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Cambodia's draft laws on NGOs and trade unions

Greens/EFA motion for resolution

*Tabled by **Barbara Lochbihler, Reinhard Bütikofer, Bodil Valero, Igor Šoltés** on behalf of the Greens/EFA Group*

The European Parliament,

- having regard to European Parliament resolutions 16 January 2014 on the situation of rights defenders and opposition activists in Cambodia and Laos, as well as of 26 October 2012 and of 17 February 2011 on Cambodia
- having regard to the Local EU Statement on the new legislature in Cambodia of 23 September 2013 and on violence surrounding labor disputes of 8 January 2014
- having regard to the statement by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association of 22 June 2015
- having regard to the Report of the Working Group on the Universal Periodic Review on Cambodia of 27 March 2014
- having regard to the report of the UN Special Rapporteur on the situation of human rights in Cambodia, Surya P. Subedi, of 5 August 2013 and his report of 24 September 2012 on "A human rights analysis of economic and other land concessions in Cambodia"
- having regard to the Press statement by the UN Special Rapporteur on human rights in Cambodia of 3 January 2014 and of 7 January 2014 announcing a new fact-finding mission
- having regard to its report on the Future of EU-ASEAN Relations of 15 January 2014
- having regard to ILO Conventions 87 and 98 which have both been ratified by Cambodia
- having regard to Article 35 of the Cambodian Constitution, which guarantees the right to freedom of association and the freedom to participate actively in the political, economic, social and cultural life of the nation

– having regard to Rule 122 of its Rules of Procedure,

A. Whereas in recent years the economic and social development in Cambodia has undergone serious challenges particularly as a result of large scale land expropriations, illegal logging, labor rights and human rights violations and whereas massive corruption continues to undermine the rule of law

B. Whereas Cambodia's vibrant civil society, notably activists working on land rights issues, labour union members, journalists and opposition party members have played an important corrective role, but many have also paid a heavy personal price for their engagement with criminal conviction, harassment or even disappearance

C. Whereas since 2011, the Government of Cambodia has been working on draft laws which would have important repercussions for the future capacities of civil society actors to make a constructive contribution to shaping a dynamic democracy in Cambodia, notably the Draft Law on Associations and Non-Governmental Organisations (LANGO), the draft Trade Union Law and the cybercrime law.

D. Whereas the Council of Ministers approved the NGO law on 5 June and plans are to send it for final approval to the National Assembly, with a vote scheduled for 10 July.

E. Whereas the actual content of the LANGO remains unknown to the concerned stakeholders and the Cambodian public at large, but reportedly does not differ widely from an earlier version of the law that provoked strong national reactions as well as criticism from the UN

F. Whereas the former, known versions of the draft LANGO contain vague terms and provisions that stir fear the government could be enabled to order the closure or deny registration for critical NGOs without any review process foreseen, registration procedures are being made burdensome for small NGOs, freedom of association and expression by NGOs and their engagement in human rights advocacy are being curtailed by the requirement that all organizations except domestic Cambodian associations to remain politically neutral or risk being banned from the register

F. Whereas the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai on 22 May 2015 reiterated his call on the Government of Cambodia to ensure that civil society can meaningfully contribute to the elaboration of the draft LANGO stating that “It is ironic that the drafting of a law regulating civil society in Cambodia excludes civil society from the process”

G. Whereas the right to take part in the conduct of public affairs is enshrined in Article 25 of the International Covenant on Civil and Political Rights and whereas the right to freedom of association, protected by article 22, is an essential adjunct and often a gateway to such participation; Whereas transparency and accountability are essential elements for a functioning democracy and essential elements in the battle against corruption

H. Whereas the garment industry remains Cambodia's most important export sector and provides employment for some 700 000 people, mostly women

I. Whereas still no one was held accountable after striking garment workers demanding higher wages were shot dead by Cambodian police in January 2014

J. Whereas the draft Trade Union law excludes domestic workers from the right to unionise, sets an unreasonably high minimum standards for the number of workers who must join before a union can be formed (20%), grants the government the right of approval of strikes and suspension of a union, puts a literacy requirements for union leaders which discriminates against women and non-nationals, prohibits contacts with NGOs, and puts fines for employers who violate labor law ineffectively low

1. Urges the Cambodian government to recognise the legitimate and useful role played by civil society, trade unions and the political opposition in contributing to Cambodia's overall economic and political development and calls on the Cambodian authorities to halt the adoption of the LANGO, the Law on Trade Unions and the law on cybercrime until the stakeholders, notably NGOs, INGOs, associations and trade unions have been given a chance to contribute through meaningful consultation, debate and input
2. Resonates the statement of UN Special Rapporteur, that such legislation should be adopted only through a comprehensive participatory process, that is inclusive enough to ensure that that all stakeholders are committed to its substance.”
3. Believes that it is in the interest of a balanced socioeconomic development in Cambodia that the government promotes and protects the space for civil society, in particular human rights defenders
4. Welcomes in this context the audit by the Government of Cambodia on human rights violations caused by sugar cane businesses benefitting from the European Everything But Arms scheme which have been highlighted mainly thanks to the work of national and international human rights defenders and hopes that the government continues its engagement into the phase when reparations will have to be provided to afflicted families
5. Expresses however its concern that particularly human rights defenders engaged on the side of marginalised population threatened by land grabbing, continue to suffer harassment by the authorities, as manifest in the still unresolved murder of environmental activist Chhut Vuthy and most recently the summoning of Ny Chakrya, head of the Human Rights and Legal Aid Section of ADHOC
6. Considers that the era of underprized garment production worldwide will have to come to an end and that there will be increasing initiatives in both producing and consuming countries aimed at finding agreement on comprehensive, jointly monitored labor standards (minimum wages, the right to organize and actively participate in trade unions, a ban on child labor, job security and physical security at the place of work)
10. Re-iterates it's call on the EU institutions, the Member States and European and multinational companies to actively support and/or engage in ethical and socially responsible corporate practices including guaranteeing fair labor standards and living wages, recognizing the right to unionize and engage in collective bargaining, and ensuring safe and humane working conditions for all workers
11. Call on the European Commission in its contacts with the Government of Cambodia and notably in the framework of the EBA agreement to express its concern over the two draft laws, to urge the government to reconsider their adoption in the present form and to warn about possible negative repercussions for the bilateral EU-Cambodian relations
12. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the ASEAN Secretariat, the UN Secretary-General, the UN High Commissioner for Human Rights, as well as the Government and National Assembly of the Kingdom of Cambodia.

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