more one of suspicion than cooperation' (Cambodia Coordination Committee 2009a: 9).

This assessment is reflected in the experience of the four NGOs studied here. A UN Special Representative noted in 2008 that '[t]he space for civil society is steadily shrinking' (United Nations 2008, para. 18), adding,

'[t]he desire of people to assemble freely is seen [by the government] as dangerous, and the freedom of expression has to be curtailed, while threats, harassment, intimidation, attacks, and even extrajudicial killings may be necessary to curb more determined opponents who cannot be bribed or cajoled. Above all, people have to be taught to fear the rulers, by their caprice and unpredictability, and especially brute force' (United Nations 2008, para. 18).

While acknowledging that 'Cambodia has made great strides in strengthening human rights in recent years in an environment of political stability, economic growth and continued generous international assistance and support', the current Special Rapporteur, Surya Subedi, 'observed that there remains a lack of meaningful and regular dialogue between the Government and civil society organizations for the promotion and protection of human rights' (United Nations 2010, paras. 64 and 17).<sup>15</sup> Moreover, the Special Rapporteur on the situation of human rights defenders urged 'the

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<sup>13</sup>□ The controversies surrounding the tribunal are also monitored by the Cambodia Tribunal Monitor, 'a consortium of academic, philanthropic and non-profit organizations committed to providing public access to the tribunal and open discussion throughout the judicial process' (See <http://www.cambodiatribunal.org/>.) and Documentation Center of Cambodia (DC-Cam), "an independent non-partisan Cambodian research institute." (See <http://www.dccam.org/>.)

<sup>14</sup>□ In particular the Anti-Terrorism Law enacted in 2007 (Chapter 11 on funding and aid for terrorism). CCC quotes Prime Minister Hun as saying in September 2008, 'We have a concern that sometimes under so and so NGOs, financial assistance has been provided for terrorist activities, take for instance the Al Um Quran under which Ham Bali hid himself in Cambodia.' (Cambodia Coordination Committee 2009a: 9).

<sup>15</sup>□ It should be noted that during his visit in 2010 the Special Rapporteur met with civil society leaders representing over 300 organizations. Prior to the appointment of Subedi as 'Special Rapporteur' the human rights monitoring was carried out by a succession of 'Special Representatives'.

Government to make every effort to ensure a safe environment conducive to the work of all defenders in the country'(United Nations 2010, paras. para. 254).

### ***Invisible power***

All four NGOs use human rights as an appropriate language for their actions in part as a result of their experience in exile or under various brutal regimes. The appeal of human rights was reinforced by the positive impression of human rights promotion during the transitional period (1992-1993) and the support from UN human rights bodies and other international partners after the transition. One might suspect that the embrace of human rights discourse is donor-driven to the extent that organizations seeking to attract foreign funding use the language of human rights to appeal to Western and United Nations sources of funds. Yet the evidence available does not support this explanation in the case of the four groups studied. CCC, citing the positive impact of UNTAC, simply affirms, 'Human Rights became the language of the entire world in the domain of politics, international relations, and law.'(Cambodia Coordination Committee 2009a: 19)The engagement of the study organizations in women's rights issues appears to be a result of this impact on a particularly tenacious form of invisible power (patriarchy), rather than the result of donors' encouragement of such programmatic work.

## ***Spaces of engagement***

### ***Claimed and created spaces***

A 'claimed space' refers to space which less powerful actors claim either from or against power holders while 'created space' refers to space that is created autonomously by a less powerful actor. These spaces can be seen on a continuum from those created by social movements and community associations to those claimed by people outside of institutionalized policy arenas (Gaventa 2005: 12).

CLEC has 'claimed space' through advocacy on a number of significant law reform issues including the 2001 Land Law, sub-decree on indigenous communal land titling, establishment of the quasi-judicial arbitration council for collective labour disputes, the election dispute resolution process, and the drafting of the Peaceful Assembly Law. Many of these were not areas where civil society was invited to influence the process, especially since they involved land grabs and allegations of corruption. Through its Public Interest Legal Advocacy Project (PILAP), CLEC used legal education, empowerment and advocacy by selecting high profile legal cases with a strong potential for publicity. CLEC employed community protests to protect land and natural resource rights, collective campaigns to promote labour rights and generate community engagement to monitor implementation of laws already in place. The CCC highlights the case of the Ratanakiri Indigenous Community, which filed a complaint against the wife of a powerful person who illegally grabbed their ancestral land. CLEC was able to claim this traditionally 'closed space' of elite land grabs for this dialogue. The CCC study states that PILAP is the 'most controversial' of CLEC's programmes because some of the cases are lodged against the government or high profile persons strongly connected with the government(Cambodia Coordination Committee 2009b: 14). This confrontational dimension seems to be characteristic of 'claimed' as opposed to 'created spaces'.

Another example of CLEC's promotion of 'created space' is that of the Labour Programme, which has since 2002 focused on Cambodia labour law and industrial relations. The programme seeks to ensure that all employment sectors uphold a good working environment in which labour law and rights are adhered to and disputes are settled under due process.

A third example of space created by CLEC is the Access to Justice Programme (AJP), which introduced alternative dispute resolution processes where the existing local authorities offered none. The creation of this space was recognized by the government's justice sector reform strategy. Once alternative dispute resolution became an on-going government activity, CLEC discontinued the AJP. The confrontational approach of PILAP reflects 'claimed space' whereas AJP was engaged in a less controversial 'created space', which was successfully transferred to the government.

ADHOC's publishing programme is instrumental in creating new spaces for engagement. Its main publication, *NeakChea* [Free Man], documents human rights violations for an audience of middle-income, moderately educated people involved in Cambodian politics. The readership ranges from NGO staff, government officials, students and international stakeholders. ADHOC's publications promote dialogue around new and controversial rights concerns, effectively creating a 'claimed and created' space from mainstream media and news reporting, which may not have otherwise existed. While the other organizations also publish reports, *NeakChea's* regularity and reputation contribute more than others to creating such a space. ADHOC's media programme of FM radio broadcasting on nine radio channels, provided 588 hours airtime in 2008 (Cambodia Coordination Committee 2009b: 23), also 'created space' around relevant human rights concerns.

CDPO engages with created and claimed spaces to a lesser extent since its role is less controversial in nature, but rather seeks to work *with* power holders on behalf of persons with disabilities. One exception is the 'created space' of the promotion of rights for women and children with disabilities, which tends to be overlooked within Cambodian society. CDPO's programme on 'Representing the Voice of Disabled People' focuses specifically on the promotion and protection of these vulnerable populations through public forums, training for women with disabilities, field visits to document cases and media campaigns to raise awareness.

Women's rights and land issues are two spaces that the NGOs have successfully created through media campaigns, demonstrations, lobbying and other avenues of rights promotion. By utilizing UN documents and reports, the NGOs were able to legitimize their involvement in women rights and land issues in relation to internationally recognized human rights (Cambodia Coordination Committee 2009b: 14).

### ***Invited spaces***

'Invited spaces' refer to situations in which organizations and individuals are invited to participate in negotiations by various kinds of authorities (Gaventa 2005: 12). For example, LICADHO works with the Ministry of Interior (especially with the Prison Department) concerning the prison research project. Its cooperation with the Ministry of Health relates to poor children and women victims of human rights violations seeking medical treatment. Finally, it works with the Ministry of Justice and the provincial and municipal courts<sup>16</sup> on cases of human rights violations. (Cambodia Coordination Committee 2009b: 41) LICADHO only works with courts when following-up on cases brought by its clients.

LICADHO also challenges the political status quo in 'closed spaces'. Building on its strong ties to UNTAC, LICADHO is often invited by the international community rather than the national government. LICADHO's strength in leveraging international actors is perceived as threatening to the government, which often criticizes LICADHO for the lack of local participation in strategic planning and agenda setting. LICADHO's evidence-based advocacy work includes comprehensive reports and

<sup>16</sup> Monitoring staff frequently assist victims in filing cases with the courts and follow up those cases.

briefing papers on human rights violations, which are an important source of information for international actors and therefore not welcomed by the government. As the CCC reports, ‘LICADHO’s website provides rich and updated information regarding human rights violations’ ... [its] president and the Executive Director play a vital role in initiating and leading advocacy work with assistance from their expert staff’.(Cambodia Coordination Committee 2009b: 41)

CLEC’s Access to Justice for the Indigenous People Project is the principal example of an ‘invited space’ in that the Ministry of Justice and Ministry of Interior (with funding from UNDP) contracted CLEC’s services from 2007 to 2009. CLEC won this bid to provide training to the two provinces, where indigenous communities benefited from extensive training on relevant laws, the judicial systems and alternative dispute resolution. CLEC also trained provincial government officials (police, judges and prosecutors) to increase their understanding of legal rights to land and natural resources of indigenous peoples. Furthermore CLEC initiated ‘peace tables’, where selected disputes were resolved with all parties present (local and government officials). Lastly it provided technical assistance in the form of legal aid and media/print campaigns on indigenous people’s rights. Thus indigenous rights area clear example of an ‘invited space’ from the government that CLEC was able to ‘open’ (Gaventa 2005: 12).

ADHOC’s limited involvement in ‘invited spaces’ includes the Women’s Rights Programme, which encompass working with the Ministry of Women’s and Veteran’s Affairs and its leadership with the Committee for Free and Fair Elections (COMFREL), which monitors and investigates cases of political violence around electoral procedures.

Of the four NGOs examined, CDPO is the organization that has been able to use the ‘invited space’ in relations with the government to the greatest benefit of its constituency (Gaventa 2005: 35). CDPO operates under a Memorandum of Understanding with the Ministry of Social Affairs, Veterans and Youth Rehabilitation. Its advocacy programme seeks to mainstream and integrate rights of persons with disabilities into the government and non-government policies and procedures. The CCC cites its advocacy as instrumental in the ratification of the UN Convention on the Rights of Persons with Disabilities in October 2007 and the subsequent adoption of the Law on the Promotion and Protection of the Rights of Persons with Disabilities in July 2009. Through these forms of collaboration, CDPO is often ‘invited’ to represent persons with disabilities and conduct public awareness campaigns through web-based media, TV, print media, large events such as International Day for Disabled Persons, and reporting of statistics on persons with disability. However, the CCC deplored that CDPO’s efforts have not prevented the government from restricting certain rights of people with disabilities. It also noted that CDPO itself has been subjected by the government to limitations on peaceful demonstrations, freedom of expression, peaceful marching, and peaceful strikes (Cambodia Coordination Committee 2009b: 35).

### ***Closed spaces***

When bureaucrats, experts and elected representatives make decisions with little consultation or involvement of the affected population their decision-making is described as a ‘closed space’ (Gaventa 2005: 12). In Cambodia much of the decision-making spaces are closed to outside participation, and are occupied by government agencies. All four of the organizations seek to challenge ‘closed spaces’ by employing human rights rhetoric and campaigning for more participation, building coalitions and utilizing the justice system to increase involvement, transparency and accountability.

LICADHO confronts many closed spaces without facing the same consequences that other smaller organizations may face due to its international support. It has one of the best monitoring offices, which investigates human rights violations and assists victims with the legal process. Specially trained staff also monitors 18 prisons to assess conditions and ensure that pre-trial detainees have access to legal representation. One of the main strategies that LICADHO employs to prise open 'closed spaces' is data and evidence collection and dissemination. This work is housed in its Advocacy, Documentation and Resources Office, which compiles cases into a central electronic database for use by the general public, government officials and NGOs. Its publications constitute one of the main sources of information on human rights in Cambodia (Cambodia Coordination Committee 2009b: 38-39). When LICADHO reports on human rights abuses by the government, such as cases of unlawful detention, the Ministry of Interior and the National Human Rights Commission typically call the reports groundless and compiled without consultation. But the general public, the international community and other NGOs tend to find such reports reliable and evidence-based, effectively creating a platform for public dialogue and thus creating space.

ADHOC implements a Human Rights Programme within the monitoring section that specifically addresses cases that have been traditionally settled in 'closed spaces'. For example, ADHOC staff monitors and investigates human rights abuses committed or authorized by public and military authorities. Alleged victims bring cases to ADHOC, which investigates and, if a case is found to have merit, refers the case to the court or the government agencies involved. Certified copies are then forwarded to the Human Rights Commission of the Senate, the National Assembly and OHCHR. Serious cases are sent to the Action Committee – an umbrella organization of 23 human rights NGOs – for collective action such as public denunciation through the media, press releases, press conferences, or representations to the appropriate ministry. The programme also monitors the prisons in Phnom Penh and various provinces on a monthly basis (Cambodia Coordination Committee 2009b: 20).

Another example of a 'closed space', which ADHOC seeks to prise open, is the issue women's rights and violence against women, already discussed in the context of 'claimed spaces'. It can also be considered a 'closed space' in Cambodia because legally domestic violence is not a crime. Furthermore, although rape is a criminal offence, procedures to prosecute perpetrators are inadequate (Cambodia Coordination Committee 2009b: 20-21). The CCC report indicates that the perpetrators often bribe court officials to drop the criminal case against them. As a result of this 'power over' the victim, the court informs the victim and her family that a civil case with minimal financial compensation should be accepted, without consultation about whether a criminal or civil case is preferred by the victim. Further, the substantial court fees required to pursue a criminal investigation prevent action from even those families aware of their options. Thus after the financial compensation is accepted, the space becomes closed since no criminal prosecution is possible. Although women who come to ADHOC are assisted in finding medical care and a safe place to live, and in filing for divorce, the opening of this space is a slow process. Tempering the 'closed' nature of this space is the fact that ADHOC's Women's Rights Programme coordinates with other concerned organizations, such as the Ministry for Women's and Veteran's Affairs, the Cambodian Women's Crisis Center, and the National Assembly's Human Rights Commission, to overcome the traditional attitudes toward women.

Protecting the rights of women and children involved in trafficking is also a 'closed space' that ADHOC seeks to make more 'open'. Although prostitution is not illegal in Cambodia, it is illegal to buy and sell people for the purposes of sexual exploitation. Nonetheless, due to the strong ties between police officials and brothel owners and the lack of awareness about laws pertaining to the trafficking and exploitation of minors the space for advocacy is generally closed (Cambodia Coordination

Committee 2009b: 21). When it is possible to gain access to women in brothels, ADHOC provides shelter, employment, medical care and support(Cambodia Coordination Committee 2009b: 21). As a result of ADHOC training activities, some women are able to speak more openly about taboo topics of sexual and gender based violence and the trafficking of young girls, thus opening the space for dialogue about prevention(Cambodia Coordination Committee 2009b: 21).

CLEC is heavily involved with ‘closed spaces’ of land dispute resolution and forced eviction. For example, it provided legal representation to the KohPich community of 90 families, victims of government forced evictions (without fair and just compensation) between 2004 and 2006(Cambodia Coordination Committee 2009b: 14-15). Before CLEC was involved the space was ‘closed’ for negotiation and the community was forced to accept the conditions of its eviction without legal due process. With CLEC intervention (along with the support of partner NGOs and communities) the compensation increased over time through structured negotiations with the Municipality of Phnom Penh. CLEC (and partner organizations) were relatively effective in increasing the accountability and transparency of government evictions. CLEC was also involved with six other cases with coalitions against powerful business people encroaching on indigenous land through government concessions(Cambodia Coordination Committee 2009b: 14).

### ***Forms of Power (‘over’, ‘to’ ‘with’ and ‘within’)***

‘Power over’ describes the form of power used by the powerful to control the powerless and was discussed above in the context of visible, hidden and invisible power. This section examines ‘power to’, ‘power with’ and ‘power within’. (Gaventa, p. 9.) Such forms of power build countervailing power as means to counter dominant power and to seek changes to power structures that deny human rights to poor and marginalized populations.

#### ***‘Power to’***

‘Powerto’ is the capacity to act as well as the presence of agency. This capacity to act is seen in all four organizations, but ‘power to’ can also be seen a temporally dynamic process. Most of the organizations started with little ‘power to’ but were able to identify key strategies and tactics to place themselves in positions to enhance and use their power when necessary. A major tool for increasing ‘power to’ is the use of the media to give voice to the experiences of the powerless. Further, the NGOs use of human rights language amplifies ‘power to’ and, therefore, they engage in human rights education to communicate this language to local populations. Building agency at the local level has proved to be the most sustainable approach to increasing ‘power to’.

An example of CLEC’s ‘power to’ is its role in peaceful negotiations among communities, private companies and government officials for more just solutions to disputes, including convincing the government to delay forced evictions, and, where evictions could not be avoided, ensuring that communities had adequate time to relocate. Regarding collective bargaining agreements, CLEC ensures in many cases that the legal and judicial processes of the Constitution with regard to workers’ rights are respected.

An example of ADHOC’s ‘power to’ is the impact of its the People Empowerment Programme (PEP), which was behind 153 non-violent demonstrations in 2008 relating to 156 cases of serious human rights violations by government bodies or persons with government connections, resulting in 89 cases being solved(Cambodia Coordination Committee 2009b: 28). ADHOC also employs ‘power to’



approaches to monitor and investigate cases of land rights abuses, which are referred to the appropriate government affiliated authorities. The CCC found that ADHOC was ‘influential both in government circles and in the provinces.’(Cambodia Coordination Committee 2009b: 28)

CDPO has also been able to exercise ‘power to’ but its focus has been more on influencing legislation and ratification of international treaties, specifically the UN Convention on the Rights of Persons with Disability, mentioned above under ‘invited spaces.’ Although the enforcement of these laws requires close monitoring by CDPO, the organization’s role in its adoption is an example of ‘power to’ at the policy level.

LICADHO’s strength in exercising ‘power to’ is enhanced by its connections with international actors. The CCC concludes,

‘[i]n all of its activities LICADHO seeks to have a direct effect on the victims of human rights violations, to empower people to exercise their rights and protect themselves against abuses and to reduce the climate of violence and impunity by influencing and educating key players and policy makers.’(Cambodia Coordination Committee 2009b: 38)

LICADHO mobilizes communities for peaceful demonstrations not so much to build capacity but rather to respond to human rights violations in Cambodia through its central office in Phnom Penh and 12 provincial offices. In its offices it has received hundreds of victims of human rights abuses, including cases related to domestic violence, mob-killing, extra-judicial killing, illegal arrests and detentions, rapes, physical assaults, etc..LICADHO exercises its ‘power to’ on behalf of these victims by compiling confidential case files into a central electronic database, which is safeguarded and can be used as evidence in court cases and for advocacy.

One way of assessing the effectiveness of ‘power to’ is the impact on ‘visible power’. The CCC attributes the following government responses to the combination of LICADHO’s evidence generation and collective action efforts: (1) release of land rights activists, (2) release of human rights activists, (3) the arrest of traffickers of women and children, (4) delays in forced evictions, (5) prosecution of perpetrators (not all cases are brought to court, especially those related to politics) and (6) acceptance of complaints from victims of human rights abuses(Cambodia Coordination Committee 2009b: 43).

### **‘Power with’**

‘Powerwith’ refers to the synergy of collective action, social mobilisation and alliance building. All four organizations participate in mutual supporting NGO networks at local, national and international levels. Collective action often starts with human rights education and builds from there, generating coalitions of local community members. One of the key strategies shared by all four organizations is coalition building. By networking and collaborating on project and campaigns the organizations were able to tap into collective power, which corresponds to ‘power with’, as discussed below.

Although CLEC employs skilled legally trained staff, its legal work is ‘guided by the community needs’ and ‘all CLEC programmes are guided by the needs of the communities-beneficiaries.’(Cambodia Coordination Committee 2009b: 15) Thus it incorporates participatory processes into its administrative processes, such as the management team (consisting of the executive director, programme manager, administrative and human resource manager, financial manager and four unit heads), which ‘consult together and agree on participatory planning processes.’(Cambodia Coordination Committee 2009b: 11) Further the CCC reports that ‘a participatory process to develop

the strategic planning has been made with inclusion of communities, workers/unions and beneficiaries, NGO-partners and other stakeholders to make sure CLEC interventions go [directly] to the needs of the beneficiaries.’(Cambodia Coordination Committee 2009b: 12) CLEC engages in coalition building with NGO partners and communities to ensure a more coordinated litigation strategy, and values making connections with local communities and their counterparts in national and international context in order to leverage support from these larger entities when necessary. CLEC seeks to consult with government agencies to ensure that any proposed solutions are feasible and sustainable given government constraints and budgets.

ADHOC employs ‘power with’ strategies at the organizational level through the Cambodian Human Rights Action Committee (CHRAC), a coalition currently of 21 NGO members, created in 1994.<sup>17</sup> This umbrella organization promotes awareness through joint statements, media campaigns and lobbying. The CCC enumerates the following three objectives for CHRAC:

- ‘(1) Encourage and coordinate active support for the victims of serious violations of basic human rights in their quest for justice and compensation,
- ‘(2) Annually publish accurate information on the number and nature of serious violations of basic human rights in Cambodia (within information on who commits them and upon who they are committed), and
- ‘(3) Effectively advocate for changes to laws, official policies, and the practices of officials, which will reduce violations of human rights.’(Cambodia Coordination Committee 2009b: 23)

Further, ADHOC’s Women’s Rights Programme has strong affiliations with similar programmes at both governmental and non-governmental levels and is involved with the Committee for Free and Fair Elections (COMFREL), which monitors and investigates cases of political violence around electoral procedures.

ADHOC also participates in five international networks, ten national networks and has initiated 11 provincial NGO networks(Cambodia Coordination Committee 2009b: 25). CDPO, for its part, has joined seven other NGOs in the Disability and Human Rights Committee.

Unlike ADHOC and CLEC, LICADHO has become cautious in accepting membership of coalitions of NGOs in recent years. For example, it was a member of CHRAC upon its inception but withdrew its membership in 2002 due to what the CCC describes as LICADHO’s ‘workload and the Committee’s management conflicts’(Cambodia Coordination Committee 2009b: 37). Nonetheless it continues to cooperate with human rights NGOs and the Committee in a peripheral way and selectively participate in some coalitions such as the Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC).The president of LICADHO is the head of a coalition of 36 member organizations focused on the advancement of women’s rights in Cambodia called CAMBOW. CCC reports that CAMBOW has no regular funding support, is not a strong coalition and several of its members exist in name only.(Cambodia Coordination Committee 2009b:, 41).LICADHO is active in NGO CEDAW, a coalition of 68 organizations, which works on shadow reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. It is also a

<sup>17</sup> See <http://www.chrac.org/eng/>

member of Cambodia Peace Network, Forum Asia, the International Federation for Human Rights (FIDH), NGO Forum and CCC. LICADHO has also been deeply engaged in coalitions involving ‘power with’. The strategy of coalition building has worked effectively to avoid duplication of effort and especially to reinforce campaigns and other advocacy work, a striking example of ‘power with’.

An example is the reaction to the draft law on associations and NGOs released on 15 December 2010. Initially, a public consultation workshop on the draft was hosted by the Ministry of Interior on 10 January 2011 and more than 200 national and international NGO representatives attended. LICADHO, for example, published a briefing paper concluding that the draft law must be assessed in the context of limited freedom of association, expression and assembly, particularly at the community level. ‘Anyone who is perceived to be challenging local or government officials is open to persecution, including arrest and detention or threats and violence’ (LICADHO 2010: 8; Human Rights Watch 2011). A second draft law was released on 24 March 2011, and nearly 600 NGOs signed a joint statement declaring the second draft unacceptable (International Center for Non-Profit Law 2011). More than 60 international NGOs submitted a letter to the Minister of Interior requesting that the government withdraw the draft law ‘until it is substantially re-written’ to address civil society concerns (Miller & Titthara 2011). A Working Group on Enabling and Protecting Civil Society was created to inform the international community of such regulatory threats to the effective functioning of civil society and there is even a Facebook page ‘Oppose the Cambodian NGO & Associations Law’. The UN Special Rapporteur on Cambodia encouraged such collaboration and supported such initiatives’ (United Nations 2011). The latest reports indicate that Prime Minister Hun Sen announced at the end of 2011 that the draft law need not be passed in a rush and even that NGO consultations could continue until 2014. (Sopheak 2011),

CDPO also engages in networks to establish ‘power with’, but works with both non-governmental and governmental agencies, such as CHRAC, the National Strategic Development Plan’s Inclusive Committee (government entity), the Land Mine Survivor Committee, Wheelchair Committee, Advocacy Team Committee, Children with Disability Committee, NGO-CEDAW, Disability Awareness Group and the NGO forum on Cambodia and government ministries. Beyond the organizational level, CDPO also encourages the enhancement of ‘power with’ amongst its constituents. It has strong networks of persons with disabilities range from the village to the national level. CDPO’s ability to engage with grassroots organizations as well as national government officials on an equal footing is characterized by CCC as ‘unique’ amongst non-governmental agencies. As the only one of the four organizations that has a single constituency, CDPO engages its members and stakeholders in discussion on the organization’s priorities and planning (Cambodia Coordination Committee 2009b: 33-34). CDPO has a highly structured way of reaching out to communities. It forms self-help groups run by persons with disabilities at the community and village levels. These groups in turn form federations of persons with disabilities (PWDs) at the district level. At a third level, four or five district federations form one Disabled People’s Organization (DPO), which meets in the General Assembly at the National level to guide CDPO in its work with all relevant ministries, thus representing the voice of all Cambodian disabled people (Cambodia Coordination Committee 2009b: 32).

### **‘Power within’**

‘Power within’ as a form of power illustrates a sense of self-dignity and self-awareness that enables agency. By placing local actors in decision-making and leadership positions, most of the NGOs were able to generate a sense of agency within individuals. The ‘power within’ was critical to some NGOs while others did not see it as essential to human rights promotion. ‘Power within’ seems to be instrumental to sustainable human rights promotion insofar as individuals can see themselves in a new

light, informed by the potential that human rights provide. However, building this sense of ‘power within’ did not seem to come easy. Various NGOs employed diverse efforts to generate a reflection process whereby local actors could take ownership of the campaigns, and issues that affected them most.

‘Power within’ is a particularly effective form of power for ADHOC, reflected in its People Empowerment Programme (PEP), the purpose of which is ‘strengthening the capacity of ordinary citizens [and] enabling them to defend their own rights’ in the 91 communities in 15 Cambodian provinces where it operates (Cambodia Coordination Committee 2009b: 19). The means towards this end include sensitization sessions to raise awareness of community members; training courses to provide knowledge on human rights, women rights, and related matters; regular meetings to review work and anticipate next steps; exposure visits to share experiences between communities; as well as provincial seminars and civic education workshops.

A further example of ‘power within’ promoted by ADHOC is its educational activity in the Women’s Rights Programme, which takes place in seven provinces throughout Cambodia. Through knowledge-building processes, ADHOC seeks to support women in becoming aware of their human rights, recognizing when they are being violated and seeking redress when necessary (Cambodia Coordination Committee 2009b: 20).

Aside from individual capacity building, ADHOC also engages with local organizations in their growth towards ‘power within’. It supports community agencies in organizational aspects of mobilization by reviewing day-to-day activities, sharing new information and strategies and supporting planning efforts. ADHOC also offers exposure visits, which allow for sharing to occur between communities of successful and transferable strategies that have already been employed. Like CLEC, ADHOC focuses on land dispute resolution using ‘power within’ approaches where community members and government officials are trained on relevant laws and procedures and legal advice is made available to evictees.

One of the strengths of CDPO is its ability to enhance the growth of ‘power within’ amongst its constituents. The CCC report states that CDPO has ‘developed networks of people with disabilities to support, promote and protect their rights, achievements and interest in order to bring about their [fullest] participation and [establish] equality in society... [but] CDPO’s role is not to provide services or material benefits to disabled people.’ (Cambodia Coordination Committee 2009b: 29) This approach prioritizes capacity building over resource building and has proven successful for the organization mainly because so many other organizations assist persons with disability based on charity and resource building, whereas CDPO is able to provide a niche assistance, which focuses on ‘power within’ and the integration of disability and development efforts (Cambodia Coordination Committee 2009b: 29). A noteworthy example is the formation of disability self-help groups and district federations, which form one Disabled People’s Organization (DPO) to represent disabled people at the provincial level and CDPO is formed by a General Assembly of these DPOs at the national level. Persons with disability are given a voice and representation, which builds their confidence and ability to exert their rights. The CCC report states that ‘men and women with and without disability.... working for CDPO are appreciated [by] government officials at provincial and national levels’ (Cambodia Coordination Committee 2009b: 33).

LICADO exercises ‘power within’ by encouraging powerless people to develop self-awareness in

several ways. First, its trainings and educational workshops prepare its clients to advocate for themselves. The CCC report states that LICADHO has

‘conducted thousands of three-day training courses and a half-day dissemination sessions [for] the general population, Buddhist monks, high school students, police officials, commune council members, military personnel and gendarmes within 12 provinces and Phnom Penh. These workshops aim to promote human rights by disseminating information about human rights and law and how to redress human rights violations.’(Cambodia Coordination Committee 2009b: 37)

Thus, these efforts seek to empower people to claim their own rights. Although the Human Rights Education Office was abandoned in 2007 after a revision of the strategic plan, these activities continue without being centralized in this office. However, the CCC warns that ‘LICADHO does not have expertise in community development’ since its strengths are in monitoring and advocacy(Cambodia Coordination Committee 2009b: 41). LICADHO focuses more on legal aspects of support than the social welfare of its constituents and has used its advocacy work to create countervailing power through encouraging people to act on a newly acquired awareness of their rights and their allies, thus contributing to both their ‘power within’ and ‘power with’.

### ***Conclusion: Human Rights and Transformation of Power Structures***

In answering the research question ‘To what extent have rights-promoting organizations been successful in transforming power structures and securing rights?’ we need to keep in mind the context of Cambodia’s fragile transition from decades of civil war, foreign intervention, and social and economic destruction. Cambodia’s ancient heritage, in which patronage and clientship at the village level combined with reverence for the king and absolute obedience to high-level officials, have vestiges in popular attitudes. The more significant constraints on the activities of civil society for the promotion and protection of human rights, however, derive from the elite’s manipulation of the political system following the departure of the UNTAC in 1993. Since then, as discussed above in the section on ‘historical and political background’, the Cambodian People’s Party (CPP) and Prime Minister Hun Sen have managed to dominate the institutions of government and partially stifle political opposition and intimidate critical expression from journalists and NGOs. Much of the strength of CPP comes from its ability to control village committees and provide a degree of development and prosperity acceptable to most of the rural poor, unless their traditional ways are upset by land grabs and resource depletion. Large segments of the rural population are not directly affected by the undemocratic and repressive practices of the ruling party. Moreover, the urban population benefits from increased employment opportunities that have come with Cambodia’s high economic growth rate. Therefore, even the most successful human rights mobilization is not likely to alter fundamentally the political base of CPP’s power. Nevertheless, this trend to concentrate political power in the dominant party has been checked to a degree by three countervailing forces using the types of power and operating in the spaces described above.

The first check on excessive power comes from the international community in the form of bilateral aid and pressure from government delegations, multilateral technical and aid institutions of the United Nations and the European Communities, and the extensive presence of and funding from foreign NGOs. This pressure is further exerted through political supervision of the government by UN bodies, especially the Special Representative of the Secretary-General for Human Rights in Cambodia (now Special Rapporteur of the Human Rights Council), a position which has been occupied by some of the most reputed names in human rights advocacy, whose voices are taken very seriously and whose

courage and integrity greatly enhance the UN special procedures. Not surprisingly, the Cambodian government has denounced these mandate-holders. Referring to the four successive special representatives on human rights in Cambodia, the former head of the OHCHR office in Cambodia has written, “Hun Sen ... swung between reluctant cooperation with the representatives and vindictive personal attacks on them.” (Picken 2011) However, the OHCHR recently ‘welcomed the exemplary cooperation of the Government with United Nations human rights mechanisms’.(United Nations 2010b, para. 3) Treaty bodies and other special procedures have scrutinized Cambodia’s shortcomings in respecting human rights and the rights of political opposition and civil society. The Cambodia Office of the High Commissioner for Human Rights has supported these mandates, along with its extensive human rights training and support for local NGOs. It too has come under attack by the government, which regularly threatens the closing of that office but has not done so, which is a sign of the limitations of its repressive power. The potential for altering power relations in this global space of power is reduced by the trend of international donors to align with national development policies and of the Cambodian government to make clear to bilateral donors that China is a willing partner without human rights conditionality. A study by Oxfam America noted that since the US lifted restrictions on bilateral assistance to Cambodia in 2007 and developed closer relations with the government, ‘civil society groups have begun to fear that the supposed shift may dampen their work’. Although the US does not aid the government directly ‘some worry that the US is trying to align its funding with government priorities that may not reflect the concerns of the citizens’. (Oxfam America 2009: 4)

The second countervailing force is the political opposition, which, in spite of violence and manipulation by the CPP in various elections, won 29 seats in 2008, although the CPP won 90 of the 123 seats (with smaller parties dividing the rest). Significantly, the opposition is represented by the Democratic Movement for Change, an alliance of the Sam Rainsy Party (26 seats) and the Human Rights Party (3 seats), itself a product of a human rights NGO. They are seeking to gain enough popular support to change significantly the relative political power of the parties in the 2013 elections. Nonetheless, despite the significant gains in representation in the National Assembly, and despite the strong identification of the opposition with human rights, the political base of the CPP remains strong at the village level. With increased urbanization, the success of the opposition might find a greater degree of popular support to challenge CPP domination.

The third countervailing force is found in civil society, representing, to a large extent, the altered expectations of how power should be shared in a democratic society and whose actions based on those expectations have achieved a limited degree of success in challenging and transforming power structures. Again the altered expectations are shared more by urban populations than by the rural poor, where CPP’s delivery of development outcomes and lower levels of education lessen the threat of civil society to the power structure hostile to human rights. Nevertheless, action in rural areas by the NGOs examined here around issues of land and environmental sustainability is challenging popular support for CPP in these areas. The principal features of successful strategies of challenging and transforming power structures among these four civil society organizations are (1) forging links with local and affected communities, (2) deliberate use of human rights language as a tool of empowerment, (3) effective coalition-building, and (4) challenging the government in spaces where the costs of disregarding human rights may, in the long term, outweigh the benefits of manipulating institutions, such as the judiciary.

In conclusion, our findings indicate that although civil society organizations enlist numerous, diverse and far-reaching strategies to promote human rights in Cambodia, they are limited by the

political landscape of present and recent history. Specifically, the transformation of power structures at both the local and national levels is largely constrained by the CPP and its control over the institutions of the state, despite the nominal separation of powers in the constitution. International donors and financial institutions, both bilateral and multilateral, support independent civil society organizations, including those working to promote human rights, while simultaneously undermining their efforts to be a countervailing force by aligning their aid and lending policies with Cambodian government agendas. This reality seems contradictory since international donors and institutions have both human rights policies, through which they support Cambodian civil society, and geostrategic interests, which push them to work with the Royal Government of Cambodia. Based on our findings, the most successful local strategies employed by NGOs are rooted in local participation at both the community and administrative levels, where local actors are instrumental in problem solving, advocacy and technical support. The community participation dimension strengthens civil society's ability to affect power relations as it reduces the central government's 'hidden power' (or decision-making without transparency), although not always its 'visible power' over NGOs. This dimension also opens up closed spaces relating to women's and land rights, as well as environmental sustainability, domains where international donors are less likely to support the government.

In sum, Cambodia has many elements of autocracy coexisting with its fragile democratic foundations. It is uncertain whether civil society will continue to open spaces challenging power in light of the range of repressive tools available, high rates of economic growth, and global economic interests, all of which reinforce the powers of the autocratic state. Arrayed against these elements of power are the democratic constitution, courageous and experienced NGO and opposition leaders, grassroots advocacy movements, and transnational support networks. The impact of the study organizations has been noticeable in engaging certain government offices on issues previously neglected, such as indigenous rights, and in improving the lives of groups they have supported, such as the disabled or prisoners. However, they have not resulted in significant changes in the governance structures or political power of the dominant party. Building on a fragile democratic foundation in 1993, civic action, with the support of international partners, has made it more difficult for the 'visible power' of government to avoid accountability and transparency. While the study organizations and other components of civil society have not radically transformed power relations, Cambodia's democratic future depends to a large extent on their continued ability to utilize the power of human rights discourse, and the resonance it has among affected communities and international support groups, in order to limit further the autocratic tendencies of the structures of power in Cambodia.

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