



NGO Law: Concerns and Recommendations

June 2006



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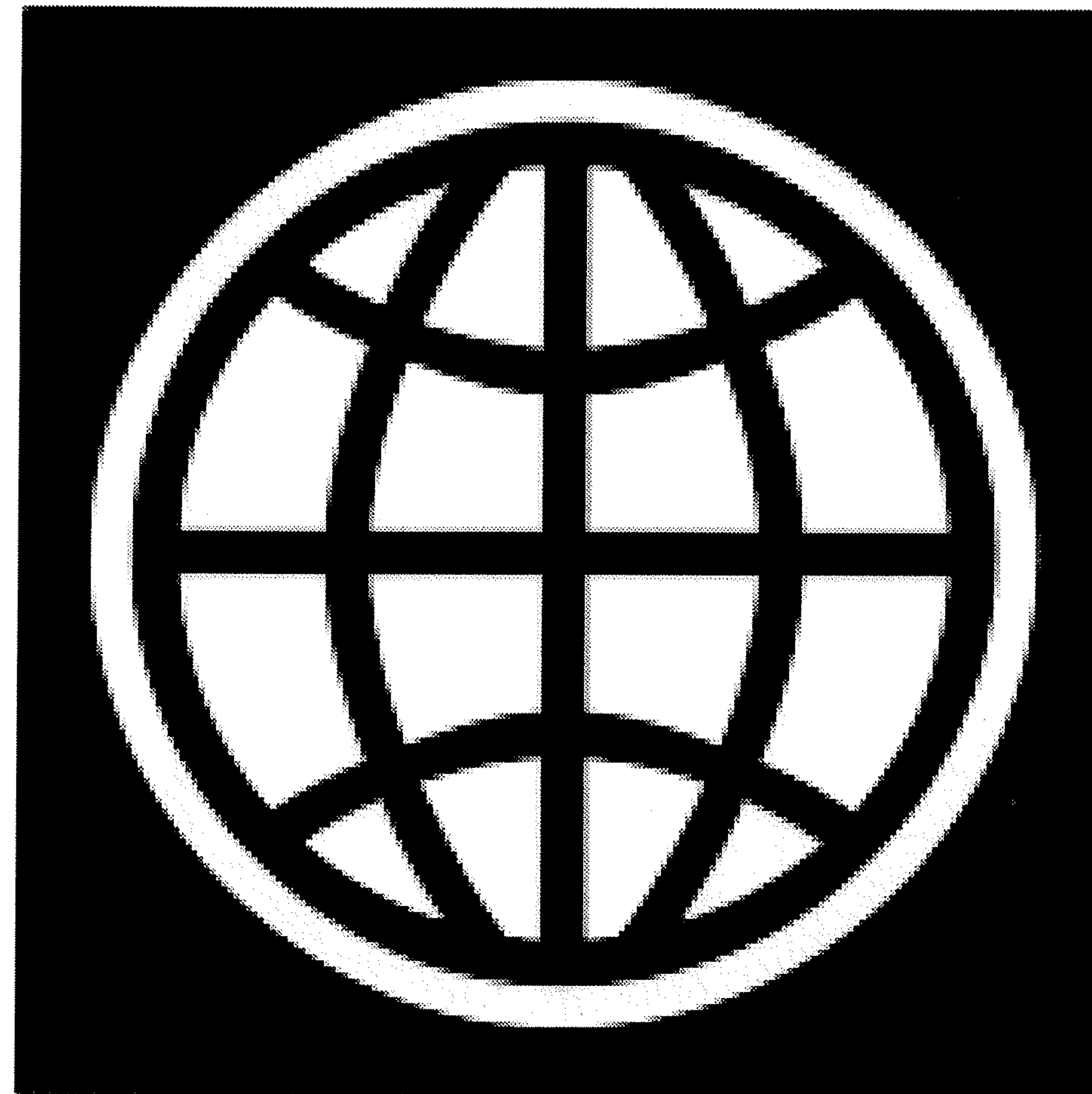
LICADHO

CAMBODIAN LEAGUE FOR THE PROMOTION
AND DEFENSE OF HUMAN RIGHTS

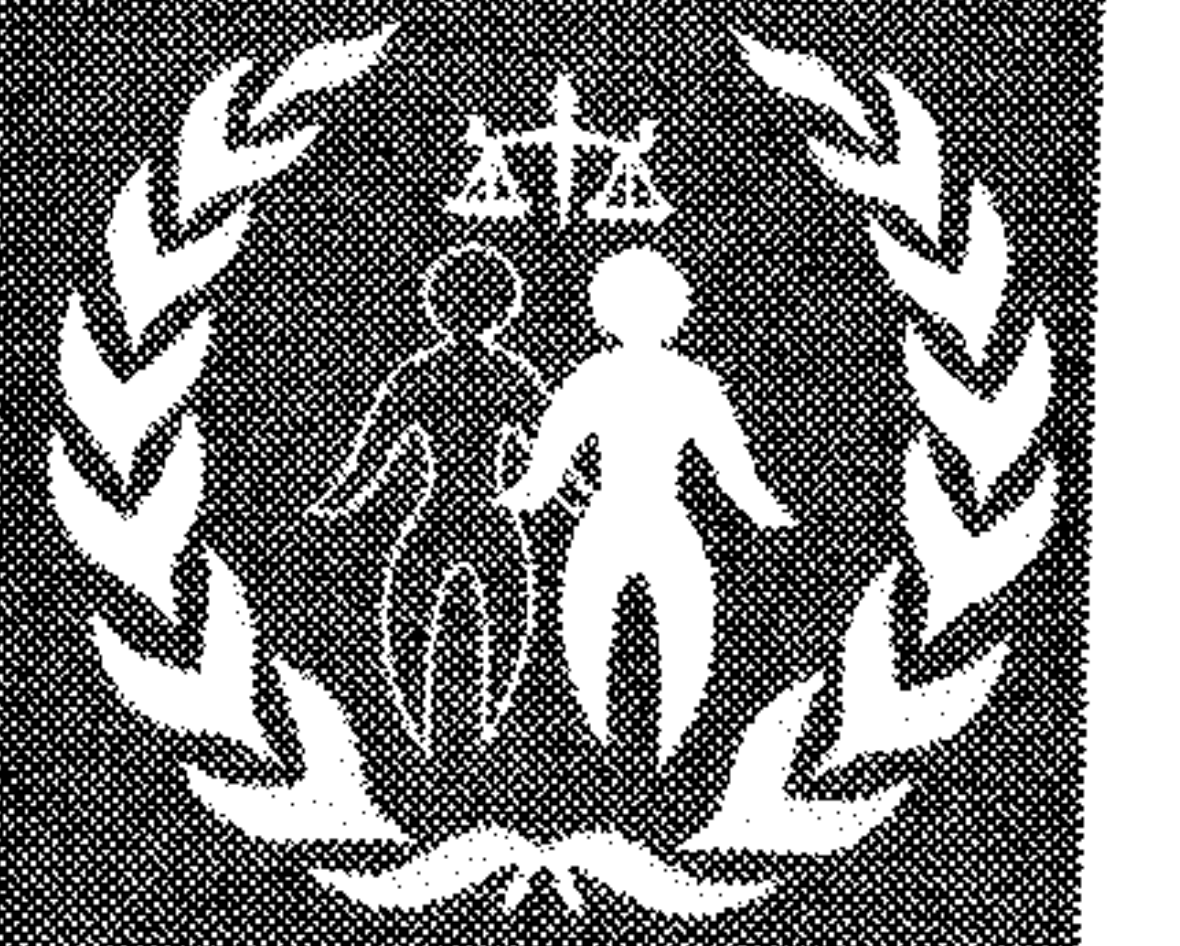
Background



- The Cambodian government has decided to draft an NGO law by December, 2006
- The World Bank has agreed to help in the process



Consultation Process



- Star Kampuchea has established a working group of NGOs to discuss the NGO law.





Advantages of an NGO law



1. Funding

- An NGO law could set out clear requirements for NGOs to obtain legal status. This would allow the government to give tax breaks to companies that make donations to NGOs.
- This way Cambodian NGOs could reduce their reliance on foreign funding

Funding...



BUT...

- This would require changes to tax laws. An NGO law would not do this by itself.
- Creating incentives for companies to avoid taxes by making donations could encourage corruption in NGOs.

2. Cooperation

- Some NGOs which work regularly with government (health, development NGOs etc.) believe that an NGO law would require the government to cooperate better with NGOs.



Cooperation...



BUT...

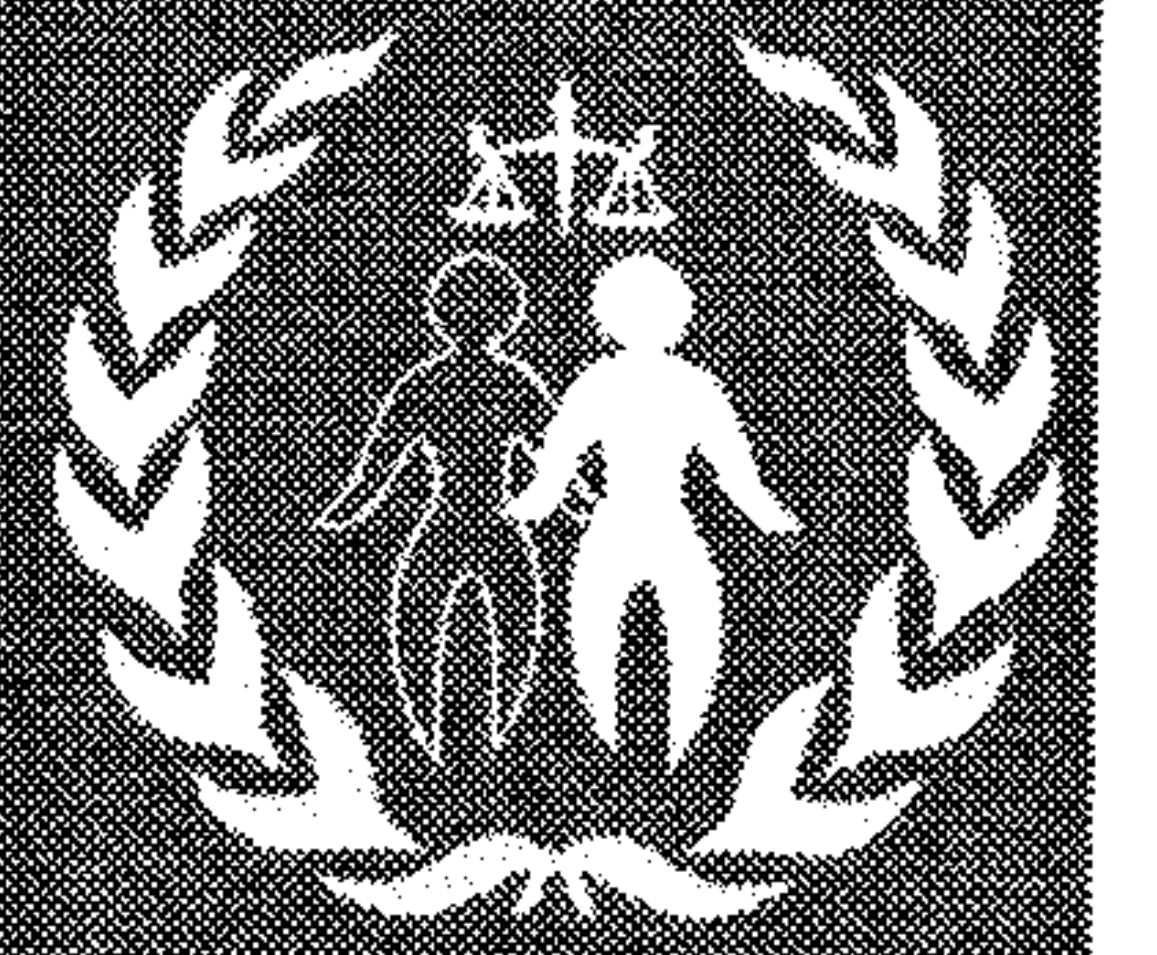
- An NGO law would certainly create new duties for NGOs to provide information to the government.
- But it would not necessarily require government to cooperate better with NGOs.

3. Constitution



- Some lawyers say the Constitution of Cambodia requires an NGO law
 - Article 42 of the Constitution says the right to association will be ‘determined by law’.

Constitution...



BUT...

- NGOs currently register with relevant government institutions and are accountable to the government and to the public. It is therefore not urgent that the system be reformed.



Disadvantages of an NGO law

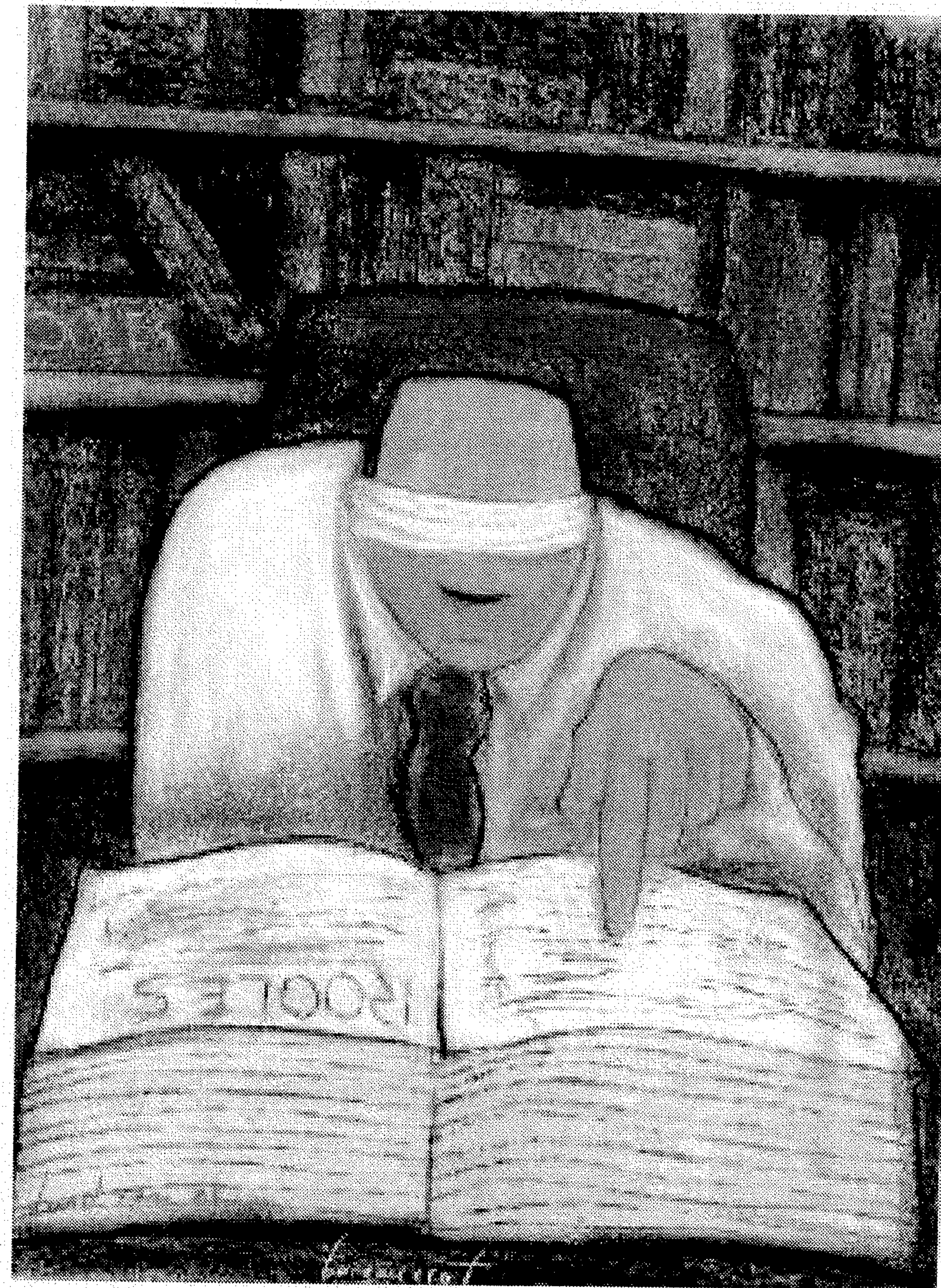
Based on latest draft NGO law
available: May 2005



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| SSN: 12345678901234567890
Date: 01/01/2012 | U.S. GOVERNMENT PRINTING OFFICE: 2010-10-10
FORM 990-BR (2010)
CWC SCHEDULE 1
DECLARATION OF REPORT
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION | Case Number: 1234567890
Officer: Smith |
| U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION | | |
| Provide the information requested below in Questions 1-11 through 11-A. | | |
| 1 | Name of the person or entity | Name of the person or entity |
| 2 | Address of the person or entity | Address of the person or entity |
| 3 | City, State, and ZIP Code | City, State, and ZIP Code |
| 4 | Phone number | Phone number |
| 5 | Website | Website |
| 6 | Other information | Other information |
| 7 | Is the person or entity a U.S. citizen? | Is the person or entity a U.S. citizen? |
| 8 | Is the person or entity a U.S. resident? | Is the person or entity a U.S. resident? |
| If the person or entity is not a U.S. citizen or resident, provide the following information: | | |
| 9 | Country of origin | Country of origin |
| 10 | Reason for being in the United States | Reason for being in the United States |
| If the person or entity is not a U.S. citizen or resident, provide the following information: | | |
| 11 | Other information | Other information |
| If the person or entity is not a U.S. citizen or resident, provide the following information: | | |
| 11-A | Other information | Other information |

Registration...

- The registration institution would not be independent from government



Registration...

- The process could be long, complicated, and costly, and government institutions could delay or refuse registration for minor technical problems



2. “Politics”

- Cambodian NGOs would be prohibited from “conducting activities for political interests”





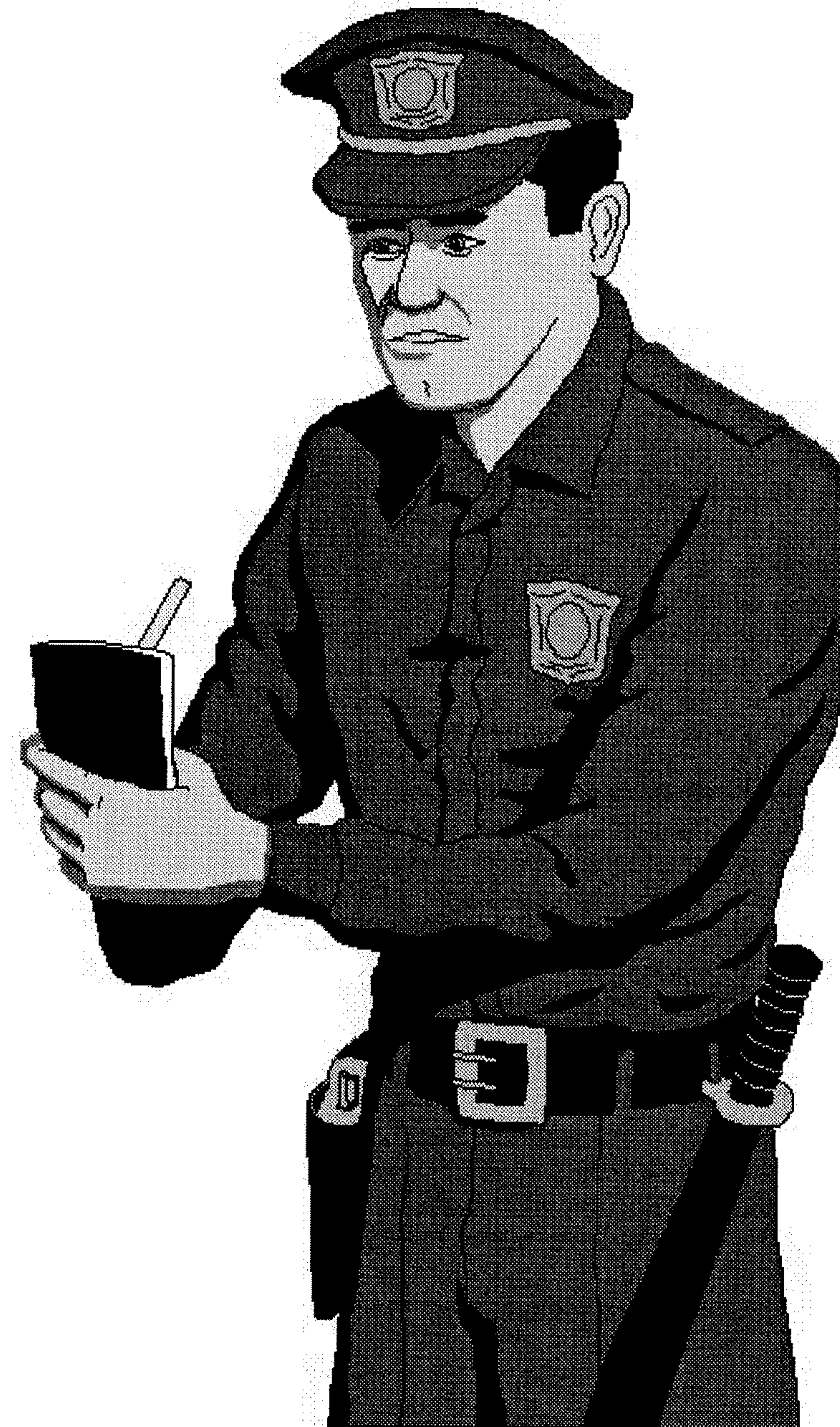
“Politics”...

- But it is not clear what ‘political interests’ means – the government could accuse NGOs of conducting ‘political’ work, and suspend or dissolve the NGO

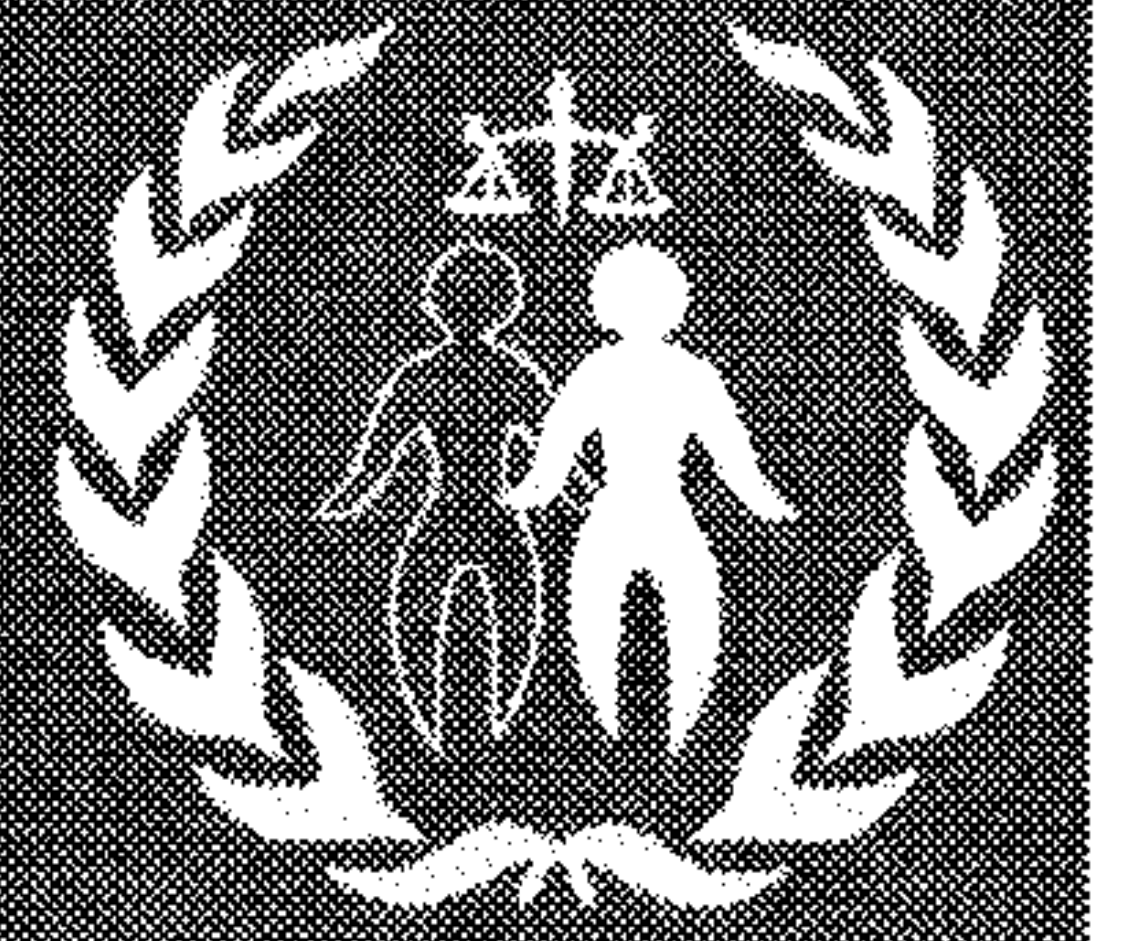


“Politics”...

- Cambodian NGOs that keep working after they have been suspended or dissolved could face large fines, or their staff could go to prison

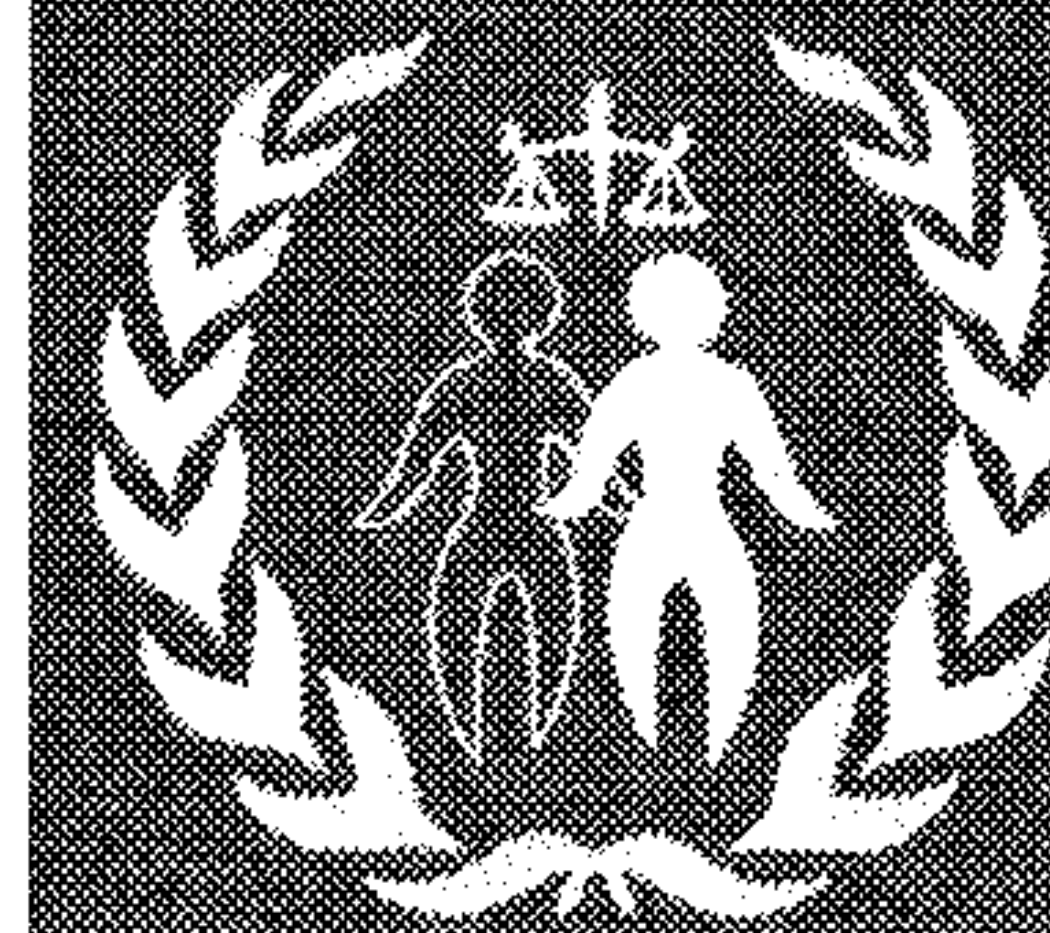


3. Notification of Authorities

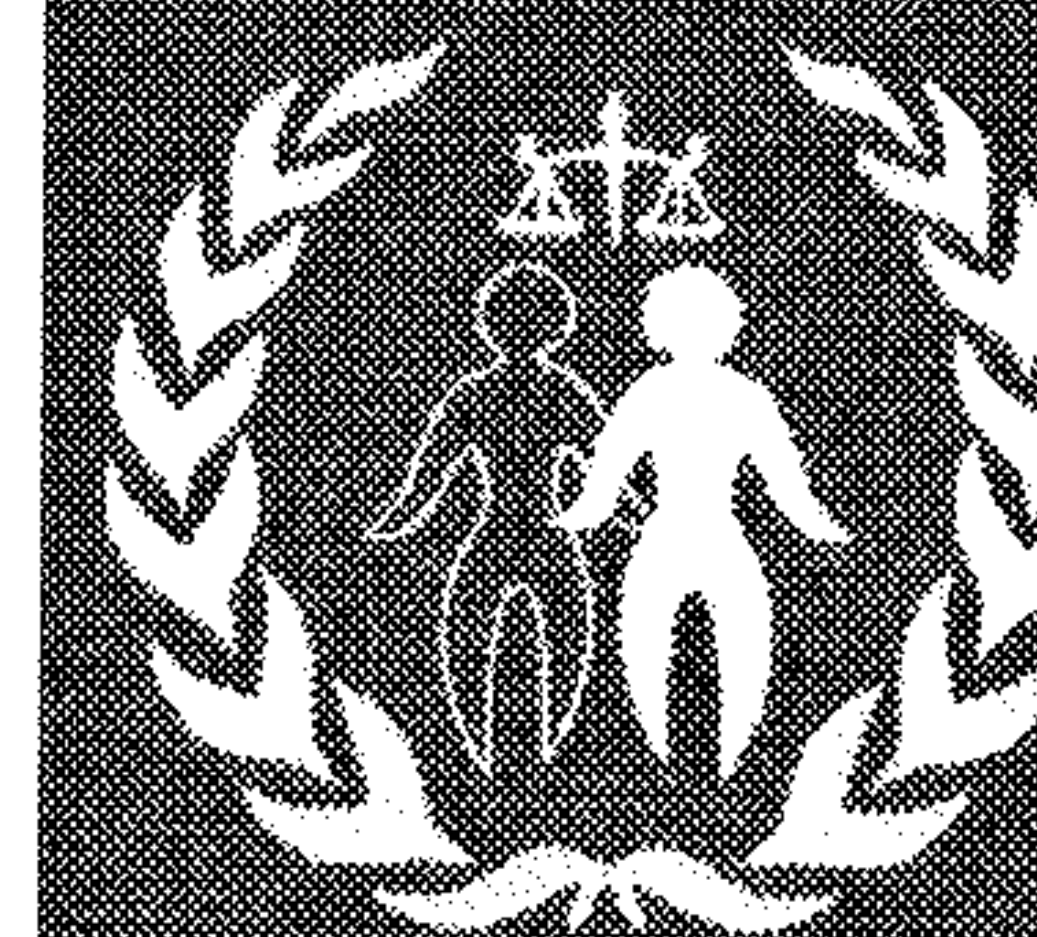


- Cambodian NGOs would have to notify local authorities about their “project plans”, but it is unclear exactly what information is required

4. Judiciary



- Because the judiciary in Cambodia is weak and laws are not always enforced, *any* provision in an NGO law could be harmful to NGOs – even ‘reasonable’ and clearly drafted provisions.



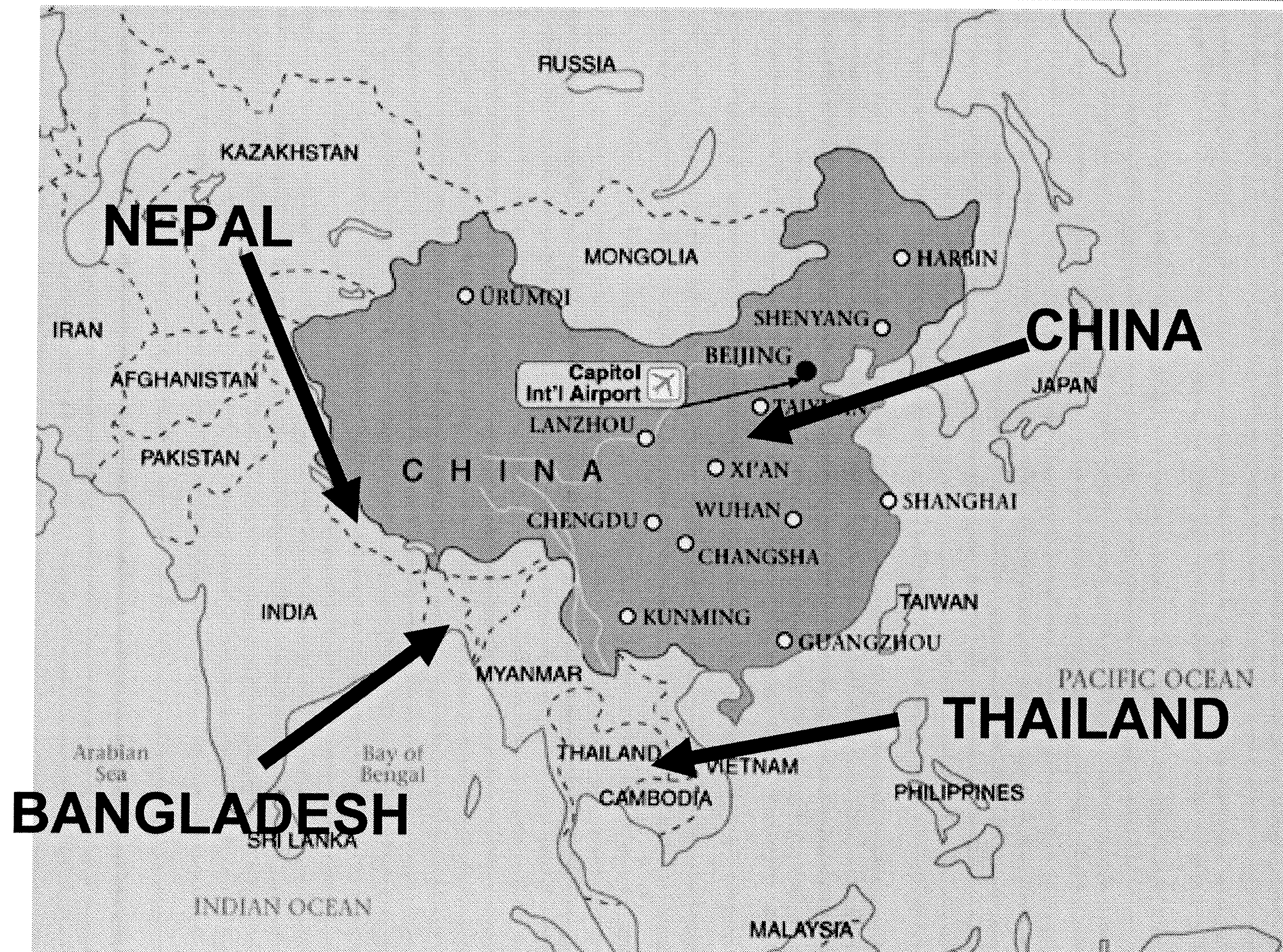
INTERNATIONAL LESSONS

International Lessons...



- In many countries around the world, governments have used NGO laws to restrict civil society organizations' work or even ban NGOs.

International Lessons...

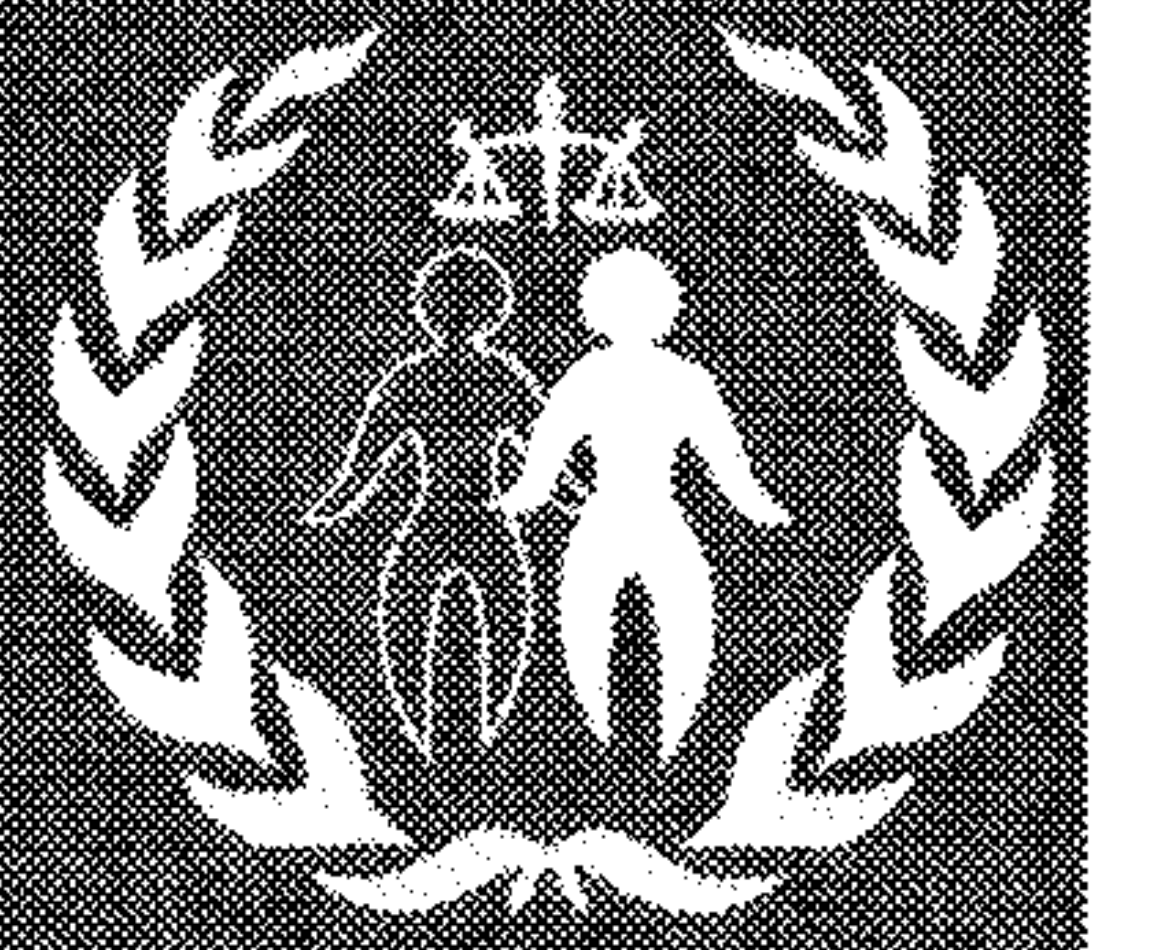


International Lessons...

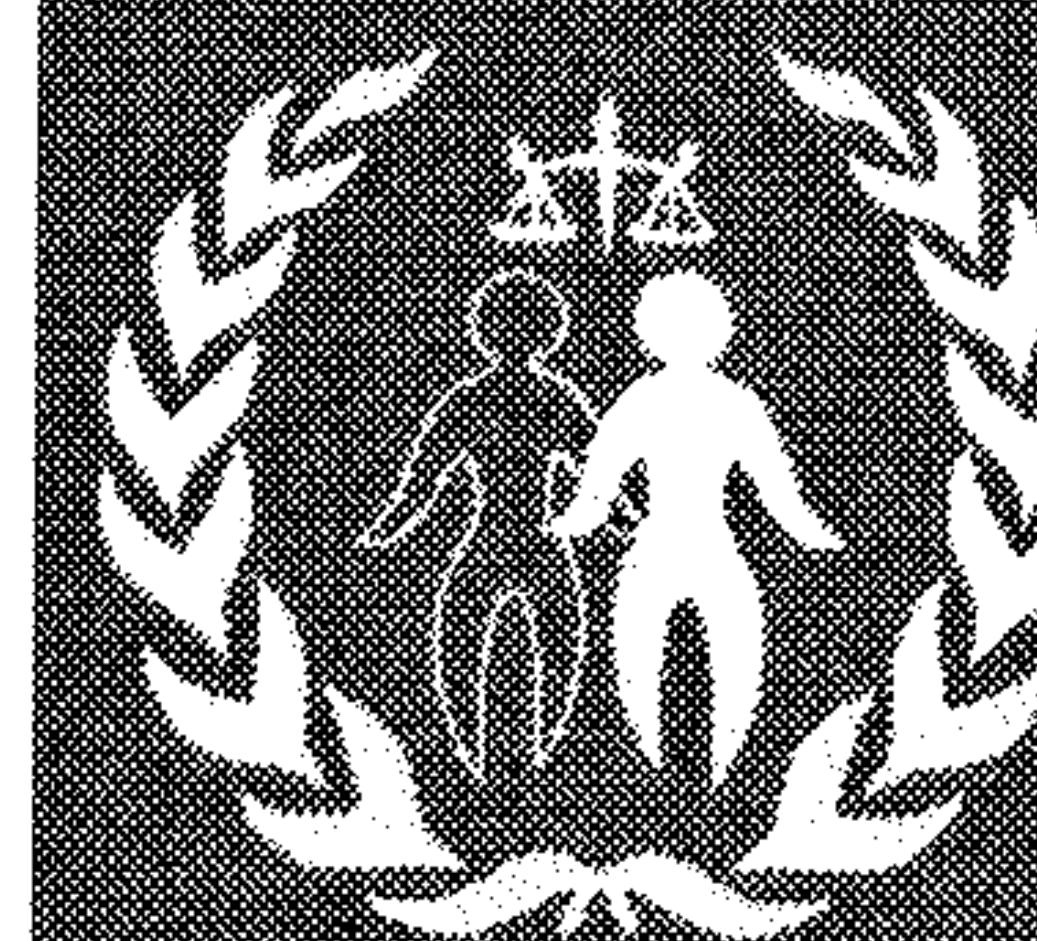


- In China and Thailand, the governments have used registration rules to limit legitimate criticism of government by NGOs or media

International Lessons...

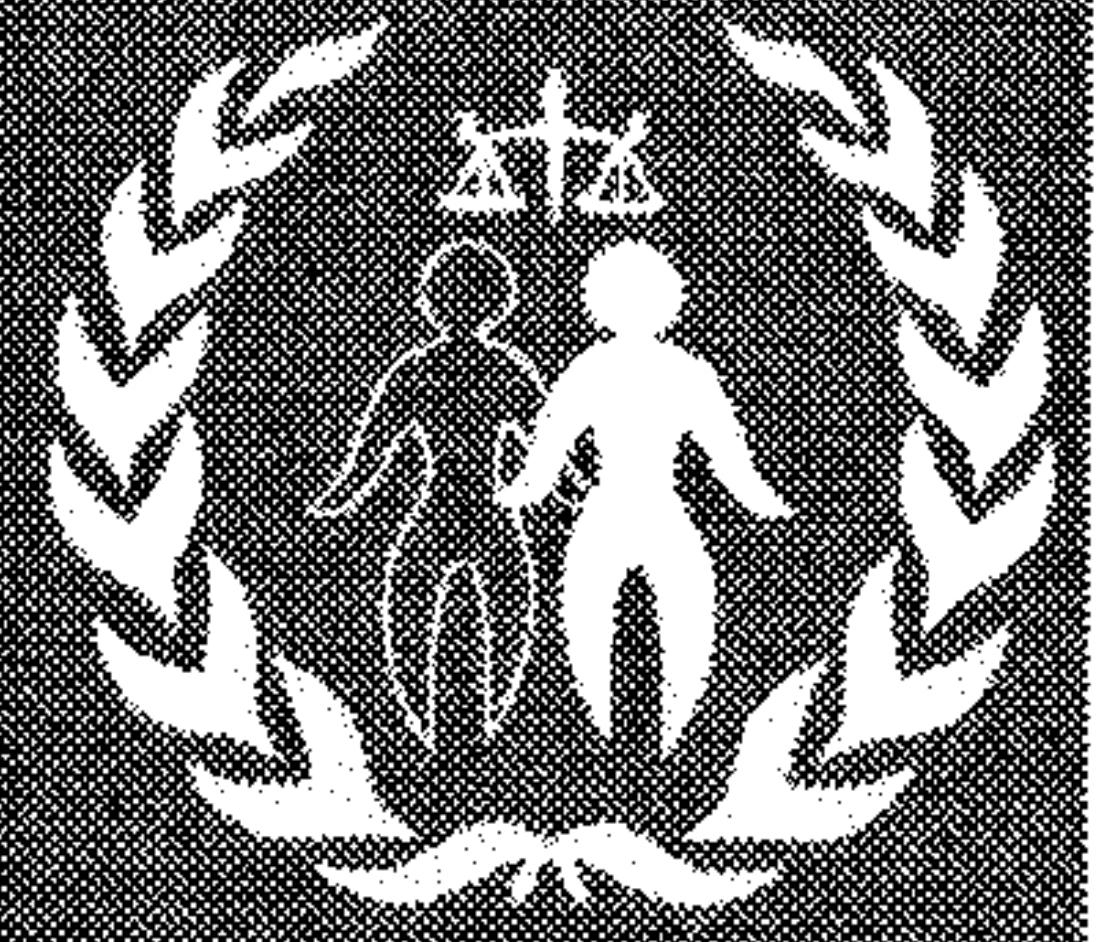


- In Nepal and Bangladesh, NGOs joined with international donors, and succeeded in stopping restrictive NGO laws that had been proposed by the government



ALTERNATIVES

Alternatives...

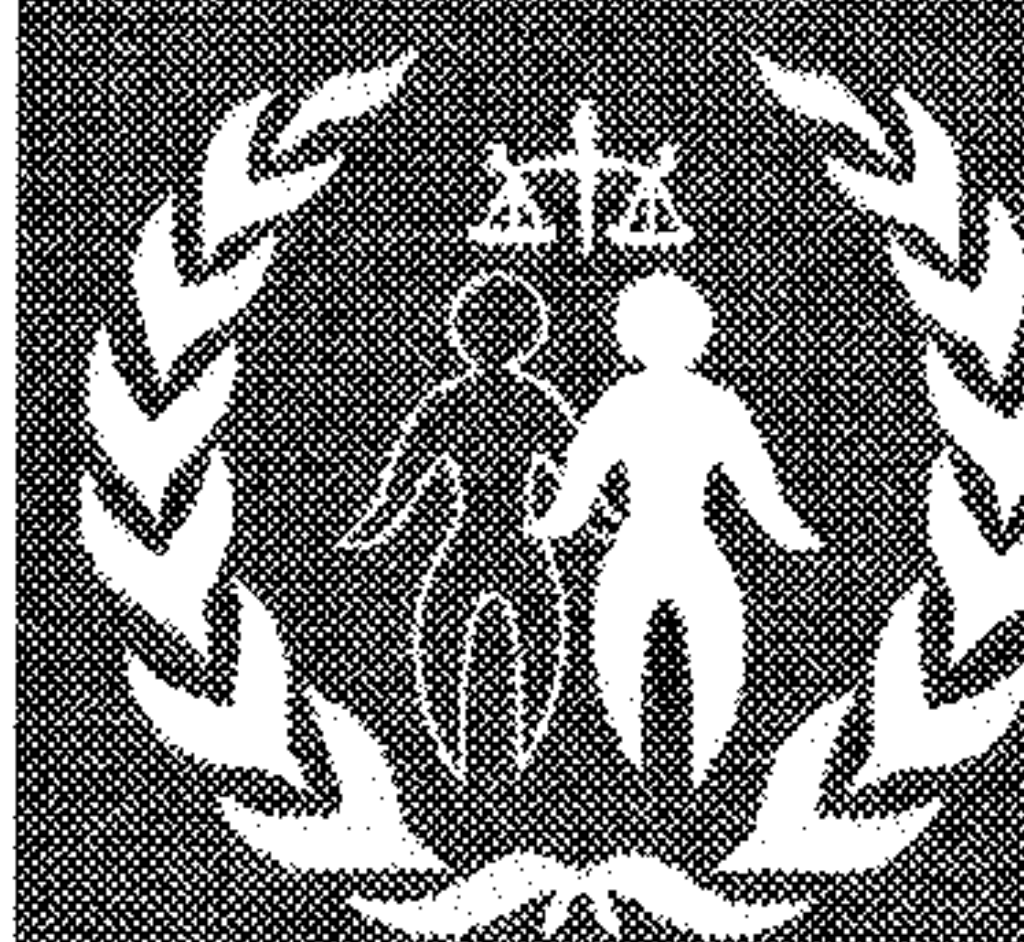


1. The Cambodian government should pass 8 key laws to ensure judicial independence and integrity ***before*** an NGO law is drafted

Alternatives...



2. An independent certification institution could be established to monitor NGO activities and finances, and provide information to donors.
 - This organization would be independent from government



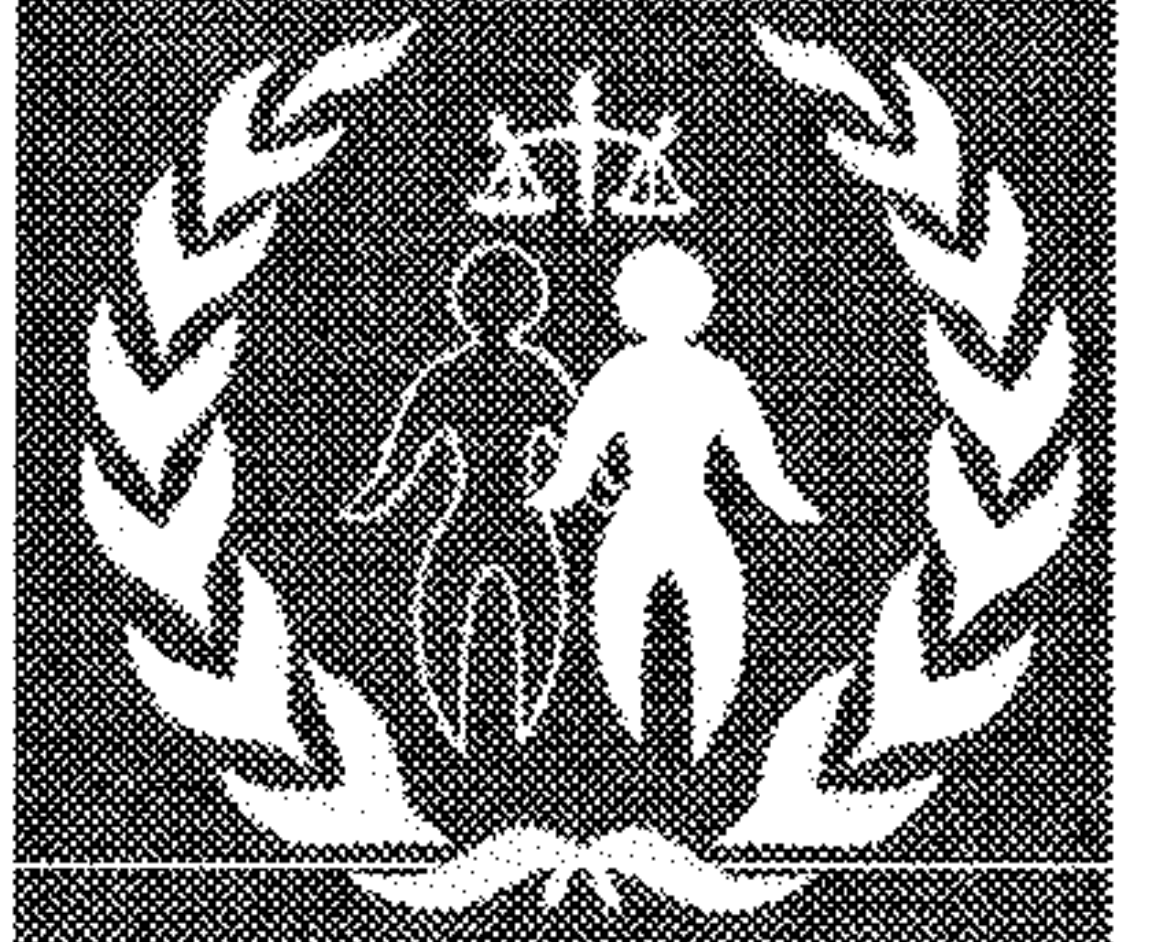
INITIATIVES

Initiatives...



- Louise Arbour, the UN High Commissioner for Human Rights:
 - communicated to the Cambodian government that NGOs should be “safeguarded and supported”
 - and that judicial reform should be the top priority in terms of building democracy and the rule of law in Cambodia

Initiatives...

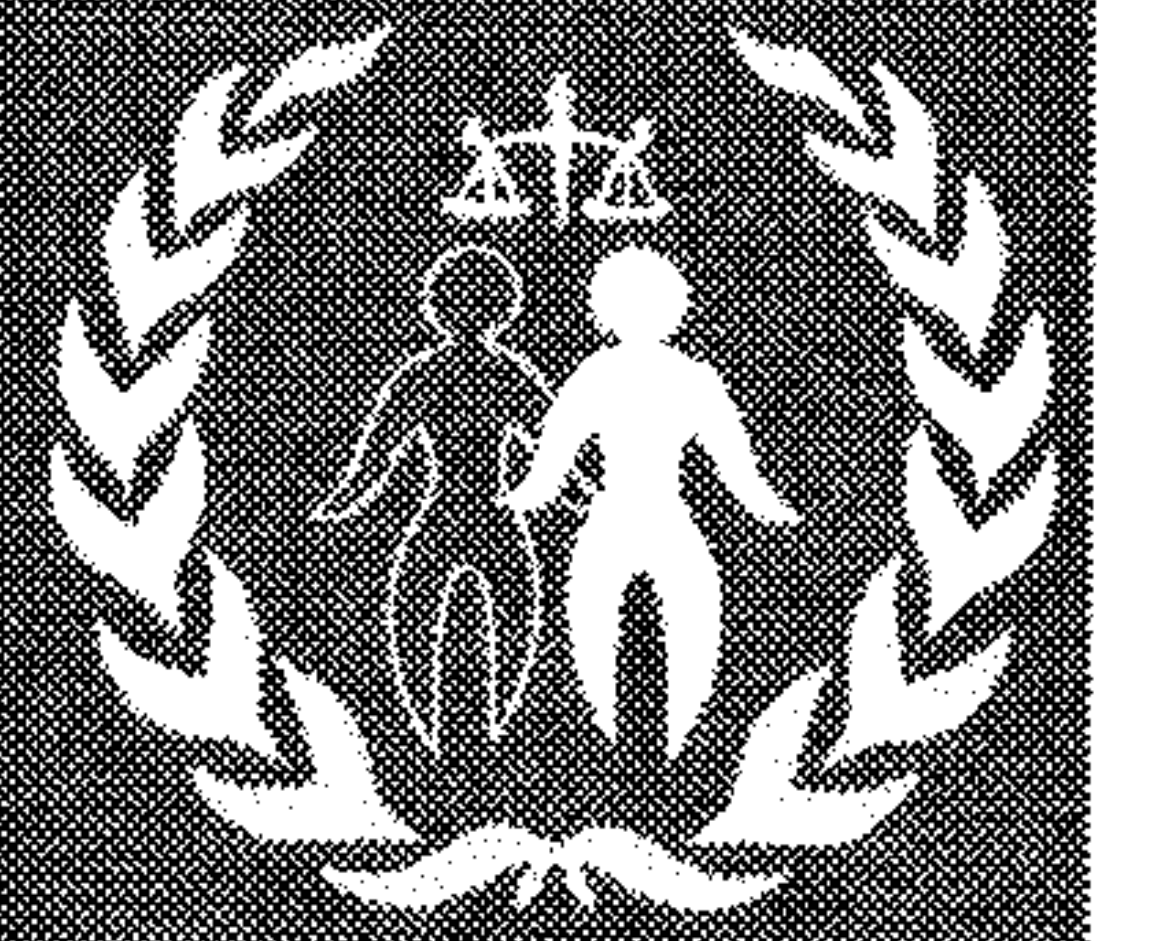


- Cambodian Human Rights Action Committee (CHRAC):
 - CHRAC's 21 members met to discuss concerns about the NGO Law
 - CHRAC steering committee met with the Star Kampuchea working group to express concerns
 - Chair of CHRAC met with World Bank

Initiatives...



- LICADHO
 - Shared concerns and recommendations with international NGOs, U.N. agencies, Cambodian NGOs
 - Is meeting with key coalitions to discuss concerns and recommendations
 - Is researching the experience of other countries in the region with NGO laws



Initiatives...

- International allies
(Human Rights Watch, Amnesty International, Forum-Asia, Federation Internationale and other experts)
 - Provided resource information and research documents
 - Offered to join in lobbying efforts on the NGO law at the bilateral and multilateral levels