

NGO governance in Cambodia:

Service and support options for improving financial
management

Roger Henke

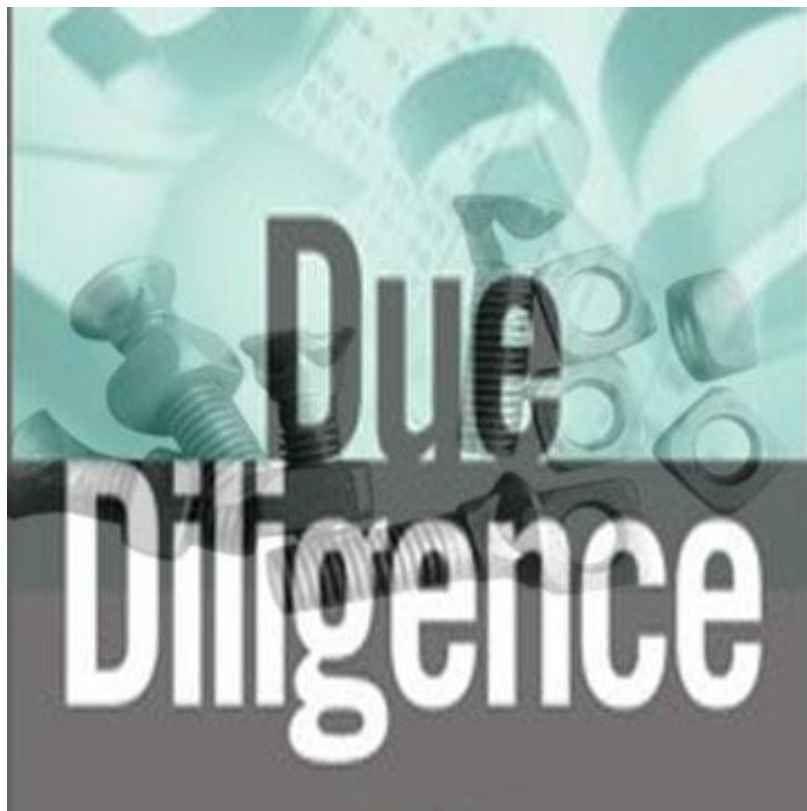


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List of acronyms

CBO	Community Based Organization
CCC	Cooperation Committee for Cambodia
CEPF	Critical Ecosystem Partnership Fund
CoP	Community of Practice
CPI	Corruption Perception Index
DCA	DanChurchAid
ED	Executive Director
IAD	Institutional Analysis and Development Framework
INGO	International Non-Governmental Organization
LNGO	Local Non-Governmental Organization
NGO	Non-Governmental Organization
GPP	NGO Governance and Professional Practice
SADP	Southeast Asia Development Program
SOP	Standard Operational Procedure
TI	Transparency International
ToR	Terms of Reference
UNTAC	United Nations Transitional Authority in Cambodia

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This study would not have been possible without many people willingly sharing information, spending time to talk with me and/or going back to their files and collating information.

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The author apologizes for possible misinterpretations of any information and material received and/or included in the bibliography and accepts full responsibility for them.

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However, the opinions expressed in this report, the assumptions underlying them, and the suggestions based on them, are solely the author's.

Don't be a toad selling skin medicine

Cambodian proverb

Preface

This is a feasibility study for services and support to improve NGO governance. Feasibilities often assume that there is consensus about the issue or problem in question. In general that is a questionable assumption. Although few people in Cambodia would argue *against* the need for good NGO governance and the scope for improvement, there are two clear cut reasons to avoid easy assumptions: even a cursory literature review of the development of Cambodia's NGO sector shows that this issue has been on the agenda of many stakeholders since the early 1990s. The sector has undeniably professionalized and matured, but the slow pace and limited scope of change strongly indicates inherent disagreements about, or divergent interests regarding NGO governance and other systemic constraints to change. The many interviews conducted in the course of this feasibility and the data collected about the current state of NGO governance provide confirmation of a clear consensus regarding the need and willingness to improve governance, but also the existence of widespread and seemingly intractable weak governance. This feasibility is therefore *not* going to assume anything and aims to make a comprehensive argument that addresses *both* the nature of the problem *and* the adequacy and feasibility of its proposed solutions.

Whatever the issue being debated, differences of opinion tend to cluster¹ around seven questions:

- What is the **problem**? (Is there a problem?)
- Is it a **structural** problem? (Is it resistant to change, still going to be a problem next year?)
- Is it a **serious** problem? (Is it experienced by all as a big problem?)
- What is the **solution**? (Is this really the best solution?)
- Is this solution **feasible** (Allowed, practically possible? Is money and support available?)
- Is this solution **effective**? (Does it actually solve the problem?)
- Do the advantages outweigh the **disadvantages**? (Does it create other, worse problems?)

This report on NGO governance in Cambodia is structured around these seven aspects of the nature of the issue and the proposed solutions.

The *problem* is far more encompassing than what a short feasibility study can address. But this approach hopefully ensures that the *specific focus* of this feasibility is properly contextualized and grounded within a more comprehensive analysis. It is important to emphasize that no specific proposal for improving NGO governance should be seen as '*the* solution to the problem'. What this feasibility explores are (only) some service and support possibilities, none of which individually is going to solve everything.

The author is a staunch believer in the importance of making the major assumptions underlying a study explicit. Annex 1 describes those that the author is aware of.

The report has a three-layered structure: (i) a policy brief, (ii) the main text which makes the full argument, and (iii) an extensive set of annexes providing the interested reader with access to the original sources and data that inform the argument (so as to enable drawing one's own, potentially different conclusions and to ensure proper documentation of the research conducted for this study) and elaborations of particular core elements of the argument.

In order to support any follow up activities this report makes as many relevant resources available as possible. All online versions of resources that I could find have therefore been hyperlinked to their downloadable copy in the bibliography.

Some informants requested anonymity. NGO donors and other data providers were also guaranteed confidentiality. It was therefore decided to describe informants only by expertise/kind of position within the business of aid, and data providers only in terms of who was approached, not who collaborated and who didn't.

¹ A finding of argumentation theory, the science of how conclusions can be reached through reasoning

Policy Brief/Executive Summary

This is a feasibility study of what would help **improve NGO governance in Cambodia**. Feasibilities often assume that there is consensus about the issue or problem that their solution is supposed to address. Despite no one in Cambodia arguing *against* the need for good NGO governance and the scope for improvement, there are two clear cut reasons to avoid easy assumptions: Even a cursory *literature review* of the development of Cambodia's NGO sector shows that this issue has been on the agenda of many stakeholders since the early 1990s. The sector has undeniably professionalized and matured, but the slow pace and limited scope of change strongly indicates inherent disagreements about, or divergent interest regarding NGO governance and other systemic constraints to change. The many *interviews* conducted in the course of this feasibility and the *data collected* about the current state of NGO governance further substantiate this picture of a rhetorical consensus regarding the need and willingness to improve governance, but a seemingly intractable practice of weak governance.

The overall problem is that current NGO governance too often lacks the effective checks and balances that it is supposed to provide. In light of other ongoing efforts to improve NGO governance, **this study focuses on financial management and the prevention of fraud.**

This focus distinguishes itself from other ongoing NGO governance improvement efforts by:

- being as *technocratic* as possible (as opposed to culture and values)
- putting *systems* at the centre
- being primarily about *upward* accountability
- having the roles and functioning of boards and Executive Directors only as *indirect* targets
- targeting the way money is dealt with, by *Cambodian NGOs and their funders*

Core assumptions of the study are that:

- Of the various aspects of NGO governance, the improvement of NGO financial management should be considered 'low hanging fruit', *the most obvious opportunity*.
- One core reason for 'this fruit still hanging on the tree' is that NGOs and their problems are a *co-creation of the Cambodian stakeholders and their international funders*. However, the latter, international funders, have never been included as equally responsible in efforts to improve the situation. It needs two to tango.

Weak Financial management and fraud incidence are demonstrably structural and serious problems of the Cambodian NGO sector. Given the consistently and unchanging high level of perceived corruption of Cambodian institutions, the NGO sector might stand out from nearly all others as being highly trusted by the populace, but it seems as affected by the general 'climate' as the much less trusted private sector. Despite general recognition of the problems by all stakeholders, decisive collective action seems confined to what most would consider minimum standards and willingness for public action in case of actual fraud cases is often hesitant, and hampered by practical difficulties.

Facts based on analysis of existing survey data

- Cambodia consistently ranks among the most corrupt countries of the world.
- Cambodians trust NGOs (and Buddhist institutions) far more than any other organization.

Facts based on original research done for this study

- One in five to seven Cambodian NGOs in our sample is affected by fraud
- One in four Cambodian NGOs in our sample has serious financial system weaknesses
- One in four Cambodian NGOs in our sample has weak governance
- Weak financial management increases fraud risk at least six fold
- Weak governance increases fraud risk at least fourfold

All the **solutions** suggested by this study to introduce better checks and balances into NGO financial management and decrease the incidence of fraud in the sector **use upward accountability as a lever for change**. Given the acknowledged problems caused by upward accountability - most prominently that NGOs risk turning into sub-contractors of donor agenda's - this may seem a surprising choice. However allowing for weak upward financial accountability is not going to prevent these problems. Also, fears that such accountability is incompatible with partnerships between NGOs

and their donors are unfounded, because partnership without accountability doesn't work. The decisive argument for upward accountability to leverage change is the evidence that it works. However the available evidence also shows that the current institutional upward accountability structures make for effective *perverse* incentives and thus co-create the problems of fraud they are meant to counter. The solutions proposed aim to eliminate these perverse incentives.

Taking the above as our starting point this table translates the desired state of affairs into what is required to achieve it.

Desired state of affairs	What is required	How to get there
The NGO must have a proper financial management system	Required technical knowledge is available	<ul style="list-style-type: none"> Free knowledge available online (Mango) Training & support available in Cambodia Moving from minimum to adequate standards required
The capacity to operate such a system needs to be in place	Required staff capacity is in place	Training and support available in Cambodia
The existence and actual functioning of such a system must be a precondition for receiving (larger) funds	Donor does due diligence before awarding grant	<ul style="list-style-type: none"> Due diligence standards of many donors need improvement Due diligence needs to have access to as much relevant information as possible Due diligence standards of an NGO's different donors should be aligned
The existence and actual functioning of such a system, when in place, needs periodic outside assessment, to increase chances for quick detection of wrongdoing	<ul style="list-style-type: none"> Financial reporting must meet standards Periodic monitoring by donor(s) External audits must be Standard Operational Practice (SOP) for any NGO with a budget larger than X 	<ul style="list-style-type: none"> Financial reporting format and standards' requirements of many donors need improvement Financial reporting format and standards' requirements of the NGO's donors need alignment Periodic monitoring by donors needs improvement Periodic monitoring of the NGO's donors needs alignment External audit standards need improvement
When things do go seriously wrong, despite having a proper system in place (fraud or other serious integrity infringements), the response by the NGO and its donors must (be able to) decisively deal with it	<ul style="list-style-type: none"> Immediate action is taken by management: informing board & donors Investigation takes financial, legal, organizational and beneficiary consequences into account from the start Investigation has access to all relevant material Required funds for investigation are available External auditing expertise with relevant experience is available and affordable 	<p>Solutions need to be found for the problems that seem to occur regularly when fraud is suspected and investigation required:</p> <ul style="list-style-type: none"> Often no functioning board to take action Donors regularly informed too late Legal perspective often called in too late Consequences for beneficiaries not properly taken into account Relevant material often inaccessible No funds available for a proper investigation
The consequences for wrongdoers in case of detection must be a (real) deterrent	<ul style="list-style-type: none"> The NGO's government registration is up to date, and its statutes and relevant policies enable it to deal with such situations Legal recourse is a measure of last resort but both statutes and policies as well as the actions taken during the investigation ensure it is a possibility 	<ul style="list-style-type: none"> Many NGOs as well as donors only pay attention to the importance of government registration, statutes and policies, when it is too late. When legal expertise is called in too late going to court is not an option anymore Legal status of NGOs creates problems
The proportion of mismanaged NGOs substantially decreases	Fraudulent NGOs are considered a problem for the whole sector	<ul style="list-style-type: none"> Moving from minimum to adequate standards is required The sector needs to be able to assess (the decreasing) proportion of mismanaged NGOs
The proportion of donors who do not fulfill their end of the accountability bargain properly has to decrease substantially	Donor behavior that facilitates fraud is considered unacceptable by the whole sector	Donor certification is not a realistic aim but donors subscribing to a code of principles and practices seems unavoidable
Effort to ensure some sort of credible evidence-base for assessing good organizational practice	NGOs and their donors periodically update a database allowing for a sector-wide assessment of NGO (and donor) good organizational practice	No such database exists

The table shows how the study's *systemic* approach reveals the two interacting agents of the system, Cambodian NGOs and their donors, as co-creators of the problems. The practical consequence of leveraging upward accountability is that change more often than not needs to start with changed donor behaviour.

Proposals

(1) The upward accountability issues identified can only be addressed by a collective of donors, in a shared process of assessment, agenda-setting and action. The study uses the arbitrary label **Due Diligence Action Lab** to indicate such a shared process. It needs to start with a group of NGO grantmakers that is large enough to constitute some critical mass. However, there are some very **important basics** that need no figuring out, because the available documented experience is more than enough to show that ignoring them facilitates fraud. Any group of grantmakers participating in a Due Diligence Action Lab should subscribe to them in the agreement underlying their collaboration:

- For due diligence² to be possible, one needs *access to all relevant information*.
- Partner financial management systems that do not produce *proper audit trails* are unacceptable.
- The biggest fraud risk of NGOs receiving funding from various donors is double-billing. The obvious way of preventing this is a *global audit*.

Beyond agreement on these basics the actual collaborative work in the Lab should therefore include³ at least the following:

(a) By way of start-up: **case study action-research**. This would deliver:

- A practical solution to what makes for *feasible and effective Terms of Reference (ToR) for global audits* and how to finance them, given the need of (some) grantmakers for project audits
- *Improved standards for preventative and financial monitoring procedures* of grantmakers.

(b) Once sufficient agreement on these standards has emerged, then a **Standard Operating Procedure (SOP) for due diligence** that includes a SOP⁴ for dealing with fraud suspicions, so it is clear in advance to all involved what is going to happen, under which circumstances, with which in-build safeguards etc., can be agreed with NGO partners when signing the grant contract.

(c) Figuring out a way to **collectively fund fraud investigations**. Proper investigation and sanction often requires finances that have not been budgeted for, are often disproportionate to the investment of any single donor in the fraudulent NGO, and in some cases, even disproportionate to the total budget of the fraudulent NGO.

The **ideal institutional vehicle** for a Due Diligence Action Lab approach would be a **Community of Practice (CoP)**.

(2) A second suggestion for improving the situation is the creation of an **NGO Back-up Repository**. Within the context of improving NGO financial management, e.g. when fraud has been detected, the lack of back-up often plays havoc with investigative possibilities. Those with control over the financial administration are also often the suspected perpetrators. Regarding those cases, there is substantial anecdotal experience of files, or even whole parts of the financial administration and other crucial NGO papers, e.g. those required for (preparation of) legal action, disappearing⁵. Ergo: for anyone, be it NGO management, its board, or a donor, interested to investigate fraud and thus requiring access to everything that matters, the option of having a shadow somewhere else, would delete a substantial risk⁶.

² In this study we apply a *broad understanding*: due diligence as an ongoing concern, that includes the monitoring and periodic formal checks on the continued *financial and organizational health* of the partner.

³ This is not exhaustive. Any functioning committed collaborative group can be expected to make use of its structures of communication, sharing of resources and build-up trust to develop other ways to benefit its members.

⁴ Obviously, reality's diversity of scenarios can never be captured by a SOP, so this term is to be taken lightly. The point is to be as transparent as possible toward NGO partners about what follow up suspicions about and proof of fraud will receive.

⁵ There have been cases in which a fraudulent ED torched the offices of 'his' NGO to destroy any evidence of his actions (informant interview)

⁶ Some INGOs that enter into grant agreements with LNGOs include the submission of a shadow its partners' financial administration as a contractual condition.

Such a storage service, where it exists (i.e. in developed contexts) is a paid-for service, and there is no reason to organize it differently for NGO administrations. However, it is difficult to envision any potential service provider investing in the creation of such a facility without some measure of commitment by a sufficiently large number of future users, thus it needs more preparatory work than this study can offer.

However, a much 'lighter' but affiliated concept of a repository of NGO information could be created directly through the *institutionalization of a more elaborate and much improved version of the grantmaker partner survey piloted in this study*. The resulting database in itself would allow for nothing of the above (i.e. safeguard access to critical information in cases of fraud), but it would allow for all kinds of preventative checks, and it would create a partial Community of Practice (CoP) that could be expected to become interested to pursue the repository idea proper.

The survey database would also allow for efforts to store NGO documents about which one should/can expect consensus on storage in a repository to be more easily established: external audit reports and evaluations.

(3) A third suggestion to use upward accountability to leverage change is to strengthen the sector's ability to deal with fraud cases through a One Window support service. When an NGO's management and/or governance board is confronted with suspicions/indications/accusations of financial mismanagement/fraud, or if one of the NGO's donors is informed of such, hardly ever do they have Standard Operational Procedures to fall back upon. Some may have complaints mechanisms/whistle-blower policies, but these do not provide much, if any practical guidance of what exactly to do once the suspicion/indication/accusation reaches them. Given the relative infrequency of such a crisis occurring⁷ and general unwillingness within the NGO sector and amongst donors to share experiences of dealing with fraud (beyond the informal and anecdotal), most would not really know what practical responses to prioritize, or even where to go to find out. Several informants have commented on this, lamenting in hindsight on their personal experience in terms of *had we known A, B or C, we could have prevented X, Y, or Z from happening, and could have dealt with the crisis in much more satisfactory, effective ways*.

To summarize the 'market demand'⁸ for support services to deal with fraud cases:

- An integrated, One Window Service, offering audit and legal expertise,
- That can be contacted as soon as there are suspicions/indications/accusations of financial mismanagement/fraud,
- And that can offer for a transparently established, reasonable fee:
 - Practical advice about priority actions to safeguard investigative and legal possibilities.
 - A scenario analysis of how things may develop, clarifying what different possibilities would imply in terms of risk for the NGO and/or particular individuals, financial commitment required, time horizons, to assist the client in decision-making about options to pursue.
 - Assistance in the development of a ToR for an investigative audit.
 - Investigative audit services⁹.
 - Legal representation services.

There is also a demand for preventative services that could conceivably be offered by the same One Window service provider:

- Financial systems auditing
- Legal compliance auditing

Given that the required expertise is already available in Cambodia and offers its services on a commercial fee-for-services basis, one would need very clear reasons to look for other solutions based on donor funding. Existing commercial audit and legal service providers themselves are in the

⁷ There is a structural similarity here with organizational readiness for natural calamities; even if there are paper SOPs, unless the organization actively ensures that employees are aware of them, and regularly go through mock routines, when the calamity strikes no one will be prepared.

⁸ The market being either NGOs, or their donors, or both together, whoever takes the initiative.

⁹ Developing a audit ToR and implementing the audit should ideally be in separate hands; ensuring checks and balances needs to be an explicit consideration in any practical initiative that responds to this market demand.

best position to figure out what kind of collaboration would work best for them (consortium, partnership, audit firm host subcontracting legal services, legal firm host subcontracting audit services,?). All it would take would be one effective collaborative initiative taking off to 'proof' the existence of the perceived market. Any grantmaker CoP that reaches a state of maturity that involves concrete agreement about collective and collectively funded responses to fraud cases would be in a good position to come up with some practical steps to entice such a private sector pilot.

Possible implications

The study also envisions some possible **downstream sector-wide implications** if upward accountability can indeed be leveraged in the ways suggested above:

- A repository could contribute to *Audit sector oversight possibilities*. The NGO sector could set the standards here in ways that would make for a very strong statement of its exemplary role in contributing to the country's overall development.
- The *NGO Good Practice Standards* certification process has its own discussion and governance environment and this study does not speculate on how standards for good financial management resulting from a Due Diligence Action Lab can best feed into that environment. But, that there is an obvious logic to them doing so is clear.
- Given the lack of capacity attributed to NGO administrations, the level of SOPs and policies deemed necessary and normal for even a smaller NGO is quite astounding. An Action Lab kind of collaboration would constitute an interesting platform where *simplifying NGO administration requirements* can be seriously discussed, and possible solutions/innovations/alternatives piloted.
- The *lack of a proper legal framework for NGOs* does create unexpected problems when it comes to mismanagement and fraud. A natural host to support NGOs in dealing with these problems, preventatively and when fraud has been detected, would be the entity offering fraud support services.
- All the initiatives are premised upon (also) the donor side of the aid chain acknowledging its responsibility in co-creating the problems and thus point toward the need for a *Donor Code of Conduct* to complement current NGO code of Conduct initiatives.
- Once there is a repository for NGO information, given what is going to be stored in it, additional possibilities open up for collective action by NGOs and grantmakers. After audit reports, one very obvious candidate for including in the repository would be *evaluations*, which would offer interesting opportunities for improving the policy and practice impact of the money spend on evaluations and research in general.

The study explicitly acknowledges that its analytical lens and its proposed solutions have the **potential to do harm**.

There is serious potential for harm if the study's analytic perspective and/or solutions are applied without giving primacy to development objectives. Development is about the ultimate beneficiaries and the consequences for them of an NGO being e.g. (temporarily) put out of business should thus be a prime consideration in deciding upon sanctions against a fraudulent NGO. However, more structurally, the proposed perspective implies that some development work that is currently organized and funded through NGOs should seek other hosts and/or funding mechanisms. The NGO form is not a suitable vehicle for some of the work it currently shelters. The study argues for a serious exploration of alternatives. Other harm risks that the study deals with are: the threat of strict due diligence to partnership between donor and NGO, the reputational and misuse risks of transparently dealing with fraud in the sector, and the risk of involving the private sector (more) in the regulation of the sector.

1. The Problem

1.1 What is the problem?

This study is meant to explore what, if any, new (i.e. not yet existing) service and support possibilities would help Cambodian NGOs improve their governance, and look into the feasibility of creating them. The problem is thus **NGO governance**.

The objective of this section is to provide the rationale of the focus chosen for this study. It focuses on a *very particular core aspect* of governance only. To contextualize this choice, we need to look at what NGO governance is, what its core problems are, and what the focus is of other ongoing efforts to support it.

1.1.1. NGO governance

Governance is a broad concept, has various interpretations and is not uncontested. Louise Coventry, the facilitator of the CORD/Actionaid *Cooperative inquiry into civil society governance* project has produced a comprehensive literature review¹⁰ for those interested to dig further into the concepts of governance and accountability. For a short background story: see **Annex 2**.

Two important stakeholders in the Cambodian NGO world, the NGO umbrella group, CCC, and the capacity building services provider VBNK have a long history of involvement with NGO governance. They have published on the issue, and are core providers of services and support to improve NGO governance. For the purpose of this study their working definitions will serve well as a starting point:

VBNK: *Governance is the way in which power is exercised in an organisation. Good governance ensures accountability and effectiveness in the management of the organisation and its resources*¹¹. Its four pillars are:

- Accountability: the capacity to call individuals or institutions to account for their actions
- Transparency: the availability of information
- Predictability: the existence of policies and other mechanisms which govern decision-making and other activities
- Participation: the active involvement of stakeholders and staff in the decisions that affect their lives and work

¹⁰ As part of her PhD which theoretically frames the consultative practice of the cooperative inquiry : Coventry (forthcoming PhD)

¹¹ VBNK (May 2005), p.11

CCC: *Governance is an organization's structure and policies for decision-making which include board, staff and other stakeholders*¹².

CCC situates governance with a framework called *The Code of Ethical Principles and Standards for NGOs in Cambodia* that aims to maintain and enhance standards of good organizational practice throughout the NGO sector. This Code also aims to ensure public trust in the integrity of the individuals and organizations that make up the NGO sector, and the effectiveness of NGO programs.

The code is based on *five core organizational values*:

- Integrity
- Cooperation
- Responsiveness
- Quality
- Inclusiveness

Follows *nine core principles*:

- An NGO's purpose is to work in partnership with stakeholders for a sustainable development of Cambodian society, based on justice, equality, transparency, accountability and respect for human rights
- An NGO's policy and vision is appropriately and independently determined from that of any donor or government agency
- NGOs are not aligned or affiliated to any political party
- NGO activities will be carried out without discrimination on the basis of nationality, group, political affiliation, ideologies, race, age, religion, gender, HIV status or disability
- NGOs will respect the values, dignity, history, and religion of the communities they serve
- An NGO's cooperation with other NGOs will be based on equality, dialogue and mutual respect
- NGOs will ensure that their relationships with funding agencies are honest and transparent
- NGOs will cooperate with the Cambodian people, the government and other stakeholders to improve the quality of life of the people
- NGOs are committed to using non-violent ways in solving problems, disputes and conflicts

Across *six key areas*:

- Good Governance
- Relationships and Communications
- Sound Financial Management
- Accountability and Transparency
- Quality Assurance
- Effective Human Resource Management

Operationalised in *25 standards* (each with *guidelines* and *indicators*).

It is easy to see that the ways both VBNK and CCC define and situate governance provide conceptual structures that are useful when developing, describing and implementing practical programs to support NGOs to work on and improve their governance. But they also make the terms look more clearly circumscribed than they really are. Many if not most of the concepts mentioned in the above boxes cannot be understood without including many others; *Governance, accountability, transparency, participation. These form a close-knit network of ideas, separable in theory but not in practice, and only acquire their full intended meaning when used together.* CCC's framework does just that: the network of interrelated terms is its definition of *good, i.e. incorruptible and effective organizational practice.*

However, to correctly interpret this (good practice for what?) one needs to take into account *what NGOs are for.* VBNK's answer¹³ to this question describes four key characteristics of NGOs, three of which are shared by other civil society entities¹⁴ and thus non-specific, but one is *uniquely* defining of

¹² CCC (2014), p.11

¹³ VBNK (May 2005), p.7-10

¹⁴ Voluntary, Independent, Not for Profit

NGOs: *they are not self-serving in aims and values*. This means they exist to improve the circumstances and prospects of disadvantaged people and/or act on concerns and issues that are detrimental to the well-being, circumstances or prospects of people or society as a whole.

1.1.2 Problems with NGO governance

VBNK's 2005 *Introduction to boards and governance*, published to make the basics about governance available in accessible form to Cambodian NGOs, already identifies (albeit somewhat implicitly) what this report identifies as the two core problems of NGO governance¹⁵.

(1) The first is its observation that *[in] many organisations there is confusion, both among board members and among managers, about the difference between governance and management*¹⁶ (p.13). This observation is as valid now as it was then: it received prominent attention by the participants of a two day workshop in October 2014 *to promote effective NGO governance and good relationships between Boards and Executive Directors*¹⁷, attended by 60 NGOs.

As the difference between management and governance is at the heart of the understanding of governance, fundamental confusion about this issue implies fundamental lack of understanding. The core of governance¹⁸ is a 'separation of powers' to create sufficient organizational *checks and balances* to have some confidence in 'good operations'. Neither the VBANK, nor the CCC definitions explicitly highlights this rationale of governance. This is unfortunate since without checks and balances, governance improvement efforts risk being nothing more than learning what facades to build to look like well governed entities without changing anything behind the scenes (where the real action is happening)¹⁹.

Coventry's literature review, reflecting on the situation a decade after the above VBANK description, observed that *many NGOs under-use their board, regarding it as a peer support network for the director, a provider of general advice and inputs and, sometimes, a rubber stamp*²⁰. All interesting functions, but none of them in the core of what a *governing* board is for, and thus showing a continuing widespread ignorance about the fundamental checks and balances role of a board. While the lack of checks and balances is not explicitly described, what is described in *all external assessment* of the NGO sector is the prevalence of dominant executive directors, monopolizing power without any check on their functioning²¹. Coventry feels compelled to agree with Keang Un (2004) identifying *the major reason for the ineffectiveness of Cambodia NGOs as their own organisational structures, operations, and top-down mode of internal governance, which falls short of being democratic and mirrors the patron-client relationships endemic in Cambodian political culture*.

(2) The second widely recognized core problem of NGO governance is identified in the VBANK primer when it defines what characterizes NGOs and differentiates them from other civil society entities. Two, closely interlinked problems faced by NGOs are mentioned:

- Most NGOs are not mandated by democratic processes. Individuals or small groups establish NGOs, and they are not elected to do so as representatives of broad groups of the population. This sometimes leads to the claim that most NGOs are not really accountable within society, or to the groups whom they claim to represent, e.g. the poor or disadvantaged.

¹⁵ This is hardly an original observation: they are widely recognized as such.

¹⁶ Its definition of management is: the process of directing the work and ensuring that staff and resources make an effective contribution to achieving the organisation's goal (p.13)

¹⁷ Organized by CCC, SADP, Cord, Actionaid and Danmission

¹⁸ Governance can also be thought about in terms of descriptive typologies rather than analytic categories like 'checks and balances'. A polity ruled by an all powerful autocrat e.g. is one type/form of governance, that can be contrasted with other types on a variety of characteristics *other than/in addition to* its lack of checks and balances. The analytic focus chosen in this study is based on the assessment that the importance attached to NGO governance is at heart centered on this particular aspect of its functions.

¹⁹ This is certainly not the only assumption that needs to be checked before what Coventry calls the Corporate (or policy) governance model can function as it is intended. Others include *that the civil society organisation is performing actions required by stakeholders, that the stakeholders will judge the outcomes, that the board is independent of management and that the board members are elected* (Hasan & Onyx 2008 in: Coventry, forthcoming PhD)

²⁰ Coventry (forthcoming PhD)

²¹ See **Annex 3**

- Being donor-driven²², not deciding on their programmes independently.

These two problems have contributed to the view that many Cambodian NGOs have low or non-existent levels of accountability to beneficiaries, also called downward accountability. Given *how NGOs are funded* (overwhelmingly by 'donors'), a high level of upward accountability is as expected²³, but given *what NGOs are for* (see above **1.1.1**), a low level of downward accountability is not as expected. NGOs are an intermediary link in the value chain of aid²⁴. Their services and other support assume participation²⁵, real participation, of the 'beneficiaries'²⁶, both in the decision-making regarding what is required, and in the assessment of the quality, efficiency and effectiveness of its delivery. Without it, a crucial checks and balances link in the structure of aid is missing and there is a high risk of the wrong services/support being provided, and/or the service quality, efficiency and effectiveness being below standard.

Coventry's literature review, reflecting the situation a decade after the above VBANK description, comes to exactly the same conclusion: *Low levels of accountability to beneficiaries undermine the credibility of NGOs*²⁷. NGO self-assessments do not necessarily support this conclusion: a recent survey, a self-reporting instrument, commissioned by CCC certainly does not identify lack of accountability as a core problem²⁸. However, *every* Cambodian NGO sector assessment seen as part of this feasibility study brings it up in one way or another.

As the above descriptions show, these two core problems of NGO governance may be analytically separable but are closely connected. They are serious problems because they eat at the heart of what NGOs are for, and they have proven quite intractable, being identified in successive assessments of the Cambodian NGO world right from the start. This is not to say there have not been any changes: core governance structures (boards) and financial accountability (external audits) procedures, have proliferated since the late 90s²⁹, but have not yet resulted in satisfactory results. Too often the adopted structures/procedures turn out to be institutional facades³⁰ behind which operations continue on a business-as-usual basis. (see **Annex 3**).

1.1.3 The particular focus of this study

This study aims to be of value. In theory various possibilities were available in order to achieve it.

(1) The study could have looked at the major existing support and service offerings for NGOs and suggested improvements. e.g. CCC's Voluntary Certification System for NGO Good Governance & Professional Practice (GPP) and the governance support offerings of VBANK and similar providers. This option was not chosen, because the hosts/implementers of these support and service offerings are more than capable of self-improvement. Deficiencies and actionable suggestions for improvements can be expected as outcomes of their regular and professionally executed evaluations.

(2) The study could have taken the above analysis of the core problems of NGO governance as its starting point and tried to identify support and service offerings that do not yet exist. However, that would have overlapped significantly with the objectives of the Cord-Actionaid *Cooperative inquiry into civil society governance*, and duplicating efforts is not a wise use of limited resources³¹.

²² See also **Annex 3**

²³ Although the actual content of this upward accountability is often problematic, a core theme of this report.

²⁴ See also **2.1.1.1**

²⁵ In the same way that politics assumes representation, at least within the democratic framework that underlies the analysis of this report. See **annex 1**

²⁶ Terminology is always ideological and whatever one chooses is open to legitimate criticism so the reader should not read anything more into descriptors like this than the shorthand they are supposed to be, in this case *people, whoever they may be, that receive their support and/or services, whatever they may be*

²⁷ Coventry (forthcoming PhD)

²⁸ CCC (November 2012)

²⁹ This equally applies to Cambodia's government sector

³⁰ An interesting analysis of how the aid system often gets trapped in failure, focusing on aid to governments but the analysis is equally applicable to NGOs, is Pritchett, L. (2010). Aid tends to *import... standard responses to predetermined problems. This encourages isomorphic mimicry as a technique of failure: the adoption of the forms of other functional states and organizations which camouflages a persistent lack of function* (p.1)

³¹ Also, the workshop referred to note 8 has resulted in a working group of stakeholders looking into possibilities to improve NGO governance that is approaching matters from this angle.

(3) Therefore, this study chose its focus specifically to avoid duplication³². Identifying the following characteristics of the mentioned cooperative inquiry as central to its approach:

- Acknowledges *culture and values* as core elements
- Acknowledges *relationships* as core to governance
- Chooses as *direct* targets; *Active, effective* boards, their relationship with a *managing* as opposed to governing, and *democratically* rather than autocratically operating, Executive Director (ED); and *downward* accountability.
- Focuses on change of *Cambodian NGOs*³³

Ask the question, *what focus would look at things from an opposite perspective then suggests financial management* as a natural candidate, because³⁴:

- Its focus is *technocratic* (as opposed to cultural and value laden)
- Its focus puts *systems* at the centre (as opposed to relationships)
- Its focus is primarily about *upward* accountability
- Boards and ED roles and functioning are *indirect* targets of this focus
- It focuses on changing the way money is dealt with, by *Cambodian NGOs and their funders*

Additional advantages of this focus are:

(1) A focus on finance offers more than a concentration on only one aspect of an organization's functioning. The way finance is dealt with is quite revealing about the way it is managed, the governance checks and balances in place, the actual priorities³⁵ of the organisation, its transparency and other aspects of its operations and ethos.

(2) Lots of development approaches assume and act as if technocratic solutions, taking systems (the 'hardware') as their entry point, are 'easier' to implement than change efforts starting with political and cultural factors ('the software'). In general this is a very erroneous assumption. But with respect to NGO financial management one could make a serious argument that it is actually 'low hanging fruit', *the most obvious opportunity*. Political change? Since the main relevant actors here are Cambodian NGOs and their funders, there are no external stakeholders with decisive influence. Cultural change? Although it would be wrong to claim financial management to be culture-neutral, corporate experience shows that its technocratic aspects are easily absorbed by all, wherever they come from. Larger manufacturing companies, banks etc. have no problems running financially sound operations that are up to international standards in Cambodia³⁶.

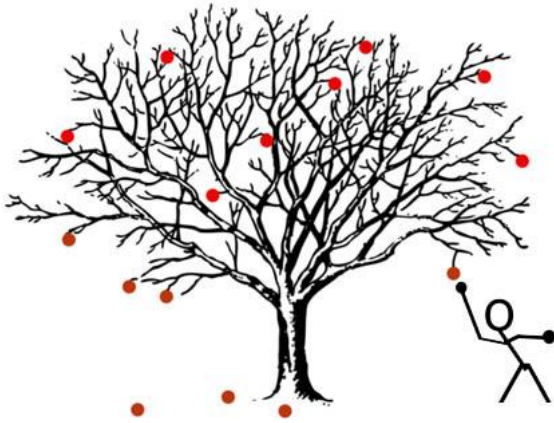
³² This rationale is admittedly a post hoc story of how the study developed. It started off without such a 'narrow' focus, and only limited itself during its implementation, when introduced to the Cord-actionaid effort. However, the narrative does lay out the conceptual rationale as it emerged over the course of the information gathering process. Here is not the place to elaborate of this, but such is the iterative, incremental adjustments reality of much research-based efforts. Reports don't normally acknowledge the 'messiness' of the production process, for a variety of reasons like readability/argumentative structure, brevity, and saving professional face.

³³ And recognizing that similar issues plague NGOs elsewhere

³⁴ These are intended to be *analytical* dichotomies, in real life nothing is that simple, technocracy is not value free, systems and relationships are intertwined, etc.

³⁵ As in 'revealed preferences'.

³⁶ Although many opt to ignore them.



Low Hanging Fruit

A course of action that can be undertaken quickly and easily as part of a wider range of changes or solutions to a problem.

(3) The Cambodian NGO end of the value chain of aid has proven to be quite unresponsive in dealing with governance and accountability. The continuous identification of these as major problems in need of improvement and the practical efforts, including the development of a quality assurance certification process by the sector, haven't managed to make the hoped for difference. *All external analyses of the Cambodian NGO sector either mention that NGOs and their problems are a co-creation of the Cambodian stakeholders and their international funders, or their descriptions allow for that conclusion. The international funders, however, have never been considered as equally responsible in efforts to improve the situation.*

1.2 Is it a structural problem?

Problems are always cause for action, but actions to improve financial management have been occurring since the very beginnings of the Cambodian NGO sector, and are ongoing. Before exploring more actions, one should assess whether what already happens is sufficient. Only when the problems are resistant to change *despite* existing measures, does exploration of additional solutions make sense.

This question is particularly relevant regarding the 'technocratic' issue of financial management. Financial management is probably the earliest area for which training opportunities were available to Cambodian NGOs, and much has changed. Many NGOs, especially the larger and longer established ones, have finance departments staffed with at least one accountancy BA, using professional software, implementing a financial management system that meets (at least) basic standards. Nothing of that nature existed at the beginning and change can thus certainly be acknowledged.

However, weak financial management is a recurrent theme in *all* NGO sector assessments this study has looked at³⁷. Let me use one representative quote from the 2010 CCC review³⁸:

*Skills in carrying out organisational development and management processes such as developing and maintaining governing boards, organisational audits, performance management, accountability and democratic decision-making skills are very weak. Among Community Financing Institutions (CFIs), the following quality issues were identified: lack of auditing systems, limited reporting systems, weak bookkeeping capacity, inadequate monitoring, lack of clarity in roles and responsibilities of managers and directors; and no mechanism for 'micro-governance' surveillance i.e. how to police CFIs locally. **These gaps reflect what are common [issues] to many NGOs.***

The continued existence of serious systemic financial management weaknesses in the Cambodian NGO sector, is not what one would expect, given the broadly acknowledged dominance of upward accountability (between Cambodian NGOs and their funders), given that *transparency is mainly understood in financial terms*³⁹, given the stake funders have in proper financial management of their 'partners', and given the proven ability of private sector organisations to implement strong financial management, and this is not limited to newly created provincial NGOs, but also within long established organisations which have had lots of time to bring their systems up to standard.⁴⁰

³⁷ See **Annex 3**

³⁸ CCC (August 2010), p.27

³⁹ CCC (August 2010), p.31

⁴⁰ This is a finding of this study, see the next section.

Thus: financial management problems seem to be structural.

1.3 Is it a serious problem?

All of the above doesn't yet answer the question, is the problem is serious? This is not only a question about how widely shared are perceptions of the problem, but also how serious are the (potential) consequences of not dealing with it. In general, even widely acknowledged problems can ultimately be relatively unimportant because their consequences are relatively minor. Given that perfection is often the enemy of the good, and that resources are always limited, some problems are just not worth dealing with, or at least are not urgent/do not require prioritization.

1.3.1 Moral and practical imperatives

Conceptually, the answer is easy. Obviously, financial integrity and the systems required to minimize fraud risks are important, and their absence is thus serious. It's a *moral imperative*: public funds shouldn't be wasted, let alone diverted into private pockets. Also, NGOs demand Good Governance from authorities. Practicing what one preaches and applying the levels of transparency and accountability demanded from government to oneself is the foundation of the NGO sector's legitimacy to make such demands in the public's name⁴¹. It is also a *practical imperative*, because weak systems are bound to result in inefficiencies, deprive management of operationally and programmatically important input for decision-making, and decrease chances of raising (more) funds.

Don't be a toad selling skin medicine (Cambodian proverb)

Given the rather rosy self-reporting based picture of NGO governance arising out of a recent NGO survey on capacity building needs⁴², it seems very questionable if the voluntary certification efforts of NGO umbrella CCC can be interpreted as expressing a genuine sectoral awareness of the seriousness of these moral and practical imperatives. At the funding end of the spectrum, International NGOs, grant-makers, and donors are very aware of the importance of public trust. Their revenues depend on charity and public sentiment regarding development aid, and are directly threatened by the reputational risk of fraud/corruption within their own organizations or a partner NGO/sub-grantee. Therefore, due diligence procedures, requirements for external audits, some attention to the operation and the improvement of financial systems of NGO partners through monitoring and external audits and capacity building/training offers, and anti-corruption policies, are common elements of their Standard Operation Procedures (SOPs).

However, there is a marked mismatch between the widespread informal grumbling within the NGO world about fraudulent peers and partners, and the explicit attention financial due diligence receives in its public domain. One indicator of this is the dearth of service providers dealing with financial mismanagement and literature⁴³ about it. There is only one service provider *exclusively* focused on strengthening the financial management and accountability of NGOs around the world, the UK registered charity Mango⁴⁴. In terms of publications: only the U4 Anti-Corruption Resource Centre, serving a group of eight bilateral agencies, has devoted consistent, although limited, attention to NGO corruption⁴⁵.

More worrisome is that the secretive nature of dealing with fraud prevention has resulted in a lack of research on the issue. This has hampered professionalization of the way the sector deals with it. A study by the above mentioned U4 resource centre on NGO corruption risk management states: *Empirical evidence is particularly scarce, as both donors and NGOs are reluctant to discuss the effectiveness of their corruption risk management measures, particularly discovered cases of*

⁴¹ This argument also applies to the need for internal democratic decision-making procedures, and to the need to substantiate claims to represent public interests with downward accountability

⁴² CCC (November 2012); this assessment of a rosy picture is based on the *actual self-reporting results*, not on the qualifying remarks by the survey researchers who dispute their realism.

⁴³ Although it would be difficult to argue humanitarian aid is an exception to this general state of affairs, it has received some serious policy research attention from Transparency International. The health and education sectors, which are arena's for lots of government-NGO collaboration could be identified as exceptions, although research is normally not targeting NGO actors in these sectors (see **Bibliography** for some relevant links)

⁴⁴ <http://www.mango.org.uk/> Mango makes a free Guide to financial management for NGOs available on its website that explicitly addresses fraud. See **Annex 4**

⁴⁵ See **Bibliography** for the relevant U4 publications, all hyperlinked to their online version

*corruption, because these may be misinterpreted as evidence of failure rather than good performance of corruption detection systems. In addition, there are extremely few processes in place, even in-house, to test and analyse the effectiveness of applied risk management measures. Hence, many of the findings are based on practitioners' observations and experiences rather than quantitative data*⁴⁶.

This general picture is also true in Cambodia. One of the reasons for commissioning this study was that *concerted action seems confined to what most would consider minimum standards*, despite agreement by NGOs and their funders that proper financial management is important and despite widespread frustration about weaknesses in NGO financial management, and numerous anecdotal fraud stories. Arguing for higher standards, especially when accompanied by the implementation of necessary due diligence procedures is often interpreted as mistrust (not proper for a 'partnership'), a denial of NGO independence, and an expression of an unbalanced power relation between NGO and its donors (in the private sector *none* of these arguments would be considered legitimate).

Willingness for collective action in case of actual fraud cases is often hesitant, and hampered by practical difficulties to properly respond, and worries about reputational risk regularly preclude decisive action.

The lack of willingness for collective action was also evident in this study as a less than 50% full-response rate by NGO donors to share information (see **Annex 7**, objective 1, for some further thoughts about what underlies this).

For the credibility and legitimacy of NGOs this is an unwarranted and potentially harmful attitude⁴⁷. As independent policy watchdog Global Policy Forum argues⁴⁸, it is a serious problem to *unconditionally* view NGOs as the "conscience of society," and there is a need to hold NGOs *as accountable* as the governments and institutions they critique.

1.3.2 Fraud and Corruption

The reader may have noticed that text in the above paragraphs surreptitiously introduced the term *corruption* and wonder why the term is used if the problem consists of weak and/or *fraudulent* financial management? *Fraud*, the technically correct term is much narrower than corruption, and in most developed states would be understood as a separate category, and its incidence would e.g. not determine public perceptions of an institutional sector in their own countries⁴⁹.

Why do International NGOs, grant-makers, and donors apply the corruption frame to the perceived reputational risks of financial mismanagement/fraud?⁵⁰ Development money overwhelmingly flows to countries *perceived* - as in Transparency International's Corruption *Perception* Index (CPI) - as corrupt. As **annex 5** shows there is much amiss with that perception, but it *is* obvious that the institutional environment of a country that is perceived by its citizens and its businesses as corrupt probably has a high(er) risk of fraud in its NGO sector⁵¹. The reasoning, very evident in *nearly all* Cambodia NGO sector assessments, is structurally similar to the 'risk' of NGOs having autocratic leadership and a patronage relationship with their 'beneficiaries': it is naive to expect the NGO sector to be immune to the norms of the rest of society. This is well known to the back-donors of Cambodian NGOs, and any confirmation of this perception is thus correctly perceived by them as a serious reputational risk. This is especially true of the fraud version of corruption, more so e.g. than nepotism, because the back-donors, the citizens of developed countries (as voters and as charitable givers) primarily care about 'results' and 'money'. The first pressure is visible in tendencies of funders to target results home country citizens care about, measurable results, short-term successes, etc. The second underlies their due diligence procedures, but is also visible in the tendency to deal with fraud

⁴⁶ U4 Issue (September 2011) p.1

⁴⁷ There is by now ample evidence that the reputational fears are legitimate *only* if the bad news is not dealt with properly. If dealt with properly it is *enhancing* reputation: see **Annex 14**

⁴⁸ <https://www.globalpolicy.org/ngos/introduction/31439-credibility-and-legitimacy-of-ngos.html>

⁴⁹ Which is not to say that it would not *influence* that perception, it certainly would.

⁵⁰ **Annex 5** gives more background on the definitions and understandings of corruption in countries commonly perceived to be more or less corrupt.

⁵¹ By way of example of mainstream development opinion, a just released UK government assessment of DFID's aid to Nepal (perceived as corrupt but less so than Cambodia) concludes: *We do not see the use of local NGOs in place of the state as a panacea; in corrupt societies the NGOs can also be corrupt.* House of Commons International Development Committee (March 2015), p.28

as much as possible outside the public's view, which unfortunately includes their peers (see next section).

Obviously, there is more to fraud than only a corrupt country environment. The NGO financial capacity building NGO Mango identifies the following as the major reasons for fraud:

Reasons for fraud⁵²

Tackling fraud internally in NGOs is imperative. Mango's online *Guide to Financial Management for NGOs* lists four reasons for fraud: *opportunity, need, habit* and *low morale*.

- *Opportunity* is created when internal controls are weak, especially in the cash-based economies where most NGOs work.
- The *need* is often created by the lack of social protection when an individual comes under pressure from their family to fund expensive medical care, or to pay a bribe just to get services that the state is meant to provide free of charge.
- *Habit* is informed by organisational culture: if managers don't lead by example on resisting even the smallest bribes, then employees can feel they are justified in committing fraud.
- Finally, this all leads to a vicious cycle of *low staff morale*, especially in a crisis-driven culture with little job security owing to short-term funding pressures.

The analysis above concluded that it *is obvious that the institutional environment of a country that is being perceived by its citizens and its businesses as corrupt makes for a high(er) fraud risk in its NGO sector*. This study therefore included a search for some empirical grounding⁵³ of two of its core elements:

(1) The moral imperative demands living up to the trust funders (and their back-donors) as well as Cambodian citizens have in Cambodian NGOs. The reputational risks of abusing the funders' trust are regularly lethal to the NGO involved, harm the trust of funders in the sector as a whole and are thus harmful to one's peers. But arguably abusing the trust of Cambodian citizens is at least as harmful, if not morally even more reprehensible. Speculatively: the risks of losing their trust may have consequences way beyond the NGO world. Can we say anything empirically-based about the trust Cambodians have in the NGO sector, and how that compares to their trust in other institutions?

(2) How does corruption in Cambodia compare to that in other countries? Given that more corrupt environments are a legitimate worry for those funding NGOs, what can we say about Cambodia's position on the scale of perceived corruption?

Section **1.3.3** describes the findings on these two issues

Given the total absence of systematic (beyond the anecdotal, and reliable), objective (no self-reporting), valid (based on a thorough assessment) data on LINGO financial mismanagement, and the role played by NGO governance and NGO financial systems, the study collected some original data on the incidence of fraud in the Cambodian NGO sector and how it correlates with weak governance and weak financial management systems.

We may agree on the moral and practical significance of having proper financial management, and we may agree on the risks Cambodia's general corruption environment holds for financial mismanagement in its NGO sector, but what do we really know about actual incidence of fraud? And despite this agreement, the NGO sector doesn't seem to act as decisively against fraud as one would expect. One of the possible reasons and/or ameliorating circumstances could be that the actual incidence of fraud is so low that it doesn't matter much *in practice*, that our preventative and punitive responses seem not decisive enough, not making for much improvement. Maybe the status quo is good enough?

Section **1.3.4** describes the findings on these issues

⁵² Taken from: Boyes-Watson, T. (May 2013)

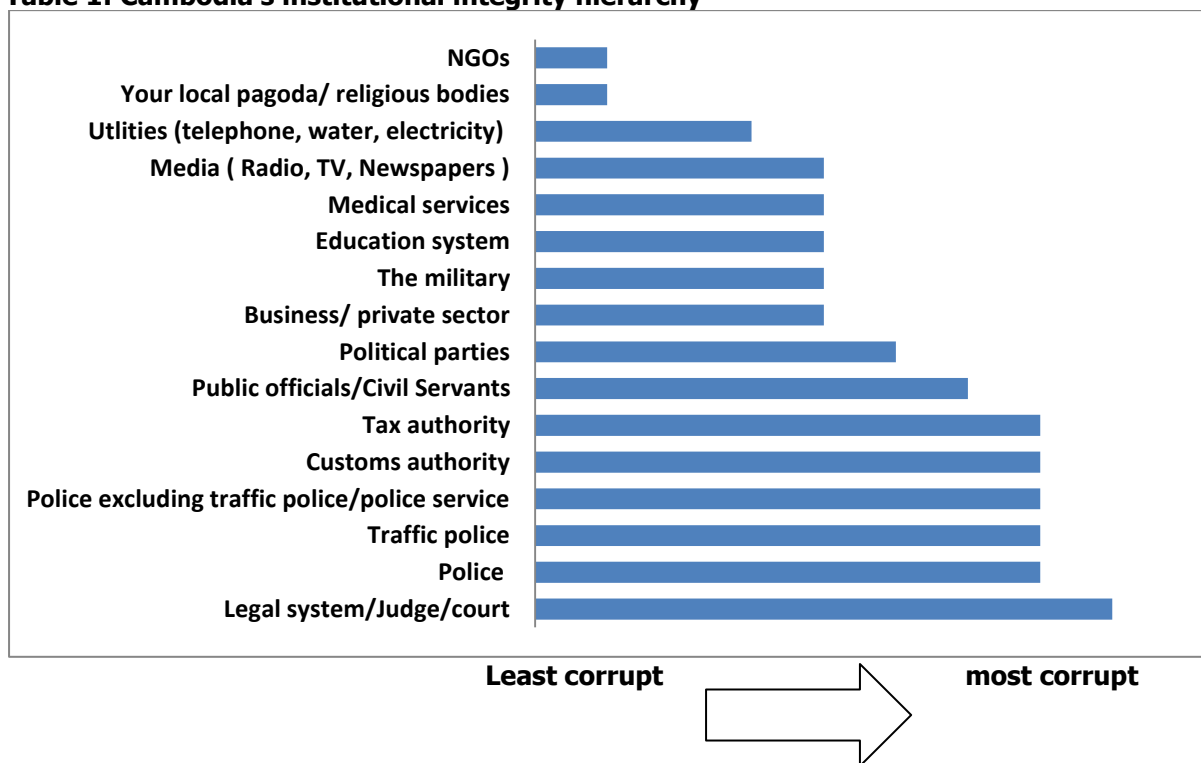
⁵³ Based on the research stance of this study described in **Annex 1** (to the extent possible setting normative assumptions aside and letting data speak)

1.3.3 Cambodia: corruption and institutional trust

What do we know about institutional trust of Cambodians and what do we know about the position of the NGO sector within that opinion hierarchy?

The study compiled an overview of 15 years of Cambodian public opinions about institutional integrity/honesty/levels of corruption (see **Annex 6** for the details, and the methodological caveats etc.). The opinions are quite consistent over time:

Table 1: Cambodia's institutional integrity hierarchy



There was some variability in the middle section of this hierarchy of public institutional trust but the results across all polls are constant for the top and the bottom of the hierarchy:

- The legal system is the least trusted of all, and consistently scores at the negative end of the scale.
- The NGO sector and Buddhist institutions are most trusted and consistently score at the positive end of the scale

The average level of institutional trust in Cambodia is quite low⁵⁴, and there are not many institutions with positive scores, i.e. clearly beyond the neutral middle. This makes the NGO sector stand out and the possible consequences of abusing this trust all the greater.

What do we know about Cambodia's comparative level of corruption?

This study did some analysis of *Transparency International's Corruption Perception Index (CPI)* data across the period 2005-2014 that included Cambodia (see **Annex 5** for the details, and the methodological caveats etc.).

The results are quite unequivocal: With the exception of the very first year, Cambodia has placed consistently in the bottom 15% of the scale, mostly in the lowest 11% (its 2014 ranking). Over that decade three countries have managed to improve their ranking to slightly above Cambodia, and four have dropped down below Cambodia (mainly due to war). With the exception of 2005, Cambodia was a member of the second group of ten countries closest to the bottom of the scale. Not as bad as Somalia, North Korea, Sudan or Afghanistan, but close enough to rank among the world's most notoriously corrupt countries, and it has done so consistently. *Thus: On Transparency International's Corruption Perception Index, Cambodia has consistently placed among the most corrupt countries of the world.*

⁵⁴ See e.g. Hean, S. & Henke, R. (2007), and Coventry (forthcoming PhD)

Table 2: Cambodia's rank in Transparency International's Corruption Perception Index

Average rank	2014-2005	2014	2014-2012	2011-2005
Countries				
Guinea	21	27	26	11
Kenya	31	27	30	21
Laos	28	27	25	25
Papua New Guinea	27	27	28	21
Central African Republic	26	25	28	20
Paraguay	29	25	26	24
Congo Republic	24	24	24	17
Tajikistan	22	24	23	19
Chad	11	22	14	8
Democratic Republic of the Congo	15	22	22	12
Cambodia	17	19	18	15
Myanmar	7	19	10	3
Zimbabwe	20	19	17	23
Burundi	14	17	14	17
Syria	30	17	18	29
Angola	16	12	21	13
Guinea-Bissau	18	12	18	15
Haiti	10	12	10	7
Venezuela	13	12	12	14
Yemen	23	12	14	26
Eritrea	25	8	18	28
Libya	19	8	9	27
Uzbekistan	9	8	8	9
Equatorial Guinea	12	8	13	11
Turkmenistan	8	7	7	10
Iraq	6	6	6	4
South Sudan	5	5	5	
Afghanistan	4	4	3	4
Sudan	3	3	4	6
Korea (North)	2	2	1	1
Somalia	1	1	1	2

Source: based on data available at <http://www.transparency.org/cpi2014>

However, it is important to keep in mind that Cambodia's general level of corruption is only one risk factor for the occurrence of fraud/corruption in Cambodian NGOs. A US-based consultancy firm⁵⁵ recently listed the risk factors as follows:

- The general level of corruption in the country
- The nature of the NGO's activities
- The structure of the NGO
- Patterns of communication within the NGO

Cambodia's general level of corruption and the nature of the NGO's activities⁵⁶ are what they are but their structure and lines and patterns of communication are under their own control and thus changeable.

1.3.4 Cambodian NGOs and fraud

To be able to provide a more systematic (beyond the anecdotal, and reliable), objective (no self-reporting), and valid (based on a thorough assessment) picture of the incidence of fraud, and the role of NGO governance and NGO financial systems in facilitating such mismanagement, the study collected some original data. For a detailed description of methodology, results and conclusions: see **Annex 7**.

⁵⁵ Taken from Helmer, E. (January 2014)

⁵⁶ Important because some sectors and activities (e.g. construction, anything requiring large purchases, think humanitarian aid) are much more corruption prone/offer much more corruption opportunities, than others

In total 15 grantmakers and capacity builders were requested to share the problems that they had come across in partner assessments, by completing a matrix with kinds of problems against categories of 'severity'. This allowed for a quantitative, aggregated (thus confidential) picture of how many of their partners had which kinds of problems.

The kinds of problems were described as follows⁵⁷:

- **Governance problems:** non-functioning board, autocratic ED, claiming to be an association while the reality was that of being an NGO
- **Operational system problems:** systems without checks and balances especially regarding financial management, disorganized so information was not being shared, difficult to locate etc. (assuming that the state/management of the organization's financial system is a good indicator of the general state of its 'systems').
- **Fraud/financial mismanagement.** Including the suspicion that this was taking place and the decision to investigate, even if only to clear the organization from that suspicion.

The sample of NGOs (n=103) included in the study may not be considered representative of the whole NGO sector, but nevertheless it was the third biggest sample of Cambodian NGOs ever included in a survey. Based on this sample we cannot conclude too much about NGOs who are (purely) in the business of providing educational or health services, e.g. what we can claim is that the conclusions are valid for that part of the NGO sector within which the grant-makers, who contributed information, apply their funding. We acquired a second set of data from an auditing company allowing for triangulation of some of the main conclusions, including the incidence of fraud. That data set was based on an even smaller sample (n=46). However, it was not particularly biased regarding the kinds of NGOs it included. That the fraud incidence in both data sets closely matched each other gives some confidence to the potential meaningfulness of its conclusions for the Cambodian NGO sector as a whole, while not referring to any particular NGO.

Now for the results:

About the **incidence of fraud and system/governance issues**:

- The data indicate an average fraud incidence of around 15-20%. That is to say: the average proportion of NGOs within the average grant-maker's partner portfolio that was affected by (detected or not yet detected) fraud, within any two-year period was 15-20%. That is **a fraud incidence of one in five to seven NGOs**.
- The data indicate that average incidence figures for both *serious* financial system weaknesses and *serious* governance issues of around 25%.

About the correlation between fraud and system/governance issues⁵⁸:

- NGOs plagued by fraud *more often than not have serious financial system weaknesses*: (67%-100%)
- The exceptions also tell us something: up to 33% cases of fraud occurred *despite* proper⁵⁹ systems being in place, a result that confirms the maxim that systems cannot guarantee the absence of fraud. Ill intentioned individuals will always be able to work their way around systems, at least for a while.
- However, the chances of an NGO becoming plagued by fraud increased *at least six fold* with the absence of proper financial systems. So **while it is certainly true that proper systems are no absolute guarantee, weak systems constitute a huge risk**.
- NGOs plagued by fraud more often than not have *serious governance weaknesses*: (86%-100%)

⁵⁷ Also **program issues** were probed but as the focus of this consultancy took a more narrow focus than initially envisioned, this kind of problem was excluded from the analysis.

⁵⁸ This analysis is based on the detailed data about 51 NGOs provided by two of the seven grantmakers.

⁵⁹ *Proper* as defined by the auditing firm, which includes a certain measure of board involvement in macro-level financial SOPs

- The chances of an NGO becoming plagued by fraud increased *at least four fold* with the absence of proper governance. Again, **proper governance is no guarantee but its absence constitutes a serious risk.**
- *The two factors co-occurred in 10 out of the twelve fraud cases (83%)* in the sub-sample. Nearly all those questioned (including informants who did not provide data on NGO partners) reported that **governance was the more fundamental problem.** This opinion was based on macro-level controls (systems of transparent and collective decision-making and a procedural culture of checks and balances within an organization) being considered the bigger issue with one or both of the following reasons being given:
 - That good governance minimized the incidence of fraud more than good financial systems. (Given the small size of our sub-sample and the high positive correlation of proper governance and proper systems, this study cannot comment on the correctness of this assessment).
 - That in case of fraud, the *absence* of proper and effective governance structures was often fatal for an NGO while their *presence* made for good chances of recovery and even the possibility of emerging strengthened after the experience. This result can tentatively be taken at face value.

What is obvious is the destructive nature of *the combination of weak governance and weak financial systems*, especially in the longer-term. When both are present fraud is a relatively low-risk activity. Any employee with an opportunity, has nothing much to stop him or her. Once compromised and without much, if any risk of detection, opportunities are plentiful to corrupt others e.g. to recruit nepotistically, etc. Such environments are ideal for those actively looking for fraud opportunities. In well-governed NGOs with strong systems, fraud is a high-risk activity and employees will have much more reason to be careful before pursuing self-interest. Unscrupulous types, i.e. those actively looking for any opportunity to make some money on the side, may have to leave the NGO and look elsewhere. One informant used the following analogy to sum up the situation:

*Not wearing a helmet doesn't mean you'll have an accident or are a bad driver,
but it does increase the risk of harm.*

What does a fraud incidence of one out in 5 to 7 NGOs mean?

Fraud is of all times and all places. An incidence of X doesn't mean much unless contextualized by a relevant comparison. E.g. country A's incidence is higher than country B's, or fraud incidence in/decreased after a particular change of policy. So what is the meaning of a fraud incidence of one out in 5 to 7 Cambodian NGOs? Other data gathered from the auditing company, in combination with information shared by a large law firm with many INGO clients, allows us to contextualize the fraud incidence uncovered in this data set⁶⁰. They allow for some tentative comparisons between LNGOs and INGOs operating in Cambodia, and between the NGO sector and the private sector in Cambodia:

- There *does not* seem to be a huge *difference* between LNGOs and INGOs with respect to either the incidence of fraud or the presence of serious weaknesses in financial systems.
- INGOs in Cambodia are troubled by fraud and governance problems *to the same extent* as the private sector in Cambodia
- The institutional *trust* in the NGO sector that Cambodians express in opinion polls thus does not seem aligned with the sector's *actual* integrity, which is not much better than that of the private sector.

⁶⁰ See Annex 7

2. Solutions

The first question to ask of any solutions is what would they actually solve?

2.1 What are effective solutions?⁶¹

Taking financial management and fraud prevention as the entry point to improved NGO governance cannot solve all problems currently caused by weak governance. But it can at least aim to produce a sector that can legitimately and evidence-based claim that it accountably and transparently handles the (mostly public) funds that it channels into support to and services for its 'beneficiaries'. To be able to assess what 'support and services' would be required to get from where we are now to where we want to be, we need to look at:

- What needs to be in place to be able to make such a claim? (section **2.1.2**)
- And what needs to happen to get there? (**2.1.3**)

It may seem overly academic to devote/waste space in the main text⁶² on assumptions underlying the solutions. However, given that some of these assumptions differ considerably from what is currently fashionable, unless they are explicitly described and made palatable by persuasive arguments *before* presenting the actual solutions, the solutions won't have a fighting chance against confirmation bias.

"Beliefs can lead people to ignore, suppress, or forget observations that would tend to undermine their beliefs. Confirmation bias...is the tendency to search for and use information that supports one's beliefs. If the bias is sufficiently strong, it is possible that the false hypothesis will never be discarded, no matter how much evidence exists that favors the alternative hypothesis."⁶³

Equally important is that implicit assumptions cannot be assessed for the harm they might cause (see section **2.3**).

Therefore the first section (**2.1.1**) is devoted to some crucial assumptions.

2.1.1 Some crucial assumptions underlying the solutions below

2.1.1.1 The place of NGOs in the aid chain

Although both optimistic and pessimistic views of NGOs see them as **an intermediate link in the aid chain between donors and beneficiaries**, these perspectives differ significantly: the optimistic view of NGOs sees them as *development agents in their own right representing grassroots constituencies* while the critical view of them sees them as just another layer of *aid managers and disbursers*⁶⁴. This study considers both of these ideological outlooks as part-truths, and the problem of fully agreeing with either one of them is that it tends to ignore the other⁶⁵. Civil society and NGOs as some of its inhabitants haven't received sufficient research attention, neither in terms of descriptive fieldwork, nor in terms of theoretical exploration⁶⁶. The main consequence here is that the overly simplified and strongly ideological mental models in current policy and practice used for NGOs prevent us from considering certain things.

⁶¹ The conceptual scheme structuring this report (introduced in the preface) separates the presentation of the solutions (why are these the best?) from the arguments that they can be expected to be effective. We have opted to conflate the two because the study doesn't weigh different possible solutions against each other.

⁶² The bulk of text about assumptions is relegated to **Annex 1**; policy research reports are not expected to elaborate the assumptions that frame them too much, if at all. The ToR's they are based on are normally designed by those commissioning the study and/or paying for it, and only rarely would they be interested in having their assumptions questioned. However that may be, this study was given the freedom to go anywhere it liked, and it thus could honour the principle that without an understanding of the assumptions underlying an analysis it is virtually impossible to really assess its merits.

⁶³ World Bank (2015), p.69

⁶⁴ Banks, N. & Hulme, D. (June 2012), p.16.

⁶⁵ This is not to claim that these polar opposites are the *only* perspectives on NGOs, nor does this schematic description do justice to the diversity of societal functions NGOs (can) play.

⁶⁶ See **Annex 12** for some elaboration of that point

All solutions suggested below rely on **upward accountability** as a **lever for change**. Despite all conceptual expositions of accountability innocuously listing its upward aspect as one of a triad⁶⁷, it is rare to find descriptions of the NGO sector not lamenting the *problem* of upward accountability and the dependency on donor agendas, etc.

It is assumed that most readers of this report, will not be comfortable with the view of NGOs as subcontractors of donor agenda's, and thus tend to primarily frame upward accountability as a problem. That frame is not conducive to considering an argument for the *positive potential* of upward accountability with an open mind⁶⁸. Thus there is a need to confront this frame head on.

(1) Taking accountability seriously cannot mean anything other than also taking upward accountability seriously. It is certainly true that downward and horizontal accountability are both equally notorious for being problematic, but they are so in their absence. The perceived problems regarding upward accountability all have to do with this aspect of the checks and balances mechanisms going way beyond its mandate and usurping unwarrantedly all attention, resulting in many kinds of perverse incentives (more about those below). **That upward accountability causes problems isn't in itself reason to shy away from it**⁶⁹.

(2) The most prominent problems with upward accountability - which are undeniably problems! - **are about NGOs becoming programmatic donor sub-contractors**. That is something qualitatively different from financial accountability. Despite the problems with upward accountability thus being quite specific, the whole package seems to have acquired a bad taste. This is *not* to claim that donor financial accountability requirements and practices don't have problematic aspects, they do, and these are going to be explicitly discussed in the sections below (and the claim of this study is that these are solvable).

(3) The power of donors is their purse. That NGOs have donor-centric attitudes is driven by their need for funding. So, while the most prominent problems are not about financial accountability per se, programmatic donor-centrism *without* financial dependency is difficult to envision. Hence, there is a tendency to think about the two as a package. Although one may assume programmatic donor-centrism to be a co-creation of donors and NGOs, donor control over the money implies their agenda rules. **However, allowing for weak financial accountability is not going to improve the situation regarding this problem.**

(4) Criticism of upward accountability often includes the argument that it doesn't go together well with NGO-donor partnership. Partnership assumes trust, accountability is presented as being founded on distrust. Although it is certainly true that there are many ways in which upward financial accountability requirements can harm trust and partnership (onerous, even harmful reporting procedures, micro-management, lack of funds for legitimate costs, grants being too short-term, etc., etc.) it is equally true that trust is grounded in accountability. So while it is legitimate to discuss the harm done by *particular* procedural and other requirements of a particular donor, **it doesn't make sense to equate upward accountability with creating distrust in principle**. Trust is *always* 'covered' by either formal or informal institutional guarantees that ensure its misuse can be sanctioned. Guarantees are never fool-proof, have dark sides or perverse effects, and need ongoing adjustment to changing realities over time. But **partnership without proper accountability doesn't work**. **Annex 13** provides some background to the inescapable need for institutionalized guarantees that financial mismanagement has a fair chance of being detected and can and will be sanctioned. **Annex 8**, describes the requirements of proper corruption risk management for NGOs and their donors and elaborates how to ensure fairness and proportionality in one's response to fraud. It is equally clear that *[t]he most important consideration of all is that founded suspicions of corruption are adequately investigated and, if sufficient evidence exists, sanctioned*.

⁶⁷ *Downward* to beneficiaries/constituencies and employees, *upward* to donors and government, and *horizontal* to peers and other collaborators. See also **Annex 2**

⁶⁸ See Annex 1 for some background on the psychological 'mechanics' of frames.

⁶⁹ To be more precise, it can be a good reason to shy away from it, but that assumes that (a) one's analysis concludes that the problems are necessarily caused by upward accountability, and (2) one would then need an alternative for what upward accountability was supposed to accomplish, i.e. another theory of accountability. I haven't seen anything like that yet.

(5) Upward accountability 'works'. Obviously, the second analytic observation regarding the power of money is relevant here. But there are other, empirical indicators. For example, Cambodian NGO staff are often the first to indicate that if anything will make for change it is donor pressure, often to the embarrassment of the consultants involved⁷⁰. But a far more powerful indicator is the history of NGOs in general. **Annex 10** summarizes a paper that gives a succinct and informed overview of the history, promises, and problems of development NGOs. This history is remarkable for two closely interrelated reasons, which are at the heart of the next section (**2.1.1.2**). But one is also relevant for the question of upward accountability having impact (positive and negative). Annex 10 shows that:

- NGO origins and histories differ significantly across regions and countries
- Regardless of their origins, the shape of NGOs has changed over time *everywhere*
- Change was in the same direction everywhere; less directed by local contexts, needs and realities; and more donor-centric, a change that was clearly an expression of donor agendas

Whatever one thinks of this, the one conclusion that seems undeniable is that the most powerful lever in the complex system of aid is the money and the accountability relationship associated with it. That it often works in nefarious ways doesn't disqualify its potential for positive change.

2.1.1.2 Thinking institutional incentives

The research stance of this study (described in **Annex 1**) to the extent possible, is to use *universal analytical tools*. This doesn't mean Cambodia-specific historical, cultural and other factors are discounted, but it does assume that our best bet for identifying drivers of change is in universals. It is in the specifics of their application that history, culture, etc. become (very) relevant. This is a stance that some may fundamentally disagree with, and thus needs some explicit supportive argumentation.

(1) There are good reasons to take **the specific character of Cambodia's state**, typologically most often described as neo-patrimonial, into account when trying to make sense of its NGO sector. The arguments for this are laid out in **Annex 2**, and the background literature this annex references makes it clear that Cambodia is in at least some aspects, and for various reasons, quite an extreme example of this type⁷¹. **Cambodia's NGO sector also has a very specific history** with its genesis being a relatively recent graft onto a traditional very 'loose' civil society landscape⁷² and for being near totally foreign-donor driven and directed⁷³.

(2) These specifics, differ enormously from the genesis of NGOs (and their relationship to social and political movements), in other regions and countries⁷⁴. The box below describes NGOs in many Latin American countries, and the difference with Cambodia is stark.

The emergence of the NGO sector in Latin America⁷⁵

Many NGOs, particularly in Latin America, were created around the explicit intention of addressing structural issues of power and inequality and expanding civil society against hegemonic or weak and unrepresentative states, (p.7)...In their early days, [w]ith their strong connection to the grassroots and their quest to find innovative and people-centred development alternatives, NGOs emerged as organically-linked actors to social movements pursuing transformative agendas...Many came to life as highly political organisations primarily aiming to mobilise communities and/or disadvantaged groups and promote their development through advocacy and empowerment,...and focusing on a true transformative agenda, with physical changes and improvements seen as second-order goals below their overarching vision of social change. (p.21-22)

⁷⁰ See **Annex 3**, last section

⁷¹ Another source for more background on these specifics is Henke, R. (2011)

⁷² "Cambodia [is] a 'loosely' organised society, lacking traditional models for intermediary organisations with enduring governance structures and allegiances beyond the immediate living environment. As this characterisation goes, the three decades of civil war, with its accompanying destruction of social life, massive population displacement, and trauma-related breakdown of social trust, has only intensified this 'looseness' Henke, R. (2011), p.

⁷³ **Annex 11** gives a short description of its history

⁷⁴ As described in **Annex 10**

⁷⁵ Banks, N. & Hulme, D. (June 2012)

(3) Despite the sector in Latin-America starting off where some would hope at least some NGOs in Cambodia would eventually reach, **NGOs there also didn't escape the general trend of becoming less directed towards social change and more donor-centric service delivery oriented** (as described above in 2.1.1.1). The uniformity of this trend is all the more evident when one goes into the specifics of the descriptions of NGO problems worldwide. As **Annex 10** shows, even at a detailed level, these descriptions could have been lifted directly from any Cambodia NGO sector assessment⁷⁶.

(4) Such uniformity across socio-cultural and historical diversity can only be understood when one applies universal analytical tools. This study proposes to use the **framework of thinking in terms of incentives**, a framework applicable to individuals as well as organizations, and one that assigns a huge role to the institutional setting within which individuals/organizations interact. There are various specific theoretical elaborations under this label, especially in psychology (as a theory of motivation), organizational sociology, and economics (e.g. principal-agent theory). There is even one that has been applied, all be it sparingly, to development problems: Institutional Analysis and Development Framework (IAD), developed by the first female recipient of the 'Nobel prize' in Economics, American political scientist Elinor Ostrom⁷⁷. This study is going to use incentives 'theory' not in any specific academic formulation but as a *heuristic* to explore what alternative new institutional NGO-donor arrangements can be expected to generate by way of positive or perverse incentives for proper financial management.

(5) Like much of basic social science⁷⁸, **thinking in terms of incentives is very close to common sense** and understood by everyone: people are motivated to act in ways that offer rewards and avoid behaviors associated with sanctions. The same is true for organized collectives of people that have particular organizational goals. What counts as reward and sanction can vary, but universally recognized rewards would be money/material rewards, and social esteem, while sanctions like fines, jail/social exclusion, and loss of reputation are also universal. Incentives often have a strong socio-cultural component. Such thinking underlies common sense heuristics that make sense of social life like "*follow the money*".

(6) The label 'common sense' has two major connotations: *understandable by all* (the above use) and *sound and prudent judgment based on a simple perception of the situation or facts*⁷⁹. This study also uses thinking in terms of incentives in this sense. If institutional arrangements are clearly, i.e. even upon superficial inspection of easily accessible facts, set up so as to generate perverse incentives, identifying what needs change is indeed 'common sense'. Eliminating them may not be enough and fail to (fully) turn around the situation, but it is obvious that **leaving perverse incentives in place will invite intractable problems**.

(7) **This, however, doesn't imply that eliminating perverse incentives is 'easy'**. Changing incentive structures can be painful and induce resistance. It may require serious rethinking and letting go of cherished conceptions. Rethinking what is conventionally defined as one of the major problems of NGOs, their donor-centric prioritization of upward accountability, into a lever for change, may run into exactly this barrier..

The following sections will try to show what existing perverse incentives each upward accountability solution addresses. It is hoped that by making the rationale for going down this road as explicit as possible the solutions will be examined with an open mind⁸⁰.

⁷⁶ As can easily be checked by comparing the problem descriptions of **Annex 3** and **Annex 10**

⁷⁷ For an application, see Ostrom et al. (2001)

⁷⁸ But by far not all; this is e.g. *not* true for the psychology of human decision-making, that often produces strikingly unexpected findings; e.g. most are prepared to accept the reality of *some* tendency to trust what confirms one's beliefs more than what challenges it, but not the *extreme* extent to which it actually determines our dealing with new information. The same is true for our tendency to be influenced by others. And even more so for aspects of cognitive functioning like memories (e.g. the reliability of eye-witness accounts). Thus the attention devoted to mental frames in **Annexes 1** and **3**.

⁷⁹ <http://www.merriam-webster.com/dictionary/common%20sense>

⁸⁰ May I suggest the following thought exercise: suppose this report was about the problems in the institutional design of a particular part of the financial system, e.g. the part inhabited by credit rating agencies, investment banks, and institutional investors. Much of what any interested newspaper reader by now knows about the flaws in the design of that sub-system, is about flaws that are responsible for obvious perverse

2.1.2 What needs to be in place

At the level of individual NGOs the following is required:

- The NGO must have a proper financial management system (which in most circumstances would include checks and balances involving its governing board).
- The capacity to operate such a system needs to be in place.
- The existence and actual functioning of such a system must be a precondition for receiving (larger) funds, and, if pre-grant award due diligence finds it not yet in place, but the assessment shows evidence of serious efforts to put it in place, fund management needs closer outside scrutiny than otherwise.
- The existence and actual functioning of such a system, when in place, needs periodic outside assessment, to increase the chances that wrongdoing will be quickly detected.
- When things do go seriously wrong, despite having a proper system in place (fraud or other serious integrity infringements), the response by the NGO and its donors must (be able to) decisively deal with it.
- The consequences for wrongdoers in case of detection must constitute (real) deterrents.

Most of the above involves both the NGO and their donors. This implies that one needs to look beyond support and services to NGOs and include donor action in one's search for solutions. It also implies that there can be wrongdoing both at the NGO end of the upward accountability system *and* at the donor end.

However, this cannot be all. The previous section on the assessment of the problem has argued that fraudulent NGOs are really a problem for the whole sector. Thus there is a need for the *sector as a whole* to be able to claim it operates transparently and accountably.

For the sector as a whole to be able to do that this would require:

- That the proportion of mismanaged NGOs substantially decreases
- That donors who do not fulfill their end of the accountability bargain also decreases substantially.
- Some sort of credible evidence-base for assessing good organizational practice

2.1.3 What needs to happen to get there

Taking the above as our starting point the following table translates the desired state of affairs into what is required to achieve it.

incentives which have steered the system to the brink of collapse. I expect most will be familiar with this example of incentives thinking, and most will have no qualms faulting the resistance of system insiders to proposed changes based on this kind of thinking. If we so willingly apply this framework to the financial system, why are we hesitant to apply it to our own aid system?

Desired state of affairs	What is required	How to get there
The NGO must have a proper financial management system	Required technical knowledge is available	<ul style="list-style-type: none"> Free knowledge available online (Mango) Training & support available in Cambodia Moving from minimum to adequate standards required
The capacity to operate such a system needs to be in place	Required staff capacity is in place	Training and support available in Cambodia
The existence and actual functioning of such a system must be a precondition for receiving (larger) funds	Donor does due diligence before awarding grant	<ul style="list-style-type: none"> Due diligence standards of many donors need improvement Due diligence needs to have access to as much relevant information as possible Due diligence standards of an NGO's different donors should be aligned
The existence and actual functioning of such a system, when in place, needs periodic outside assessment, to increase chances for quick detection wrongdoing	<ul style="list-style-type: none"> Financial reporting must meet standards Periodic monitoring by donor(s) External audits must be SOP for any NGO with a budget larger than X 	<ul style="list-style-type: none"> Financial reporting format and standards' requirements of many donors need improvement Financial reporting format and standards' requirements of the NGO's donors need alignment Periodic monitoring by donors needs improvement Periodic monitoring of the NGO's donors needs alignment External audit standards need improvement
When things do go seriously wrong, despite having a proper system in place (fraud or other serious integrity infringements), the response by the NGO and its donors must (be able to) decisively deal with it	<ul style="list-style-type: none"> Immediate action is taken by management: informing board & donors Investigation takes financial, legal, organizational and beneficiary consequences into account from the start Investigation has access to all relevant material Required funds for investigation are available External auditing expertise with relevant experience is available and affordable 	<p>Solutions need to be found for the problems that seem to occur regularly when fraud is suspected and investigation required:</p> <ul style="list-style-type: none"> Often no functioning board to take action Donors regularly informed too late Legal perspective often called in too late Consequences for beneficiaries not properly taken into account Relevant material often inaccessible No funds available for a proper investigation
The consequences for wrongdoers in case of detection must be a (real) deterrent	<ul style="list-style-type: none"> The NGO's government registration is up to date, and its statutes and relevant policies enable it to deal with such situations Legal recourse is a measure of last resort but both statutes and policies as well as the actions taken during the investigation ensure it is a possibility 	<ul style="list-style-type: none"> Many NGOs as well as donors only pay attention to the importance of government registration, statutes and policies, when it is too late. When legal expertise is called in too late going to court is not an option anymore Legal status of NGOs (no NGO law) creates problems
The proportion of mismanaged NGOs substantially decreases	Fraudulent NGOs are considered a problem for the whole sector	<ul style="list-style-type: none"> Moving from minimum to adequate standards is required The sector needs to be able to assess (the decreasing) proportion of mismanaged NGOs
The proportion of donors who do not fulfill their end of the accountability bargain properly has to decrease substantially	Donor behavior that facilitates fraud is considered unacceptable by the whole sector	Donor certification is not a realistic aim but donors subscribing to a code of principles and practices seems unavoidable
Effort to ensure some sort of credible evidence-base for assessing good organizational practice	NGOs and their donors periodically update a database allowing for a sector-wide assessment of NGO (and donor) good organizational practice	No such database exists

Looking at the last column of *How to get there* it is remarkable how little new training and capacity building seems to be needed *in addition* to what is already available in Cambodia, in fact none. That is not to say that existing training and capacity building offerings could not be improved. Nothing is perfect and any good service provider will take a learning organization approach to what they are doing and continuously change what they offer and how they offer it, etc. to ensure their services

deliver optimally. But, as stated earlier (see **1.1.3**) these service providers don't need this study to do that.

However, there does seem to be a need for some new support services: a need for improved donor due diligence, monitoring and alignment; a need for periodic evidence-based assessment of good (financial) organizational practice in the NGO sector; a need for going from being satisfied with minimum standards for NGO certification to much more aspirational standards (even if only for financial management⁸¹); and a need to find a way to hold donors accountable for their behavior.

The following actions would constitute a good start to cover most that is mentioned in the *How to get there* column. They are presented here as concepts rather than fully-fledged actionable suggestions. **This section** tries to make a convincing argument that if one or more, or preferably all three of the ideas below (**2.1.2.1**, **2** and **3**) become reality, *in whatever organizational form*, this might have a substantial impact. **Section 2.2** describes and reflects on one or more organizational options for each of the three. Low-cost actionable starting suggestions are described in **Section 3.**, each of which would be a concrete step towards delivering relevant outcomes that could function as test cases and/or a building blocks for the solution it contributes to.

Annex 8 extracts the most relevant sections of a 2011 briefing paper on *Developing an NGO corruption risk management system* that discusses a comprehensive approach, and thus provides a useful context for positioning the very specific suggestions below, as well as making some crucial observations regarding prevention, detection and responses to fraud that any initiative should keep in mind.

2.1.3.1 Due Diligence Action Lab⁸²

To turn upward accountability into a lever for change it is necessary to start with those providing the grants and the way they hold the recipients to account. The above overview argues that much is amiss⁸³ with this:

- Due diligence standards of many donors need improvement
- Due diligence needs to have access to as much relevant information as possible
- Due diligence standards of an NGO's different donors should be aligned
- Financial reporting format and standards' requirements of many donors need improvement
- Financial reporting format and standards' requirements of the NGO's donors need alignment
- Periodic monitoring by donors needs improvement
- Periodic monitoring of the NGO's donors needs alignment
- External audit standards need improvement

It is obvious that these issues can only be addressed by a *collective* of donors, in a shared process of assessment, agenda-setting and action. The *arbitrary* label Due Diligence Action Lab covers the *concept* of that shared process. Section **2.2.2** discusses *institutional possibilities* for the concept, and **3.1** a *pilot action* that would work well to start such a Lab.

Improving diligence standards requires collective action to figure out what standards and what ways of monitoring compliance are effective. It needs to start with a group of NGO grantmakers that is large enough to constitute some *critical mass*.

However, there is some very important **basics that need no figuring out**, because the available documented experience is more than enough to show that ignoring them facilitates fraud. Any group of grantmakers participating in a Due Diligence Action Lab should subscribe to them in the agreement

⁸¹ As mentioned earlier, this does imply the existence of an effective board.

⁸² This suggestion, or more precise the suggestion for due diligence donor start-up case study action-research as preparation for it (see **3.1**) came from one particular informant, an INGO director, with a personal background in chartered accountancy.

⁸³ Given the suggestion to organize an in-depth case-study based initiative on fraud (see **3.1**) the original idea to 'spice up' this report with some case-study vignettes was dropped. Instead **Annex 9** provides a short overview of forms of NGO fraud and common occurrences in cases of NGO fraud mentioned in interviews and literature.

underlying their collaboration. Some of these basics need elaboration to become practically implementable. That elaboration makes for a good start-up activity (see **3.1**):

(1) For due diligence to be possible, one needs **access to all relevant information**. Due diligence is *traditionally understood* to be an exercise preceding decision-making regarding acquisition of, collaboration with, or funding of another organization (see box below).

Due diligence in general⁸⁴

Due diligence is an investigation of a business or person prior to signing a contract, or an act with a certain standard of care. It can be a legal obligation, but the term will more commonly apply to voluntary investigations. A common example of due diligence in various industries is the process through which a potential acquirer evaluates a target company or its assets for an acquisition.[1] The theory behind due diligence holds that performing this type of investigation contributes significantly to informed decision making by enhancing the amount and quality of information available to decision makers and by ensuring that this information is systematically used to deliberate in a reflexive manner on the decision at hand and all its costs, benefits, and risks.

Due diligence in NGO funding⁸⁵

With origins in the private sector world of business and finance, the term "due diligence" in philanthropy refers to the process through which an investor (or funder) researches an organization's financial and organizational health and capacity to guide an investment (or grantmaking) decision. The decision to fund or not to fund is based upon a balance of objective data analysis, insight into the general state of organizational health and stability, and intuition. A sound and thorough due diligence review is the process through which all the factors that make up that equation are uncovered and understood. It is the process in which a program officer seeks the "truth" about an organization.

In this study we apply a *broader understanding*: due diligence as an ongoing concern that includes continuous monitoring and periodic formal checks on the *financial and organizational health* of the partner. The principle of due diligence as executed with a standard of care that gives confidence in the state of the organizations financial and organizational health, thus goes beyond financial audits:

Role of Audit of financial statements⁸⁶

Since its introduction, the need for certain companies' financial statements to be audited by an independent external auditor has been a cornerstone of confidence in the world's financial systems. The benefit of an audit is that it provides assurance that management has presented a 'true and fair' view of a company's financial performance and position. An audit underpins the trust and obligation of stewardship between those who manage a company and those who own it or otherwise have a need for a 'true and fair' view, the stakeholders.

It is as much about the quality of the systems producing the statements as about a particular statement. External audits are thus subsumed within the broader concept of due diligence.

Although the focus of this study is on those executing the due diligence, it is important to point out that those subjected to it normally tend to see control, unequal relationship and other negatives, rather than perceive the positive spin-offs of having transparent and tough externally validated checks applied to their operations. That is unfortunate because nothing gives as strong a message to the outside world about one's confidence in one's operations as (willingness to be subjected to) independent assessments. But it is difficult to convince NGOs of this as long as those requiring the audits do not agree on reasonable standards and timings. Thus, despite their underlying good intentions grantmakers often create a lot of unnecessary work for NGOs. A very first step for grantmakers participating in the Action Lab would thus be to commit to aligning their standards and timings at least with the others in the Lab, and commit to lobby for alignment in any donor-group (donor collective funding one particular NGO) they are part of.

(2) Partner financial management systems that do not produce proper audit trails are unacceptable. Proper audit trails are a core element of relevant information required for due diligence. Without an audit trail real accountability regarding finances is impossible. The box below

⁸⁴ http://en.wikipedia.org/wiki/Due_diligence

⁸⁵ Culick, L., Godard, K. & Terk N. (2004), p.6

⁸⁶ PWC (January 2013), p.2

explains this core auditing concept. The implication of this is that when a partner runs a system that is unable to reliably and consistently produce an audit trail, there should be a commitment to support that partner in adopting a system that does. Allowing inadequate systems to continue facilitates fraud and so both NGO and grantmaker should prioritize adopting a proper system.

General definition⁸⁷ of an audit trail

An audit trail (also called audit log) is a security-relevant chronological record, set of records, and/or destination and source of records that provides documentary evidence of the sequence of activities that have affected at any time a specific transaction, operation, procedure, or event. Audit records typically result from activities such as financial transactions, scientific research and health care data transactions, or communications by individual people, systems, accounts, or other entities.

The process that creates an audit trail is typically only accessible to a system administrator with the required privileges; a normal user should not be allowed to stop/change it.

The simplest audit trail is the transaction itself. If a person's salary is increased, the change transaction includes the date, amount of raise and name of authorizing manager. A more elaborate audit trail can be created when the system is being verified for accuracy; for example, samples of processing results can be recorded at various stages. An audit trail can include any activity whatsoever, but transactions that do not effect a change are often not recorded.

Definition⁸⁸ specifically for a financial accounting audit trail

Paper or 'electronic' trail that gives a step by step documented history of a transaction. It enables an examiner to trace the financial data from general ledger to the source document (invoice, receipt, voucher, etc.). The presence of a reliable and easy to follow audit trail is an indicator of good internal controls instituted by a firm, and forms the basis of objectivity.

One implication of this is that due diligence includes serious attention to financial systems. This has not only implications for the due diligence in its traditional meaning of partner assessment before awarding any grant, but also for monitoring, and for the Terms of Reference for external audits. These implications can be figured out in the pilot-actions (see **3.1**)

(3) The biggest fraud risk of NGOs receiving funding from various donors is double-billing. The obvious way of preventing this is a **global audit**. A theoretical alternative is that all grantmakers to one NGO agree on the time period covered by the audit of 'their' project and compare the results. But that seems an unnecessarily cumbersome and practically unfeasible way to achieve what a properly conducted global audit would deliver. Participating in the Action Lab would therefore have to imply that a grantmaker commits to require (also) a global audit of its partners.

It is probably no exaggeration to argue that without these elements not much is going to change in practice. Clarity of process and some measure of pre-existing agreement about it is going to be hugely helpful during the stressful time of dealing with an actual difficult fraud case (the larger the amount, the more prominent the NGO, the bigger the difficulties). However, agreement on these basics cannot deliver more than a solid basis for practical collective action, it cannot replace such action. It requires further specific practical collective action to make for actual change.

Beyond agreement on these basics the actual collaborative work in the Lab should therefore include⁸⁹ at least the following:

(1) By way of start-up: **case study action-research** (see **3.1**). This would deliver:

- A practical solution to what makes for a feasible and effective ToR for global audits and how to finance it, given the need of (some) grantmakers for project audits
- Improved standards for preventative and financial monitoring SOPs of grantmakers.

⁸⁷ Combining information from http://en.wikipedia.org/wiki/Audit_trail, and <http://www.pcmag.com/encyclopedia/term/38185/audit-trail>

⁸⁸ <http://www.businessdictionary.com/definition/audit-trail.html>

⁸⁹ This is not exhaustive. Any functioning committed collaborative group can be expected to make use of its structures of communication, sharing of resources and build-up trust to develop other ways to benefit its members.

(2) Once sufficient agreement on these standards has emerged then a **SOP for due diligence** can be agreed with NGO partners when signing the grant contract. That would include a SOP⁹⁰ for dealing with suspicions of fraud, so it would be clear in advance to all involved what was going to happen, under which circumstances, and have in-build safeguards, etc.

(3) Figuring out a way to **collectively fund fraud investigations**. Proper investigation and sanction often requires finances that have not been budgeted for, are often disproportionate to the investment of any single donor, and in some cases, even disproportionate to the total budget of the fraudulent NGO. Of course, in some cases the donors involved will manage to quickly negotiate enough contributions to create a sufficient budget, but in some cases they won't and in cases where the budget is large compared to the amount under investigation they will most probably not even try. Addressing this problem by having a collective fund has several advantages:

- It would have a pre-existing agreement about the commitment of funds and about the criteria for action.
- No time would be lost on negotiations; and no strained relationships between donors because of inability/unwillingness to play their part.
- There would be the ability to properly investigate and sanction most⁹¹ cases of fraud, including many that would be left unaddressed otherwise, which would constitute a public good for the sector.
- There would be increased public certainty that fraud cases will be thoroughly investigated and sanctioned, which would be both a deterrent (negative incentive) for perpetrators, and hard evidence the sector could use to show that it takes governance seriously.

Further positive implications of taking *collective* responsibility for proper investigation and sanction of fraud cases would be:

- That it puts pressure on all Action Lab participants to be serious about due diligence (one's peers suffer directly when fraud was enabled by lack of due diligence).
- That it puts pressure on the monitoring of and support to NGOs with weak systems (for the same reason).

2.1.3.2 NGO Back-up Repository

Although this 'solution' comes up in the context of improving NGO financial management, its underlying rationale goes way beyond that. The issue it tries to address is:

What happens if the office burns down?

What papers/digital files are needed as a back up to ensure that an NGO can survive the loss of its administration? Data-dependent organizations in developed countries, if well managed, will have off-premises back up of their digital archive, their financial administration, and their crucial documents, etc. Some, that are operationally dependent on digital systems will have a continuously updated 'shadow' somewhere else ensuring that they can be back to normal within hours of a calamity.

As far as I am aware, in the Cambodian NGO world there is nothing of this kind. Maybe some crucial documents will be stored in the personal home of the ED or the chair of the board, beyond that, often there is nothing⁹². This implies that, if the office burns down, the financial administration, legally important papers and many policy and other operational documents will be gone forever. That is bound to create huge operational problems, and huge accountability problems.

⁹⁰ Obviously, a SOP can never capture the diversity of scenarios in reality, so this term is to be taken lightly. The point is to be as transparent as possible toward NGO partners about what follow up suspicions about and proof of fraud will receive.

⁹¹ Obviously there is a trade-off somewhere, and it would be up to the Action Lab participants to come to agreement about courses of action given particular conditions. The big advantage: these issues would become the topic of explicit reflection and discussion.

⁹² The only exception, but it is only so for very specific papers is that the large Human Rights organizations store part of their most confidential files (i.e. files that would endanger Human Rights activists and others under threat of retaliation when getting into the wrong hands) safely off-premises.

Within the context of improving NGO financial management in cases when fraud has been detected, the lack of back-up often plays havoc with investigative processes. Those with control over the financial administration are also often the suspected perpetrators. Regarding those cases, there is substantial anecdotal experience of files, or even whole parts of the financial administration and other crucial NGO papers, e.g. those required for (preparation of) legal action, disappearing⁹³. Therefore, for anyone, be it NGO management, its board, or a donor, interested to investigate fraud and thus requiring access to everything that matters, the option of having a shadow somewhere else, would delete a substantial risk⁹⁴.

Fraud happens quite a lot more often than offices burning down So the need for a repository seems all the more necessary⁹⁵. A shadow to cover for calamities like the office burning down can conceivably be covered by a shadow off-premises, controlled by those who also control the on-premises original. A shadow covering the situation of mismanagement and/or fraud should by definition be under some kind of rule-bound independent control.

Such a storage service, where it exists (i.e. in developed contexts) is a paid-for service, and there is no reason to organize it differently for NGO administrations. However, it is difficult to envision any potential service provider investing in the creation of such a facility without some measure of commitment of a sufficiently large number of future users.

Given the required further exploration of conditions under which the creation of such a facility would be feasible (see **2.2.3**), this version of a repository of NGO information can be expected to require more preparatory work (see **3.3**).

However, a much 'lighter' but affiliated concept of a repository of NGO information could be created directly through the institutionalization of a more elaborate and much improved version of the grantmaker-partner survey piloted in this study. The resulting database in itself would allow for nothing of the above (i.e. safeguard access to critical information in cases of fraud), but it would allow for all kinds of preventative checks, and it would create a partial Community of Practice (CoP) that could be expected to become interested to pursue the repository idea proper.

The survey database would also allow for efforts to store NGO documents about which one should/can expect consensus on storage in a repository to be more easily established e.g. external audit reports and evaluations.

The advantages of having access to audit reports are described in **2.1.4.1** below.
The potential of adding evaluations is described in **2.1.4.6**.

2.1.3.3 Support Services for 'Dealing with a fraud case'

When an NGO's management and/or governance board is confronted with suspicions/indications/accusations of financial mismanagement/fraud, or if one of the NGO's donors is informed of such, hardly ever do they have Standard Operational Procedures to fall back upon. Some may have complaints mechanisms/whistle-blower policies (see also below), but these do not provide much, if any, practical guidance of what exactly to do once the suspicion/indication/accusation reaches them. Given the relative infrequency of such a crisis occurring⁹⁶ and general unwillingness within the NGO sector and amongst donors to share experiences of dealing with fraud (beyond the informal and anecdotal), most would not really know what practical responses to prioritize, or even where to go to find out. Several informants have commented on this, lamenting in hindsight on their personal experience in terms of *had we known A, B or C, we could have prevented X, Y, or Z from happening, and could have dealt with the crisis in much more satisfactory, effective ways.*

⁹³ There have been cases in which a fraudulent ED torched the offices of 'his' NGO to destroy any evidence of his actions (informant interview)

⁹⁴ Some INGOs that enter into grant agreements with LNGOs include the submission of a shadow its partners' financial administration as a contractual condition.

⁹⁵ See **1.3.4**: 15-20% of LNGOs have to deal with financial mismanagement/fraud issues, while those losing their office and all of their administration to a natural calamity can probably be counted in the x/1000.

⁹⁶ There is a structural similarity here with organizational readiness for natural calamities; even if there are paper SOPs, unless the organization actively ensures that employees are aware of them, and regularly go through mock routines, when the calamity strikes no one will be prepared.

Some grantmakers, who have dealt with fraud regularly, may have in-house investigative capacity and/or pre-existing relationships with a trusted and competent external auditor and a lawyer with NGO sector experience, and thus know whom to get around the table to design a practical strategy of next steps. But many will not. NGOs almost always lack such relationships (their current external auditor, if they have one at all, may even be part of the problem). That suspicions need investigation is obvious, but the current reality is that **most organizations have to reinvent the wheel** when confronted with them. And a crisis situation is the worst circumstance to reinvent anything, especially because urgent action regarding very specific issues may be crucial for the ability to properly deal with the mismanagement/fraud.

It requires experience/expertise with fraud to decide what needs immediate attention.

Because there is so little public exchange of common fraud scenarios, it is very helpful to have immediate advice from experts who are knowledgeable about what kind of evidence would count as proof (from an accountancy perspective and from a legal perspective, which can be quite different), and what immediate safeguarding measures would thus be prudent to take to ensure the required evidence doesn't disappear⁹⁷ so that the ultimate sanction of going to court remains a viable option.

Especially having legal expertise available is important and having it available early on is not enough appreciated:

(1) Going to court, like in most other countries, would be a step of last resort. *However, when this last step doesn't exist, the ability to sanction mismanagement and fraudulent behaviour is crucially weakened.* Thus there is a need to be prepared to go to court if that is the only way. One, generally not well known reason to ensure that going to court is a realistic possibility is that without a court verdict against a fraud perpetrator it is legally very risky to blacklist him/her: one becomes vulnerable to the accusation of defamation. But serious perpetrators would need blacklisting because it is not unheard of that after running one NGO into the ground (and often taking off with its major assets) they open up another one and do the same thing.

(2) But beyond this, *ensuring that going to court remains a realistic possibility normally requires swift particular actions*, and it requires certain bureaucratic preparations to be in order. This often means that legal expertise is called in too late. The investigation itself also calls for expertise that is normally not easily available:

- Many organizations would prefer an external auditor to do the investigation⁹⁸. However, given the suspicions, what exactly should be asked of the external auditor (or one's internal team)? Determining a forensic strategy requires expertise that in a formal technical sense is not even available in Cambodia⁹⁹. The expertise to specify the terms of reference of an investigative audit in a way that remains financially feasible¹⁰⁰ is available, but not widespread, and thus is not quickly and confidently identifiable in times of need.
- However much an organization may subscribe to the principle that fraud cases should be pursued and perpetrators brought to justice¹⁰¹, every individual organization has practical financial and other limitations¹⁰². Where does one go for advice on potential scenarios of pursuing the investigation and the issue of sanctions, differentiated in terms of cost and time involved, and nature of sanction possibilities, etc.?

⁹⁷ Obviously having it shadowed in a repository would provide exactly those safeguards (see **2.1.3.2**)

⁹⁸ One *important technical reason* (although this is normally not the motivation of those with this preference) is that *in case one decides to go to court, only an external audit would count as evidence*. Only having an audit by an internal team means that going to court would require other allowable evidence, like a written confession by the perpetrator.

⁹⁹ Currently no (Cambodia office of any) audit company has accredited forensic audit expertise on staff. Large audit companies can fly in a colleague from the Bangkok or other regional peer. But the costs are prohibitively high.

¹⁰⁰ Obviously, no general procedure can guarantee financial feasibility, some fraud cases would always require very elaborate evidence gathering and thus be very expensive. But an auditor with lots of NGO and NGO fraud experience will often be able to determine quite specifically what needs checking to uncover if a particular version of fraud has been committed, and thus limit the investigative time required, and reduce the costs.

¹⁰¹ Which isn't the same as going to court!

¹⁰² One obvious way around such limitations is developing *collective response mechanisms*

The problem doesn't seem to be that the various elements of expertise are unavailable but that they are:

- Difficult to identify when decision-making requires them.
- Not available in an **integrated package** while deciding upon a course of action that needs to take both into account.

The above already indicates that there is also a **preventative side** to consider, which has a financial management and a legal compliance and preparedness aspect to it. How to ensure sound financial systems is a core theme of this study, and there is certainly a general awareness of its importance. There seems to be much less awareness of the importance of having the legal requirements of one's organization in order, probably because, unlike a weak financial management system, its importance only becomes evident in the case of a crisis.

Whatever organizational form the provision of an integrated service takes (see **2.2.4**), it seems natural to also provide preventative services.

The funding of such services, preventative as well as advisory and investigative in case of fraud (suspicions/indications) runs into and overlaps with the issues described in **2.1.3.1**. So the arguments to look for pre-agreed collective solutions also apply here.

Beyond financial management and legal safeguards there is one additional area of fraud prevention that deserves attention: the availability of an effective complaints mechanism. The common instruments are:

- NGO-level complaints (and more specifically whistleblower) policies and mechanisms
- Grantmaker-level complaints (and more specifically whistleblower) policies and mechanisms
- Sector-wide ombudsman institutions

This study hasn't looked into this aspect¹⁰³, major reasons being that:

- NGO-level mechanisms, to be anywhere close to comprehensive, require a substantial downward accountability component, which goes beyond the narrow focus chosen for this study (see **1.1.3**).
- Grantmaker-level mechanisms can easily be included in any grantmaker CoP initiative.
- An ombudsman initiative would at best be a downstream implication.

To **summarize** the 'market demand'¹⁰⁴ for support services to deal with fraud cases:

- An integrated, One Window Service, offering audit and legal expertise
- A One Window Service that can be contacted as soon as there are suspicions/indications/accusations of financial mismanagement/fraud,
- A One Window Service that can offer a transparently established, reasonable fee for:
 - Practical advice about priority actions to safeguard investigative and legal possibilities.
 - A scenario analysis of how things may develop, clarifying what different possibilities would imply in terms of risk for the NGO and/or particular individuals, financial commitment required, time horizons, to assist the client in decision-making about options to pursue.
 - Assistance in the development of a ToR for an investigative audit.
 - Providing investigative audit services¹⁰⁵.
 - Providing legal representation services.

There is also a demand for preventative services that could conceivably be offered by the same One Window service provider:

- Financial systems auditing

¹⁰³ That this study doesn't look into complaints mechanisms doesn't imply they are not important

¹⁰⁴ The market being either NGOs, or their donors, or both, whoever takes the initiative.

¹⁰⁵ Developing an audit ToR and implementing the audit should ideally be in separate hands; ensuring checks and balances needs to be an explicit consideration in any practical initiative that responds to this market demand.

- Legal compliance auditing

2.1.4 Downstream sector-wide implications

In no particular order:

2.1.4.1 Audit sector checks

Financial scandals of the corporate and financial world regularly involve the underperformance and/or collusion of audit firms, and the track record of the crucial accountability mechanism of an external audit is thus certainly not beyond reproach. That is true in general. The situation in Cambodia is worse: Cambodia's auditing sector does not live up to international standards and the situation is structural. It hasn't improved much¹⁰⁶ since the release of a 2007 World Bank commissioned report¹⁰⁷ on the accounting and auditing sector which gave this description of the state of affairs:

Accounting and auditing in Cambodia

Cambodia is putting in place an institutional framework with regard to accounting, auditing, and financial reporting practices. However, institutional weaknesses in regulation, compliance, and enforcement of standards and rules still exist. The accounting and auditing statutory framework suffers from inconsistencies among different laws. Although the national accounting standards and auditing standards are based on IFRS, and ISA, respectively, they appear outmoded and have gaps in comparison with the international equivalents. There are varying compliance gaps in both accounting and auditing practices. These gaps could primarily stem from lack of clearer understanding by professional accountants, inadequate technical capacities of the regulators, absence of implementation guidance, lack of independent oversight of the auditing profession, and shortcomings in professional education and training. There is little awareness of the importance of quality financial information in Cambodia. Financial reporting is driven primarily by compliance requirements of shareholders, obtaining bank loans, and satisfying the taxation regime. Auditing in Cambodia is perceived as an exercise of little value. The law does not outline which standards should be followed in conducting audits.

The big companies charge considerably more than the small ones; obviously, quality of the smaller ones is far more diverse and includes the criminal end of the scale. But the higher rates of the big ones don't guarantee quality (albeit assumed to exclude collusion with fraud). Field auditors are usually junior, and often without much if any experience assessing NGOs¹⁰⁸. All audit companies, big and small, have an interest in continued relationships with their clients and will refrain from pursuing leads if not contractually bound to do so. Also big firms sometimes only consult admin staff and the ED, while it is common knowledge that checks with program staff regularly bring proof of mismanagement to light¹⁰⁹.

It seems telling that even our limited survey data seem to indicate the existence of sloppy external audit practices if not actual collusion (see **Annex 7**: The importance of due diligence).

A **repository** could contribute oversight possibilities¹¹⁰ in the following ways:

- If it holds copies of the financial administration and audit reports of NGOs, it would allow for spot checks by an independent auditor on the quality of the audits conducted.
- If it only holds audit reports, cross-checking these with the periodic NGO survey database would allow for a systematic investigation of whether auditors have exposed financial system weaknesses and identified fraud.
- Even the periodic NGO survey database in itself, given the inclusion of questions about previous external audits, would go a long way toward this.

¹⁰⁶ Interview with auditing company director

¹⁰⁷ World Bank (May 2007)

¹⁰⁸ Sector experience is relevant for doing a proper audit in practice. In theory lack of sector knowledge can be compensated for by spending (much) more time, but that would mean either even higher costs or less profit for the audit company, neither of them realistic scenarios.

¹⁰⁹ Interview with Financial management consultant

¹¹⁰ As all of this is downstream, it doesn't make much sense to reflect on the financial and other feasibility of these possibilities

The importance of a competent and properly functioning auditing sector for a country's institutional environment reaches far beyond the NGO sector. The sector could set the standards here in ways that would make for a very strong statement of its exemplary role in contributing to the country's overall development.

2.1.4.2 NGO Good Practice Standards

The informants interviewed in this study were unanimous in describing the GPP certification standards largely as minimum requirements, especially the standards for financial management¹¹¹. One downstream effect of a Due Diligence Action Lab could be guidance on a more effective specification of not only minimum, but also positively good standards for financial management for the GPP certification.

The GPP has its own discussion and governance environment and this is not the place to speculate how standards for good financial management resulting from a Due Diligence Action Lab can best inform/feed into the GPP environment. But that there is an obvious logic to them doing so is clear.

2.1.4.3 Simplifying NGO administrations?

The big advantage of having an Action Lab kind of collaboration is that once those with the technical skills and experience to understand the pros and cons of organizational SOPs are around the table, their exchange is bound to bring up areas that could be improved beyond the immediate focus of the Lab in question.

Given the lack of capacity attributed to NGO administrations, the level of SOPs and policies deemed necessary and normal for even a smaller NGO is quite astounding. Per diems, salary advances, loans to staff, bonuses, (informal) health cost payments, etc., are all difficult to control/manage and require solid systems. Stretched systems are inherently risky because mistakes can be made, opportunities for misuse can arise, and control is largely absent and/or takes away from other, more directly mission-related management time.

This observation points in two, somewhat opposite directions:

There seems to be scope for an Action Lab group of experienced NGO and grantmaker finance and Human Resource professionals to explore the pros and cons of **corporate employee schemes** in use in the NGO world. It is a reality that the NGO sector employs quite a lot of Cambodians¹¹², is generally perceived by educated Cambodians¹¹³ as an attractive, well-paying segment of the labour market¹¹⁴ and thus preferred as a career option primarily for the material benefits it offers rather than its mission-driven character. The corporate employee schemes in existence now may be understood as the result of a competition for talent between the upper echelons of the development sector organizational ladder and the private sector. But this often distracts from their mission? Per diems are a prime example and have proven quite an intractable problem on their own. Can one design administrative SOPs that wreak less havoc? Can one get rid of some?

The alternative direction to explore is that of **professional organizations**, which NGOs are by definition. Given the large amounts of money they manage and/or transform into professional services and how they compete in the labour market for talent, they need to live up to standards of good employment. That requires an administration that can manage and control these flows of money, activities and schemes. That is what is required to be a legitimate NGO. Those that are

¹¹¹ However, one informant observed that some (unidentified) requirements were so unrealistic that they threatened the credibility of the whole process (i.e. the fact that applicants manage to get them ticked off invalidates the credibility of the process).

¹¹² CCC (May 2013)

¹¹³ This is true of work in development *everywhere*. There is no reason to assume that those employed by development agencies are in general more driven by altruistic motivations than those working in government or the corporate sector.

¹¹⁴ This was especially true early on in the history of the Cambodian NGO sector, when the private sector was not as developed as it is now; it may be less so now, but certainly the upper echelons of the ladder of organizational prestige (larger INGOs, bi- and multi-laterals, development banks) still offer very attractive packages for the educated, and the lower echelons compete with them for staff.

incapable of this level of management/control should be put out of business, or find other ways to fulfill their mission. This is basically the big caveat addressed below in **2.3.1**.

Whatever one's opinions on the above, it would certainly constitute progress if the sector had a platform where such issues could be seriously discussed, and possible solutions/innovations/alternatives piloted.

2.1.4.4 Cambodian legal environment

There has been extensive debate about the need for and the risks of an NGO law. Most informants who voiced an opinion about this expected the adoption of a law to be, if not imminent, at least expected. This is not the place to engage with that debate¹¹⁵, beyond observing that the lack of a proper legal framework for NGOs does create unexpected problems when it comes to mismanagement and fraud. E.g. the lack of a legal persona for NGOs means that they cannot own property, and cannot be brought to court. There are thus legal loopholes regarding ownership (making it more difficult to deal with asset theft when an NGO closes down) and in case of legal disputes, who should be held responsible. A fraud perpetrator can even sue the ED or board members.

Going to court, as in most other countries, should be a last resort. However, when this final resort doesn't exist, the ability to sanction mismanagement and fraudulent behaviour is crucially weakened. Thus there is a need to be prepared to go to court if that is the only way. In cases of fraud, the proper segment of the court system would be the criminal court but that has a very bad reputation¹¹⁶. The court's failings cannot be redressed by NGO sector-internal actions. The only mitigating measure that can be taken is to ensure that anything put in place preventatively and anything done during the time of investigation is legally informed.

Many (I)NGOs opt to deal with fraud as a labour law issue, thus avoiding the police. That is certainly not a strong reaction and decidedly second best, but at least provides the organization with the option of firing perpetrators and safeguarding against further damage. However, it also requires having one's house legally in order (in terms of policies, registrations etc..).

In other words, ultimately the law cannot be avoided, and NGOs need to ensure much more than is currently standard practice; that they are optimally prepared, from a legal perspective, to deal with mismanagement and fraud problems.

A natural host to support NGOs in doing so would be an entity offering fraud support services. Ideally such a service provider would be a for-profit agency, consortium or whatever the best form may be (see **2.2.4**): the larger the spectrum of services on offer the bigger the chances and the greater the possibility for building strong client relationships, the broader the possibilities for institutionalizing the relationship (e.g. through small yearly retainer fees), the better the services could be tailored because the service provider would know the client organization already quite intimately.

2.1.4.5 Donor Code of Conduct

Given the existing evidence-base¹¹⁷ for:

- Problems in the NGO sector being (at least partially) a co-creation of NGOs and their donors
- The harm that can be done by funding,

it is remarkable that there isn't more discussion about a donor code of conduct¹¹⁸. To the extent that one is willing to acknowledge the co-creation argument (and anyone even tempted to apply an

¹¹⁵ To make the author's position absolutely clear, the current lack of clarity regarding NGO legal status is *not* an argument for any particular NGO law proposal. Adopting a bad law would not solve anything, on the contrary, it would only worsen problems.

¹¹⁶ Which given the dismal reputation of the judicial system in general (see **1.3.3**) is telling.

¹¹⁷ There is a whole library of academic and policy research available by now. Which only goes to show that action willingness regarding matters like this are not evidence-driven but politically (in its broad sense, covering anything from the organizational to the geo-political level) motivated.

¹¹⁸ The only real exception being the specific sub-sector of Humanitarian Aid where accountability has been on the agenda for quite some time now and actually resulted in some development of standards etc. See e.g. [Humanitarian Accountability Partnership](#)

incentives framework would be hard pressed not to) will agree that having only NGO codes of conduct/certification processes etc. without complementary donor processes is at best going to be only half effective.

At the risk being accused of applying the very unproductive donor-bashing frame¹¹⁹ when bringing this subject up the argument about the need for better conceptualizations of civil society and NGOs (see **Annex 12**) is still worth bringing to mind. Donors should be part of whatever better, less simplistic and ideological conceptualization is required.

Given that there is certainly some support to be found within the 'community' of NGO grantmakers and donors for the concept of a donor code of conduct¹²⁰ one might speculate that it makes sense to differentiate within that 'community' between donors who would never voluntarily subscribe to operational restrictions and those who would if the problems of collective action of subscribing to such restrictions could be solved. It would be an interesting analytic exercise to investigate if the collective action problems of the latter could be overcome, e.g. using a specific theoretical incentives framework like IAD (see **2.1.1.2**). If they could, and if a critical mass of NGO grantmakers would be able to agree upon a Code of Conduct, that would certainly change the landscape for all, including those that would not subscribe to it.

2.1.4.6 Evaluations

Once there is a repository for NGO information, given what is going to be stored in it, possibilities open up for collective action by NGOs and grantmakers. After audit reports, one very obvious candidate for including in the repository would be evaluations. A lot of benefit could be derived from an evaluation-focused equivalent of the Due Diligence Action Lab.

So much money is invested in evaluation research, but little knowledge with any relevance beyond the particular project/programme evaluated is generated¹²¹. It is not a lack of resources, but an unwillingness to collaborate and coordinate and collectively figure out better solutions, that prevents change. What an Action Lab could aim for would be collective agenda-setting of what empirical research would be relevant for all, collective brainstorming on how to feasibly combine public good objectives and individual organizational interest/requirements in one evaluation exercise, and collective piloting of possibilities identified, pooling of staff and financial resources, etc. Very similar to due diligence, and especially global audits, there is no indication that solutions are in principle not available, and cost-wise one would expect, again similar to the audit case, the same investment to result in much better outcomes.

2.1.5 Anything else?

This study has come across¹²² some suggestions for improvement of NGO governance that fall outside the narrow focus of financial accountability that was defined. If a suggestion was thought to be innovative, i.e. not known to be part of existing improvement efforts/service offerings, the study took the position that it should at least be documented so as to inform other initiatives on improving NGO governance. Two such suggestions for strengthening NGO board functioning and improving downward accountability were noteworthy:

Given the existing near total dominance of the governance board model for ensuring NGO accountability, and the expectation that this model is not going to be replaced by something fundamentally different any time soon, **the most straightforward way for an NGO to establish downward accountability would be to include members of the communities they support in their board**¹²³. The three major issues to deal with when considering how this could be done are:

- Representation
- Capacity

¹¹⁹ See **Annex 1**

¹²⁰ Some informants consulted in the course of this study were certainly not adverse to it.

¹²¹ An example from the consultant's personal experience of the (huge) mismatch between money and time invested in research and the common good knowledge generated is Bou, C. & Henke, R. (November 2004)

¹²² Suggestions received from informants

¹²³ One added benefit would be to that this enlarges the pool of potential board members. One regular complaint about Cambodian boards is that they all fish in the same very small pond of mostly senior NGO sector individuals.

- Conflict of Interest

Lack of capacity of community members is the standard argument against trying, but real representation is the more fundamental problem. Lack of representation has shown itself to be a huge stumbling block in development efforts in Cambodia that were built on the assumption of downward accountability (e.g. NGO initiated Community Based Organizations or committees, and networks of community activists). Introducing community members to NGO boards can thus be expected to run into the same problems. The good part of the story is that representativeness is now becoming a more serious topic of reflection and discussion¹²⁴. It is recommended that efforts to introduce community members to NGO boards be made part of this reflection/discussion, as this is its proper conceptual home. The issue of conflict of interest is intimately connected to the issue of representation and should thus be part and parcel of that same reflection/discussion.

In order to address the issue of the capacity of community board members, an interesting suggestion was received to not only think in terms of capacity building of board members¹²⁵, but also in terms of **introducing the availability of board 'consultants'**¹²⁶, technical experts that can be called in by a board to explain/answer questions when it needs to deal with matters outside its technical/experience comfort zone. E.g. the formulation of the ToR of an audit or an evaluation, or the assessment of the resulting report, legal issues, etc. The concept would be fee-for-service attendance at one or more board meetings, and potentially the provision of some one/two-page recommendations, etc. 'Assignments' taking maybe a day or two of someone's time (including travel), could be arranged on quite short notice, could be as administratively 'light' as possible, and can feasibly be budgeted for by smaller NGOs. The most obvious direction to explore would be the creation and maintenance of a roster¹²⁷.

The big advantage of this suggestion is that it would **support the capacity of boards as institutions** rather than the capacity of individual board members. There is considerable evidence¹²⁸ that the reason capacity building of individual civil servants, NGO staff, researchers, etc. in Lesser Developed Countries more often than not has not resulted in increased institutional capacity is not that the individuals who received training didn't upgrade their personal capacity, but that they were unable to apply it to the betterment of their employer. The new skills were often used to seek and find (better paid) employment, and thus were of personal profit as well as benefit to the new employers (private companies, organizations higher up in the value chain of aid, e.g. multilaterals, etc.) or used to go overseas. Anyone doubting this analysis may consult with Cambodian capacity building service providers like VBNK who often mention this problem in their reports.

Actually the suggestion is valid for most boards, whatever their composition. Given the normally small number of board members and the large number of (technical) matters boards are expected to deal with, there is often a lack of particular skills and/or expertise.

2.2 Are these solutions feasible?

The second question to ask of any solution is whether it can feasibly be implemented.

2.2.1 General considerations

The **organizations providing grants to NGOs** differ themselves quite a lot in how they operate.

A first basic distinction is between those that have an **in-country presence** (which includes financial oversight capacity) and those that don't. Obviously a Due Diligence Action Lab can only function with

¹²⁴ See e.g. Maffii, M & Meas, N. (March 2015)

¹²⁵ One suggestion received during this study was to consider 'upgrading' the standards of what counts as a legitimate governing board (e.g. to qualify for GPP certification) by requiring a minimum proportion of board members, let's say two thirds, having gone through a basic *board member roles and responsibilities course*. Such a course does not yet exist, but the suggestion seems easily implementable if the underlying thought finds acceptance within the NGO sector.

¹²⁶ Terminology is arbitrary, depending on one's emphasis one could equally defend 'coaches' or 'mentors'.

¹²⁷ The natural host of such a facility would be a Capacity Building Service provider. The skills required are both technical but also facilitative. Going for a roster of 'experienced board members' only, or without a substantive check on the 'quality' of their experience (i.e. the governance of the NGOs that they have been board member of) and on their facilitation skills, runs risks of creating as much harm as it would do good.

¹²⁸ See e.g. Pritchett, L., Woolcock, M. and Andrews, M. (2010)

those that can physically sit around the table¹²⁹. However, when such an initiative gathers steam and critical mass, it would be increasingly difficult for grant providers without an in-country presence to ignore its recommendations. Mainly because those participating in the Action Lab would need to include the issue of how to deal with other grantmakers not willing or able to follow the recommended SOPs.

Another distinction is in **the sources of grantmakers' own funding and the legal requirements of their country of incorporation**. If one assumes that NGOs follow the money it would be absurd to assume grantmakers wouldn't. What that means in practice is still to be seen. Ostensibly, none of the proposed solutions would be unfeasible because of legal or other insurmountable constraints faced by grantmakers because of their own upward accountability requirements (in the sense that the solutions should be able to accommodate any conceivable particular constraint). However, anyone taking incentives seriously will acknowledge that grantmakers are going to differ regarding their ability and willingness to collaborate on these solutions, based on the incentive structures of their own institutional embedding within the value chain of aid, and within the legal framework of their home country. It matters whether a grantmaker is getting its money from the public through campaigns, from a government (and which government), or from a private asset-base; if it's an intermediary accountable to a back-donor with his own programmatic objectives or not, if it mixes grant-making with other roles like implementation or advocacy or not, etc.

At this point in time, the implications are difficult to assess. The only certainty is that they will become apparent, and then prove more or less problematic. We will only find out by trying.

2.2.2 Due Diligence Action Lab

The ideal institutional vehicle for this would be a Community of Practice (CoP).



A CoP is a concept more than an organizational form and it will take on more or less formalized shapes depending on its goals. The more formalization the participating grantmakers opt for, the more impact their community could have¹³⁰. To deserve the label **CoP** at least one would expect:

- Clear membership requirements

¹²⁹ Participation through means like skype might be possible but cannot really replace face-to-face collaboration.

¹³⁰ There isn't a necessary relationship between formalization and impact. The assumption made here is that formalization requires facing at least some of the known barriers to impact (e.g. inconsistencies in the political will to participate, conflicting agendas and priorities of participants, competing internal priorities (for a participant's time and attention), turnover of members and a general reticence to name and discuss and resolve such inconsistencies, conflicts and competing demands - see also **3.1**)

- An agreement on cooperation objectives and principles
- An effective communication, collaboration and learning structure
- Some tangible collaborative activities (beyond meetings)

At the more formalized end, which might deserve a label like **consortium**, one would expect

- Demonstrable sharing of human and other resources
- Some measure of pooled funds for the execution of consortium activities to further its objectives
- Some more permanent and specified delegation of human resources to consortium-specific needs

Thus there is a continuum of possibilities.

The suggested due diligence donor start-up action-research as preparation for start-up activities for an Action Lab (see **3.1**) requires nothing beyond the willingness to pursue it. Some financial and staff resources are required but nothing which seems beyond the current capacity of potential participants to invest without having to seek back-donor funding.

The start-up activities are conceptualized as action-research and one conceivable outcome would be that the CoPs come to the conclusion that the envisioned direction is not the right one or is not feasible. In other words, engaging beyond acceptance of the basic principles (see **2.1.3.1**), which are not yet actionably formulated (doing that is part of what the activities entail), doesn't preclude a particular outcome, regardless of the background of the recommendation that resulted in these CoPs. Thus there don't seem to be any material or analytical constraints.

2.2.3 NGO Back-up Repository

The proposed start-up actions (**3.2** and **3.3**) both seem feasible as long as there are sufficient willing participants. Someone will have to take the initiative to find out if there are. Similar to the start-up suggestions for the Action Lab, one very conceivable outcome is that the envisioned direction is not the right one or is not feasible. Again, there don't seem to be any material or analytical constraints.

The biggest elephant in the room regarding a repository for shadow administrations is confidentiality: who has access for what and under which conditions. Nothing will move without this issue having been thoroughly investigated and convincing answers found. The issue of confidentiality seems much easier to solve for **3.1**, the periodic survey and its elaborations (external audits and evaluations) than for shadow administrations. It thus seems best to consider both suggestions independent of each other. The successful establishment of a periodic survey database, living up to the expectations of its usefulness to the sector, might be expected to add evidence-based, persuasive power to the idea of a shadow administration repository. It would thus make sense to pursue the periodic survey if at this moment in time, not enough enthusiasm exists for starting to explore the practicalities of the shadow repository.

Given the expected weight of confidentiality objections, one perspective to take on the whole issue would be to approach it from the potential advantages that a shadow host could offer the NGO. The most obvious candidate would be administrative/bookkeeping services. For the private sector, consultancy firms offer outsourced financial accounting services to small and even medium-sized enterprises. It is somewhat of a mystery to the author why this service doesn't exist for NGOs and/or why NGOs don't look for it¹³¹. The box below reproduces a typical sales rap¹³² for such services and it is difficult not to see the potential for the NGO sector.

¹³¹ This question is beyond the mandate of this study and is thus not pursued here.

¹³² Taken from the website of one such provider offering services on the Cambodian market.

[Company X's] accounting services are being performed by experienced CPA's (Certified Public Accountants) in a professional, correct and timely manner. While we collaborate closely with your team to safeguard smooth communication and best performance of all accounting and reporting processes and tasks, you can focus on your core competences, activities, and other business priorities more effectively without the need of having an own accounting department.

In the standard case, our monthly accounting service fees are significantly lower than the cost of our clients having and managing an own accounting team... Not only will this spare you from the hassles of recruiting, managing and retaining own accounting personnel but also helps you saving costs and expenses for office equipment, accounting software, materials and rent.

Obviously, the NGO sector does have specifics that would need further exploration, and the shadow administration repository possibilities would likely be limited to only particular services. But given the importance of positive frames (see **Annex 1**) it makes a lot of sense to give this exploration prominence of place.

Given all the unknowns, at this moment in time, it doesn't make much sense to speculate about the feasibility of any particular host for such repository and the services it could offer.

2.2.4 Support Services for 'Dealing with a fraud case'

Given that the required expertise is already available in Cambodia and offers its services on a commercial fee-for-services basis, one would need very clear reasons to look for solutions based on donor funding. The argument made so far is that there seems to be a market for an integrated service offering. NGOs do not have a great history going into business. Businesses (i.e. audit and legal firms) that have been around for a while are evidence of the ability to establish a viable commercial organization. One would thus look in first instance at the private sector for such service provision.

Existing commercial audit and legal service providers themselves are in the best position to figure out what kind of collaboration would work best for them (consortium, partnership, audit firm host subcontracting legal services, legal firm host subcontracting audit services,?). All it would take would be one effective collaborative initiative taking off to 'proof' the existence of the perceived market.

Business is normally quite astute at responding to unmet demand. Nevertheless, no One Window service has materialized so far. Possible reasons might be:

- The One Window combines two worlds of expertise that are educationally, culturally and institutionally separate. Each might be good at creating a viable enterprise within its own sector, that doesn't mean they are necessarily good at creating a cross-sector consortium.
- Creating a One Window service requires substantial pre-investment (senior staff time). The existing providers are apparently not sufficiently confident that they'll get a return on that investment.

To the extent that the reasoning about existing service providers needing to be in the driving seat is valid, the feasibility needs to be evident to them. The next step envisioned (**3.4**) tries to address this.

One possibility for organizing part of the required services would be as a specific objective of a CoP approach. A Due Diligence Action Lab CoP could easily decide to form a common pool of experienced/senior internal auditors. In cases of (suspected) fraud, this pool could be drawn upon to constitute a team for forensic investigation.

The same CoP could further institutionalize its shared objective of ensuring a proper investigation and sanction response in case of (suspected) fraud by agreeing:

- On a SOP for such cases, so it is clear in advance to all involved what is going to happen, under which circumstances, with which in-build safeguards, etc. and can be agreed upon with NGO partners when signing the grant contract.
- To create a collective fund for such investigations.

Disadvantages of this approach would be:

- One would still need to bring in the legal expertise from the private sector.
- In case of keeping the court as an option, an external auditor would still be required to document the fraud.

2.2.5 Downstream sector-wide implications

Predicting the future is a tricky business in the best of circumstances, so looking beyond the establishment of the three basic solutions doesn't make much sense. The only expectation that seems reasonable is that if one or more of them materialize, that in itself is going to constitute a change of context facilitating further positive implications for the sector as a whole.

2.3 What are the disadvantages or risks of these solutions?

The third and crucial question to ask is if the solutions risk harm that outweighs their potential benefits and if and how these risks can be mitigated. If risks for serious harm cannot be mitigated one should reconsider the solutions. The principal of Do No Harm is unfortunately more a rhetorical than an operational device in the development sector.

In the development sector often many (NGOs and donors alike) are convinced they take risks into account already through the widespread use of logframes which create a causal chain of thinking from interventions to results, outcomes then impacts, but don't really consider the question: "is there any chance of things working out differently"? That is a question a No Harm analysis should ask. True, logframes do require one to identify risks but largely in terms of the external political and institutional conditions currently in place (e.g. local authorities that are expected to collaborate actually do) and that is what creates the illusion that logframe analysis includes a Do No Harm analysis. It would be unfair to say that these external risks are not real or unimportant. But only looking at them is far from enough to make a serious effort to avoid harm. One needs to question not only the *external* factors, but the assumed *internal* workings of one's causal chain. These are nothing but assumptions. No Harm analysis requires one to question these assumptions: 'can one envision this link in the chain to work out differently from what is expected'? e.g. establishing a savings committee is expected to strengthen community solidarity but the leadership gains a power base and becomes a faction that divides the community. Deciding whether the alternative scenario can be prevented is not common practice, certainly not in the documented planning, monitoring and evaluation of interventions.

A core reason for devoting so much text to assumptions underlying the analysis and assessments of this study is to ensure that as many crucial links in the arguments as possible are on the table to be challenged and considered for their possible risks. To enable risk assessment to be an ongoing element in a solution implementation process, that process must take incremental steps, rather than start with an all-encompassing plan. The concrete first steps presented in **Section 3** are intended as such.

2.3.1 Appropriate for all NGOs?

A huge issue is the apparent trade-off between governance structures and administrative bureaucracy required to responsibly, accountably, and transparently handle large amounts of other people's money and the flexibility, time outside the office, freedom from having to spend time on covering substantial institutional costs, etc etc, required by at least part of the work that NGOs exist for and are funded for.

This is a quote from one of my informants, involved with many small NGOs.

One of the reasons the organizations I mention have had so many problems is that I always emphasized "the work" and didn't want to help build up bureaucracies. I felt there was a tendency for better systems to lead to less effective work. My thinking now is that maybe there are alternatives to NGOs that can focus more on the work and less on the management, and that NGOs need to be better managed and do the kinds of work that can be done well by such organizations.

In other settings there are more organizational forms available, some without bureaucracies. But they are then often/normally assisted by specialized service providers when money is involved, allowing

them to remain overhead-light and concentrate on their mission rather than having to invest increasing amounts of time into organizational processes. **There is a serious argument to make that NGOs are not the right vehicle for some of the tasks that are taken up by NGOs.** But every initiative to organize things differently (networks, etc.) over time NGO-izes in Cambodia. Nevertheless, it seems evident that not all "missions" should be given an NGO form.

When the NGO form is chosen, it should be chosen with the objective to live up to the accountability standards that (should) go with that. When that form and its requirements don't mesh well with the mission to be accomplished, organizational solutions other than the NGO form should be sought; which might very well involve an NGO in a particular support role.

The argument throughout this report has been that if one channels money through an NGO, the accountability required to ensure proper organizational functioning, at least with respect to finances, cannot do without X, Y and Z. The argument throughout has been that, given the experience over the last two decades, efforts to get away with toned-down versions of X, Y and Z fail. We need alternatives.

This is a core issue, and it is a mystery to me that it attracts so little, if any reflection and practical experimentation with possible alternatives for the situations where NGO requirements do harm to the mission. This is not the place to pursue it further but one cannot make an argument for systems, structures, and office-professionalism without making this **big** caveat¹³³.

Although not a specific next step regarding the solutions proposed here I do argue for the need to seriously pursue this issue (see: **3.5**).

2.3.2 Programmatic upward accountability

The historic overview of NGO development worldwide (see **annex 10**) makes it amply clear that programmatic donor-centrism is not a particularly Cambodian problem. This study has chosen to focus exclusively on the issue of improving NGO financial management/donor due diligence, and argues for the use of upward accountability as a lever for positive change. That argument is based on the claim that allowing for weak financial accountability is not going to improve the situation regarding programmatic donor-centrism (see **2.1.1**). Given the well-documented tendency of NGO financial donor-dependence to correlate with programmatic donor-centrism, or over time to result in such, the assumption made by this study is that implementing upward *financial accountability* seriously is not going to do much *additional* harm. However, it is not doing anything to mitigate it either. The only conceivable way of doing that is to strengthen *downward accountability* (see also **2.1.5**). There is some measure of overlap between the question, what are possible, feasible ways to strengthen NGO downward accountability and the question, what are ways to channel development funds to the grassroots other than requiring the users of those funds to be organized as an NGO. The argument to seriously pursue the latter (see **3.5**) does thus also have some relevance for mitigating the programmatic upward accountability tendency.

2.3.3 Tensions between partnership and due diligence

Up to now, the focus of the argument has been on the potential of upward accountability as a lever for change, and the importance of accountability for good partnership. This has been described against a background of an NGO sector climate that has strong reservations about the compatibility between strict upward accountability requirements of donors and donor-NGO partnership, and especially if these requirements find expression in strict due diligence by donors. Are the assumptions underlying the existing 'climate' really that mistaken? Does due diligence constitute no risk to partnership?

Like so much else in development (and life in general) the answer is in the details of actual application. The *principle* of due diligence to ensure proper accountability is not the problem¹³⁴. There may be legitimate misgivings about due diligence primarily serving donor interests, but these are about how it is (indeed: more often than not) *practiced*, without disqualifying the *shared* value of due

¹³³ Some of the assumptions underlying this study, e.g. the unavoidability of bureaucracy if one requires accountability, and the risks of an NGO-bashing frame, described in **Annex 1**, are very relevant here.

¹³⁴ However: see **Annex 1** where an assumption about bureaucracy is described that one needs to subscribe to in order to make this statement

diligence as it is conceptually intended (see **2.1.1.1**)¹³⁵. However that may be, *wrong application of due diligence, which is not at all uncommon, indeed considers it primarily a tool for the donor. And in that case it does harm to partnership.*

Due diligence underwriting the accountability that makes partnership possible in the first place is by definition a two-way affair. Expectations about the NGO need to be complemented by expectations about the donor. It is certainly the case that donors are much more likely to enforce their requirements of the 'due diligence partnership deal' than question and adjust the practical implementation of these requirements so as to make life easy for their partner NGO. It is telling that NGOs are widely expected to develop and implement a code of Good Practice Standards, while creating a donor equivalent (see **2.1.4.5**) is rare and generally perceived as unrealistic.

To conclude: yes, application of proper due diligence *in practice* constitutes a risk to partnership. The way to mitigate and even remove that risk is to ensure that:

- (1) The actual requirements an NGO needs to live up to and the actual actions undertaken under the umbrella of due diligence can all be explicitly motivated by the accountability rationale¹³⁶, and doesn't have to rely on the argument 'that is how my (donor) organization does things'¹³⁷.
- (2) Make accountability an explicit two-way contractual obligation, ensuring that NGO and donor *both* commit to fulfilling various accountability requirements to each other.

2.3.4 Beneficiaries

Annex 8, which outlines the elements of a comprehensive corruption risk management system, concludes with *two issues to keep in mind when designing and applying measures*, one of which is the **Primacy of development objectives**¹³⁸. However much dealing with fraudulent NGOs is for the common good of the NGO sector and should be pursued vigorously, NGOs are 'only' an intermediate link in the value chain of aid (see **2.1.1.1**). Development is about the ultimate beneficiaries and the consequences for them of an NGO being e.g. (temporarily) put out of business should thus be a prime consideration when deciding upon sanctions against a fraudulent NGO.

What this means in practice depends on the specifics of the case, but it may e.g. mean requesting another NGO to take over an ongoing (and effective) program.

Two general considerations come to mind:

- (1) Ensuring that beneficiaries are not harmed by sanctioning a fraudulent NGO may drive up costs of dealing with the situation. This may be unfortunate but is an unavoidable consequence of prioritizing the development objective (and it is difficult to argue against that). **Annex 8** has very good reasons to mention the costs of dealing with fraud so explicitly as another cross-cutting consideration: talk is easy, but actual implementation often runs into the financial limitations of the donor. In general, as mentioned in various places of the solution part of this report, the only way around this is to look for *collective solutions*. The consequence of the primacy of the development objective is that any collective fund type solution should include an agreement among the contributors that the potential costs of mitigating the consequences for affected beneficiaries can be legitimately claimed from the fund.

¹³⁵ Misgivings about due diligence are mirrored in misconceptions about one of their constituent elements: external audits. A well-executed external audit, especially if it includes some system audit elements, is both a valuable periodic check on the soundness of an organization's systems and (when the auditor gives the financial statement a clean chit) a publicly acknowledged credibility enhancing stamp of approval. That is not how external audits are normally thought of in the NGO world. But that is what they *in principle* are. Nothing more, nothing less.

¹³⁶ I.e. we need to do A, B, or C because if we don't due diligence is not guaranteed.

¹³⁷ E.g. reporting formats requiring rewriting existing reports without asking for information not already contained in an existing report; donor unwillingness to coordinate requirements with all other donors of the same NGO, etc. etc.

¹³⁸ The other is the cost of the measures.

(2) At some point there is a going to be a trade-off between appropriately dealing with a fraudulent NGO and giving the development objective priority. Where this point of trade-off lies can only be determined on a case-by-case basis¹³⁹.

2.3.5 Reputational Risk

Section **1.3.1** and **Annex 14** argue that reputational risk is a valid concern but one that can be dealt with. The more worry about reputational risk inhibits decisive action, the bigger the actual risk of reputational damage. The more the action is decisive and transparent regarding the values one stands for, the bigger the chances that reputational risk actually transforms (over time) into a reputational opportunity.

2.3.6 Solutions involving the private sector

The private sector is already involved in service provision to the NGO sector (audit and legal companies). Nevertheless the non-profit sector has a healthy hesitation in making itself dependent upon commercial interests. The prototype for the perceived risks would be those associated with the so-called public-private 'partnerships', wherein public good services are outsourced¹⁴⁰ to private companies for efficiency or financing reasons. Kaushik Basu described them as follows¹⁴¹:

'The way PPPs are done worries me a lot. These are two very different creatures being brought together in a single cage and one can just gobble up the other. The private sector is often much smarter at writing the contracts, so the taxpayer carries the can when bankruptcy occurs. We have to be acutely aware of this – I have heard many private sector companies say there is nothing as good as a deal with the public sector!'

Basu's sensible conclusion is that *while PPPs done in a cavalier fashion can do damage, that is no reason to abandon them. Instead, donors have to work hard to design the contracts better to make sure that the risks and burdens are shared equitably between the two Ps of the PPPs.*

¹³⁹ This is structurally similar to the normally much more difficult humanitarian aid trade-offs between e.g. saving lives and supporting parties who profit from the aid being shipped in (this is only one of the many possible trade-offs those dealing with humanitarian crises need to deal with)

¹⁴⁰ Obviously the outsourcing is regulated by a contractual arrangement defining the 'partnership' which can take a multitude of different forms, but details are not relevant here.

¹⁴¹ <http://oxfamblogs.org/fp2p/what-to-do-about-inequality-shrinking-wages-and-the-perils-of-ppps-a-conversation-with-kaushik-basu-world-bank-chief-economist/>



Thus, although the fears are not unfounded, in themselves they are not enough to avoid involvement of the private sector.

On top of that, its involvement in the dealing with fraud cases has a very issue-specific advantage: it brings independent investigative capacity into an otherwise self-regulated sector. Self-regulation without the checks and balances that only outsiders can introduce without ending up in conflicts of interest is *not* a trustworthy mechanism. Outsiders' involvement is unavoidable if the system is to fulfill its objectives. The outsiders do not have to come from the private sector but they would have to be organizationally and financially independent from the NGO sector. In some countries government would establish an agency for such purposes but that doesn't seem a realistic and/or attractive scenario for Cambodia. In other words, in Cambodia, the private sector, despite the risks its involvement entails, is a convenient and obvious choice for introducing independent investigative capacity into a NGO sector due diligence 'system'.

2.3.7 Misuse

The risk of misuse of the NGO sector being maximally transparent about its corruption issues are real, and always lurking in the background. Misuse is **ill-intentioned** use and is thus always a possibility that cannot be avoided. It can only be countered by standing up for the transparency displayed.

Reputational risk and potential misuse are facts of life and one way to think about engaging with them *productively* is from the perspective that current engagement is defensive and negating what are perceived as attacks. By accepting the frame of the attackers, not having its own narrative to define the terms of the debate, the NGO sector concedes crucial terrain and reinforces the negative frame of those criticizing it.

Cognitive linguist George Lakoff¹⁴² has written extensively on the importance of framing in political debate and argues for the need of a positive narrative to stand up for a particular cause. This is basically the same exhortation as the one made for a new *persuasive policy narrative* in **Annex 12**.

George Lakoff on Framing¹⁴³

- *All politics is moral. Policies are proposed because they are assumed to be right, not wrong. The moral values behind a policy always should be made clear... [The NGO sector] needs to unite behind a simple set of moral principles and to create an effective language to express them...*
- *Learn the difference between framing and spin/propaganda. Framing is normal; we think in frames. If you want to formulate a policy that is understandable, the policy must be framed so it can be readily communicated. Framing precedes effective policy. When you use framing to express what you really believe and what the truth is, you are just being an effective communicator. Framing can also be misused for the sake of propaganda. I strongly recommend against it...*
- *Don't use [your critic's] language, since it will activate their moral system in the brains of listeners. Don't try to negate their arguments. That will only make their arguments more prominent. Use your own language and your own arguments. Truth squads and work rooms are insufficient...*

¹⁴² <http://georgelakoff.com/>

¹⁴³ Lakoff, G. (2010); the original piece advises US Democratic party followers. The relevant references are changed into [relevant terms]

3. Next Steps

This section proposes some low-cost actionable start-up suggestions, each a concrete step toward realizing one of the three solutions. The steps are designed to deliver relevant outcomes that could function as a pilot case and/or a building block for the solutions they contribute to.

3.1 Due diligence donor start-up action-research as prep for Action Lab

The two start-up suggestions below could be combined into one Due Diligence Action Lab pilot, involving the same (finance staff) participants from the grantmakers involved.

As with all collective initiatives, effective functioning and real impact can only be expected to the extent that the organizations participating in it are genuinely committed, allocate sufficient staff time to ensure that those participating from their organization can prioritize active participation over other duties (nothing better to frustrate collective action than having new 'representatives' around the table at every meeting), give their participants some authority to speak on the organizations behalf, and ensure regular feedback between participants and their management so as to ensure continued management-level commitment to the (outcomes of the) process, etc.

3.1.1 Collective elaboration of the practicalities of proper global audits

Participating in a Due Diligence Action Lab doesn't make sense without subscribing to the general need for global audits. However, several practical difficulties would need figuring out before many grantmakers would be able to fully subscribe to the principle:

(1) Many grantmakers' internal regulations and/or back-donor requirements ask for project audits. They may subscribe to requiring a global audit too but cannot do so without a project audit. The practical difficulties requiring smart solutions would be:

- What ToR specifications for a global audit would cover most, maybe all requirements¹⁴⁴?
- What requirements, if any, would not be solvable within the context of a global audit and would require a separate report¹⁴⁵?
- What would be the added costs of the global audit ToR specifications¹⁴⁶?
- What would be the costs of the separate project audit reporting?¹⁴⁷

(2) And separate, but related (because it also results in audit ToR specifications):

- What system audit expectations should be added to any NGO financial statement audit to ensure that the external audit doubles up as a periodic check on the systemic soundness of an NGO's financial management?
- What would adding those specifications mean in terms of added costs?

(3) What would be a fair and feasible basis for sharing the costs of a global ToR audit?

The above could theoretically be outsourced to a competent financial management consultant who would gather all relevant information from contributing grantmakers. But since the point of the Action lab is to have practical agreement of all grantmakers on the implications of the results of this pilot, a collective approach that allows for smoothing out all remaining obstacles would be far better. A

¹⁴⁴ Ultimately, as long as an NGO's finances are organized in a matrix form with projects/activities/expense categories as (nested) rows, and donor income covering them as columns, project finances can easily be made separately visible in a global audit. A second element to be figured out is if project donors requiring project audits, can (legally) wait for the global audit when the project ends early in a financial year, and if not how their in-between project audit can be financially figured into a collective donor agreement around how to share audit costs.

¹⁴⁵ Some internal regulations/back-donor requirements will legally require a separate financial statement for the project.

¹⁴⁶ This is bound to be higher than a normal audit; on the other hand, it is can also be expected to be less than the total of all audit costs covered by the various grantmakers.

¹⁴⁷ As long as the actual auditing work doesn't require additional work beyond producing the project audit report, the costs for this requirements should be relatively minor compared with the costs of an audit conducted separate from a global audit.

working group of the senior finance managers of the grantmakers, possibly externally facilitated to ensure the participants could concentrate on data-gathering and technical discussions without having to spend time on logistics and supportive 'admin' work like collating information, etc., would be a good model to use.

3.1.2 Case study research investigating known examples of fraud

A group of grantmaker financial managers with fieldwork experience could collectively and systematically study a significant number of cases of financial fraud that they had detailed information about (because they were a partner of one or preferably more than one grantmaker around the table) in order to extract *Common ways of committing fraud*, and for each of them:

- Common indicators/signs that fraud is being committed
- Possible ways to find definite proof
- Possible ways to prevent this type of fraud

The model again would best be implemented by a working-group, preferably professionally¹⁴⁸ facilitated. **Annex 15** makes a case for using a case study approach to determine effective context specific responses to difficult institutional issues. The added value of doing this collectively is that of collective learning and research in general: one doesn't only learn about fraud, but the process allows for the exchange of lots of organizational best practice. Also, the process is bound to bring other possibilities for productive collaboration to light.

3.2 A periodic survey as input for a Repository

The survey of grantmakers¹⁴⁹ for partner information conducted for this study could only be a limited exercise. Doing it periodically, the suggestion would be yearly, would have several advantages but before going into those, one needs to discuss how to ensure an institutionalized version of the survey would deal with the weaknesses¹⁵⁰ of the trial implemented for this study.

How to deal with the weaknesses of the trial implemented in this study

- One would need *participation of a larger and more diverse sample of grantmakers*.
- One would especially want *more grantmakers willing to share detailed data* that show which NGO has which problem(s)
- Closed answer categories are easy for the analyst but not so easy for the respondent. Describing the reality as they see it in their own words (in technical jargon 'open answers') is much easier. Processing open answers (coding, aggregating, recoding etc.) is extremely time-consuming and thus resource heavy. The optimal solution, the best compromise between efficiency and validity, is to develop the closed answer possibilities for problems and their severity *collaboratively with a sufficiently large and diverse group of potential respondents*.
- To enable a proper assessment of the representativeness of the sample of NGOs covered by the survey, it needs to *include background variables* that can be checked against e.g. the CCC database of NGOs (how long in existence, budget, how many staff, some program characterization, geographic locations, functioning board, external audit,...); this would also allow for finding correlations between the occurrence of particular kinds of problems and such 'background variables'.

The database resulting from such a study would allow for the following usages:

- As a solid empirical evidence base about:
 - The incidence of particular problems in the Cambodian NGO world
 - The correlations between different kinds of problems, and between certain problems and structural NGO characteristics

¹⁴⁸ This doesn't have to imply an external consultant, which would mean a budget to make it happen; if any grantmaker has someone with the required skills on staff it could be arranged for by a contribution in-kind of staff time by that grantmaker.

¹⁴⁹ This study also included capacity builders and they are indeed an interesting source of information about NGO functioning; however, there are only a few of them around, and they are in a different relationship with NGOs compared with grantmakers, making for different confidentiality issues, etc. It is therefore suggested to not include them in a periodic survey and rather look for alternative (research-based) ways to make use of their knowledge and experience to add to what a periodic survey of grantmakers can deliver.

¹⁵⁰ See **Annex 7** for a description

- For all the grantmakers who share detailed data:
 - Differences in problem and/or severity assessment, and potentially even knowledge of basic NGO characteristics, would become visible for NGO partners that they share with other grantmakers. This could become a powerful instrument for grantmakers to check on the validity of their partner assessments/due diligence procedures¹⁵¹.
- Its periodic nature would allow for:
 - Assessing changes/improvements over time
 - Continuous adaptations in response to changes in the context and/or new interests/questions coming out of the discussions about the meaning and implications of the story that the data tell

Such a database could be an interesting start toward a repository of NGO information.

Given the amount of practical work involved and the technical skills needed this activity would require a consultant as its main implementer and it would thus require funding. However, given the desiderata formulated above, any consultant would require a working group of interested grantmakers to ensure:

- The ability for collective development of closed answer categories
- The backing of grantmakers in approaching their peers and lobbying for participation and the sharing of detailed data

One would need a *diverse* group of approximately 8 - 10 grantmakers to have sufficiently diverse experience and understanding of problems to develop a draft version of optimal closed categories (which could subsequently be piloted on another group of grantmakers in a focus group session, before being finalized). Such a group would also be a feasible start to ensuring that enough grantmakers could be convinced to participate and share detailed data to fulfill the objectives of the representative periodic survey.

A shared funding arrangement of the consultant's costs by the working group members would be the obvious way to ensure that finances wouldn't be a constraint. This way of organizing the survey would also be the best guarantee that the grantmakers own the survey, and would have an interest in ensuring its institutionalization, and the productive use of the data it collects.

3.3 A repository working group to investigate the specifications of a feasible admin shadow storage

This start-up possibility has two versions:

Firstly, a group of INGO grantmakers that already require and host shadow administrations of (some of) their NGO partners collectively discuss what it would take for them to share their shadows. This discussion could include:

- How is the shadow operationalized (digital files, actual paper? what are the required logistics of getting the material, of storage, staff capacity to deal with the shadow) Pros and cons? Best practice?
- Rationale for having a shadow administration
- Confidentiality: how is it assured?
- What is contractually agreed with the partner?
- What, if anything, beyond safe storage and being a condition for funding and thus 'enforced', does the shadow offer the NGO to make it attractive to have a shadow with the grantmaker?

The **advantage** of this is that discussions can start, assuming that an NGO administration being shadowed somewhere is acceptable, and immediately address practicalities. The **disadvantage** is

¹⁵¹ NGO grantmakers vary considerably in their capacity for due diligence. In the survey sample the number of partners per Program Officer may be as small as 3 or as large as 20. Obviously geographic spread, professionalism of the partner, nature of activities and other factors play into the ability to properly assess and monitor, but the bottom-line is that some grantmakers allocate much more staff time to due diligence than others.

that the NGOs involved will have a near exclusive relationship with one grantmaker on which they will be nearly totally dependent. For an NGO with multiple sources of funding the issue of agreeing to a particular host for their shadow, will entail many more questions regarding who has access for what under which conditions.

Secondly, a mixed group of some grantmakers and LNGOs with multiple sources of funding discusses the assumption that having a shadow is a good idea, what confidentiality guarantees would be required, what kind of host would be best positioned to offer those guarantees, and what financial administration services could potentially be offered by that host, etc.

As argued in **2.2.3**, the agenda of either group might best be explicitly focused on service possibilities and consider confidentiality as much as possible as a purely technical matter.

3.4 How to show commercial audit and legal service providers that there is a market for fraud services?

As long as existing service providers are not interested in creating a One Window service the demand will remain unmet. Section **2.2.4** speculated on reasons why there hasn't been a private sector initiative so far. Neither reason in itself can be interpreted to mean that this solution is unfeasible, but they do imply the need for practical steps to address them.

Any grantmaker CoP that reaches a state of maturity that involves concrete agreement about collectively funded responses to fraud cases would be in a good position to come up with some such steps. E.g.

- It would certainly help if such a CoP would formulate a ToR for what a One Window combined audit & legal expertise support service should offer.
- It would certainly help if such a CoP, representing as it would an interesting mass of market power, would request particular trusted companies to come up with a (costed) pilot offer, e.g. incentivized with a guarantee that it would be used with the next fraud case coming to the group's attention.
- It would certainly help if such a CoP would also formulate what would make it easy/attractive for them to engage such a support service. Things that come to mind would be requests for facilities like a free first consultation meeting, or an interesting offer covered by a retainer fee.

Thinking beyond such a start doesn't make much sense because the assumption is that once expertise is being offered in an integrated way, the results for those taking it up are going to be the offer's best proof of usefulness. They are also going to bring perverse incentives and other constraints to light. It would be up to the CoP, but especially the involved private firms to work their way around those.

3.5 The need for alternatives to the NGO form as the one and only vehicle trusted and/or able to receive donor funds in Cambodia

The claim that the NGO model doesn't fit all, or even most development purposes, is hardly original. Cambodia's post peace accord international development funding not going to government did indeed started off with INGOs, who swiftly started creating and/or funding LNGOs (see **annex 11**) but over time the inadequacies of the NGO form have resulted in the emergence of alternative vehicles like networks of NGOs, Community Based Organizations (CBOs), networks of CBOs, associations and networks of activists. However, all of these alternatives show a tendency to NGO-ize¹⁵².

This report, focusing on NGOs, has not looked into the issue of alternatives. The author is aware of efforts in the past to seriously investigate *the how* of structures and procedures if donor money is to be channeled responsibly other than through NGO structures. But none have made a significant change yet, NGOs are the overwhelmingly dominant players in the sector.

One consequence of this report's proposal to take upward financial accountability seriously is that the limitations of the NGO form are going to become even more evident. Not all, perhaps only some development activities currently channeled through NGOs sit well with the requirements and/or the in-built tendencies of the properly professional bureaucratic NGO form. Giving primacy to

¹⁵² Or stay very small and only able to handle micro-funds.

development objectives means that there is a serious need to find feasible alternatives to the NGO form.

Some obvious assumptions about the failure of alternatives to take proper root in Cambodia are that:

- The NGO form is more attractive than alternatives for the individuals managing them¹⁵³
- Alternatives normally have associational characteristics, making for a structural need for internal democracy, and/or legitimate processes of representation. Both are 'intractable problems' of NGOs (see e.g. **annex 3**)¹⁵⁴.
- Donor requirements are most easily met by the NGO form.

As has been stated earlier (see **2.1**) the narrow focus of this report only addresses part of the problems of NGO governance. One may safely assume that the part it addresses will prove easier to change to the extent that NGOs are doing what NGOs are the best organizational form for. As long as under the umbrella of this form all kinds of development activities find shelter, that the form is not suitable for or strains to accommodate properly professionalizing NGOs, is bound to have 'unintended' consequences that harm development objectives. *There is thus an urgent need to undertake a serious exploration of alternatives to the NGO form.*

One suggestion - in line with the assumptions-focused research stance taken in this report - would be to see the strong tendency to NGO-ize as one's best entry point for understanding and change.

¹⁵³ And/or employed by them.

¹⁵⁴ There is thus an overlap between problems of downward accountability of NGOs and this issue.

List of interviewees and data providers

NGO grantmakers¹⁵⁵	Contacted/interviewed¹⁵⁶
SADP	Coordinator Senior PO
Actionaid	Country Director
Forumsyd	Country Director
Diakonia	PO
PACT	Country manager Program coordinator governance unit
Care	Program director EMW program
NPA	Country director
Trocaire	Country Director
AJWS	Country Director
Danmission	PO
EWMI	Chief of Party
TAF	Chief of Party
DCA	Country Director
Capacity Builders	
VBNK	ED
CORD	Consultant
CBCLO	Chief of Party Program Coordinator
Service providers	
NGO Umbrella	ED
Audit Company	Managing Director
Audit Company	Senior Auditor
Law Firm	Program Manager Legal Advisor
Law Firm	Legal Director
Other Informants	Other relevant experience
Coordinator INGO	Has board member experience with many Cambodian NGOs
Grantmaker PO	Has extensive NGO Finance Officer experience
Grantmaker board member, Researcher	Has board member experience with many Cambodian NGOs
Lawyer (non-Cambodian ¹⁵⁷)	Has board member experience with Cambodian NGOs
Lawyer (non-Cambodian)	Has board member experience with Cambodian NGOs
Cambodian Lawyer & governance consultant	Board member experience with Cambodian NGOs
Researcher (non-Cambodian)	Extensive Cambodia civil society and NGO research experience, Cambodian NGO board member experience

¹⁵⁵ To guarantee maximum confidentiality, this list does not indicate who was only contacted, who was interviewed and who provided data on NGO partners. See **Annex 7** for more information about response rate. The label grantmaker covers a variety of different organizations: NGO donors, grantmaking intermediaries, implementing INGOs that also have a grants program, which can be sub-contracting grants or core funding grants, etc.

¹⁵⁶ For the details of the data collection on NGO partners: see **Annex 7**

¹⁵⁷ Most non-Cambodian informants have extensive (15+ years) experience in the country and speak, sometimes read & write Khmer.

Financial management consultant	Coordinator of CCC FO network, Finance advisor to GPP Cambodian NGO board member experience
Advisor to Cambodian activists (non-Cambodian)	Cambodian NGO board member experience
Advisor to Cambodian activists, action researcher (non-Cambodian)	Cambodian NGO board member experience
NGO capacity building director	Cambodian NGO board member experience
Grantmaker PO	Cambodian NGO board member experience
NGO capacity building consultant (non-Cambodian)	Cambodia civil society researcher
Governance specialist Development Bank (non-Cambodian)	

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- [Unpacking the concept of political will to confront corruption](#) (May 2010) U4 Brief
- [Countering NGO corruption Rethinking the conventional approaches](#) (March 2011) U4 Issue
- [Examples of integrity agreements for consultants and advisors](#) (May 2011) U4 Expert Answer
- [Perceptions of per diems in the health sector: Evidence and implications](#) (June 2011:6) U4 Issue
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- [The basics of integrity in procurement](#) (October 2011) U4 Issue
- [Why, when and how to use the Global Corruption Barometer](#) (July 2012) U4 Brief
- [Mapping evidence gaps in anti-corruption Assessing the state of the operationally relevant evidence on donors' actions and approaches to reducing corruption](#) (October 2012) U4 Issue
- [Per diem policy analysis toolkit](#) (December 2012) U4 Issue
- [Key features of NGO accountability systems](#) (January 2013) U4 Expert answer 358
- [Review of donor disclosure policies of corruption cases](#) (February 2013) U4 Expert answer 366
- [Donors and "zero tolerance for corruption" From principle to practice](#) (February 2014) U4 Brief

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And see: <http://www.u4.no/themes/corruption-in-emergencies/>

Health and Education Sectors

- See: <http://www.u4.no/themes/health-sector/>
- See: <http://www.u4.no/themes/education-sector/>

¹⁵⁸ The list of available publications on corruption is way more extensive but this selection focuses on material that is particularly relevant for those interested in (dealing with) corruption in the NGO sector

Annex 1: Assumptions

This annex doesn't aim for comprehensiveness. It describes the assumptions that the author is aware of and has given some thought to. The purpose is not an exercise in epistemology but a practical effort to *more effectively* frame the problem, and thus the solution(s).

Principles of human decision-making that frame our understanding

The 2015 World Development Report's theme is human decision-making and development policy. It's a very welcome effort to spotlight that...*research has advanced our understanding of the psychological, social, and cultural influences on decision making and human behavior and has demonstrated that they have a significant impact on development outcomes. Research also shows that it is possible to harness these influences to achieve development goals.* (p.xi). Its summary of the sources and the impact of the assumptions that frame human, thus also development thinkers and practitioners' understanding is commendable. Visualized versions of the three principles of human decision-making that are the pillars of this perspective are interspersed among the assumptions described in this annex.

Assumptions often/normally remain implicit. They define the frame of a study but as studies are about what is *inside* the frame, for obvious reasons of relevance and brevity, assumptions are largely ignored¹⁵⁹. But if my claim is correct that weak Cambodian NGO governance, despite being in the spotlight from the beginning of the sector's history, has remained an intractable problem for over two decades, *not* including as many of the assumptions as possible underlying the dominant framing of the problem would be a negligent waste of resources. The way around the seemingly insurmountable difficulties, if it exists, is more likely than not to be found in changing one or more of the assumptions. Only changed assumptions can result in another frame, or phrased differently, will allow searching for solutions outside the current frame.

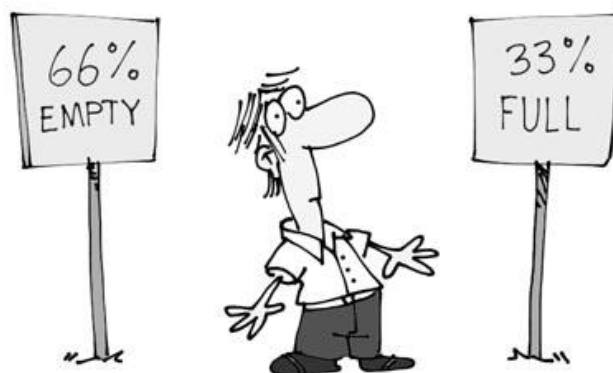
But going beyond the current frame is always risky. We may not like what we see and/or we may fear misuse by others of what appears if we change perspectives. And that makes us defensive. It is psychology 101 textbook knowledge that if the picture below is us, we tend to see the beauty, when it is the others, it is the witch.

¹⁵⁹ Academic analyses tend to state their theoretical framework, but unless the author is writing within the germanic intellectual tradition which values an explicit and thorough review of one's theoretical framework, contextualizing it within the universe of alternatives, as part of any serious study, alternatives are not highlighted. The mainstream development analysis and planning techniques based on logical frameworks are expected to state their assumptions, but this is largely used as a tick-box category, rather than taken seriously as a tool to enrich and strengthen the analysis (see section 2.3 in the main text).



As the subject under investigation here is us, any challenge to view the ugly is up against our psychological defenses. Because of this, much of what is being argued in this report can be expected to trigger within the reader the interpretation of it coming from an **NGO-basher** and/or **Donor-basher**, all the more easily because there are genuine NGO and donor bashers around. There is also genuine risk of misuse of negative depictions of the NGO sector. In other words, the argumentative ammunition needed to frame this study in these terms is abundantly available and many will recognize its use as legitimate. The end result is that the results might be ignored.

On top of that comes another, closely related psychology 101 textbook mechanism:



The same message is responded to completely differently when framed negatively or positively: only **positive** frames motivate commitment to change. So even if the findings and recommendations are not ignored, they will not tend to motivate the sector into decisive action.

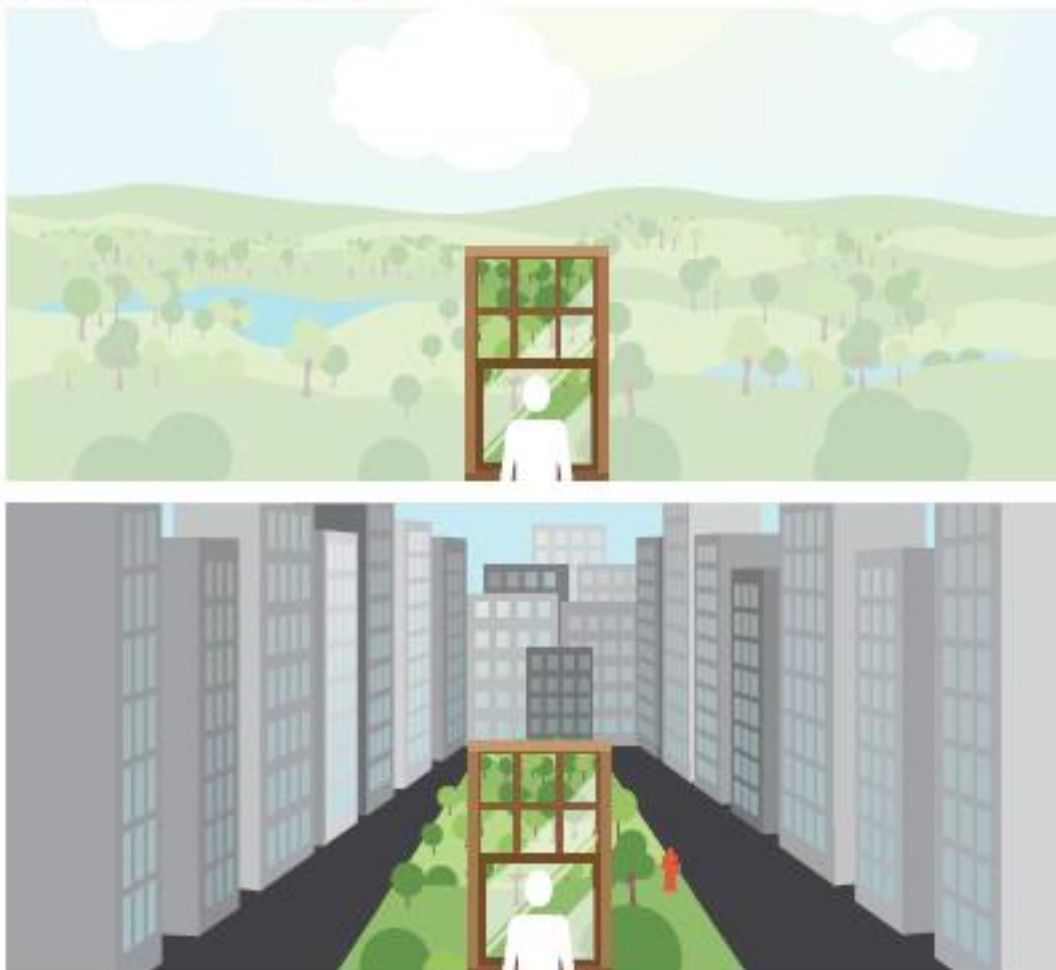
I have no idea if putting all of my 'hidden cards' on the table is going to prevent the described predictable psychological mechanisms from kicking in. It would be much better to have a genuinely

alternative policy narrative for the role of NGOs in development available, that would reframe current reality, and where we should be heading, in positive motivational terms, but I don't have one¹⁶⁰.

Some assumptions are addressed in the main text, some appear in other annexes, and whatever is left is in this annex. However, it is hoped that readers will take the trouble to go through the assumptions, especially those who have doubts about the accuracy of either the problem framing and/or the proposed solutions, and engage with the argument *also* in terms of its assumptions.

Figure 0.1 Automatic thinking gives us a partial view of the world

To make most decisions and judgments, we think automatically. We use narrow framing and draw on default assumptions and associations, which can give us a misleading picture of a situation. Even seemingly irrelevant details about how a situation is presented can affect how we perceive it, since we tend to jump to conclusions based on limited information.



Assumptions touched upon in the main text

- Checks and balances as the spirit of NGO governance: section **1.1.2**
- Upward accountability as a lever for change: section **2.1.1.1** and **Annex 3**
- The trade-off between partnership and 'strong' upward accountability: section **2.1.1.1**
- Analyzing institutional relations through the lens of incentives: section **2.1.1.2**
- The importance of taking a Do No Harm stance: section **2.3**
- Proper upward financial accountability doesn't do more harm than that already caused by the underlying financial dependency: section **2.3.2**

Assumptions touched upon in the Annexes

The relationship between accountability, incentives and checks and balances: **Annexes 2 and 13**

Despite its conceptual flaws, Transparency International's CPI does provide relevant information about the extent to which Cambodia is a 'culture of corruption' country: **Annex 5**

Committed collective stakeholder action to improve the Cambodian NGO sector would become much more likely when a more realistic research-based policy narrative about civil society and the role of NGOs in development would replace the current simplistic dichotomies: **Annex 12**

¹⁶⁰ Apparently no one has; **Annex 12** explores the need for such a narrative a bit further.

Other assumptions underlying the report

Research stance

This report is written as a *research* report. It is important to emphasize what the author understands his research stance to imply¹⁶¹.

The study has been commissioned because the current state of NGO governance is perceived as a *problem* by the organizations funding the study. This problem perception, which is a *normative* perception, is widely shared, as evidenced by the establishment of a much broader platform/sounding board for the study: a multi-stakeholder working group on Strengthening NGO Governance in Cambodia. However, as argued above, there are valid reasons to start with *empirical* descriptions, rather than *normative* assumptions. If we want to make sensible recommendations regarding what may *improve* the current situation, we first need to *describe* present-day realities, in terms of what is actually happening, rather than in terms of compliance or non-compliance with preconceived notions and models of what ought to happen. To the extent possible this is being done using *universal analytical tools*, rather than culturalist and/or deficit assumptions. E.g. the author assumes that NGO operations can be explained in terms of rational behaviour rather than just 'lack of capacity'. I am *eclectic* in my toolbox, not applying just one particular theoretical lens of understanding because the aim is not the honing of a theoretical lens but a better understanding of a very complex reality. Universal tools go hand in hand with a *comparative methodology* in which Cambodia's NGO sector is benchmarked against both other sectors of Cambodian society and similar organizations rooted elsewhere. Lastly, the analysis is going to be historical, both in the sense of trying to understand the current reality in its proper historical context, as well as looking out for 'deep' historical continuities (and this again means that culture is certainly not ignored; but it is not accorded *sui generis* explanatory power).

On top of this particular set of preferences, a second major element of the research stance adopted in this study is the use of as much *existing* research and data as possible to construct the empirical description of present-day Cambodian realities¹⁶². This is admittedly another personal preference, some would say obsession of the author, borne of frustration about the general neglect of available data¹⁶³.

Providing aid to Cambodian NGOs helps rather than harms

For any study looking into the specifics of a particular development aid mechanism, the mother of all assumptions would be that, overall, the money going to Cambodian NGOs is doing more good than harm. However, that doesn't imply that this assumption isn't relevant to investigate. There is a fierce debate about the merits of aid, and, although this annex is hardly the place to go into that debate, the fact that it exists has consequences. In general, the debate is primarily about aid going to governments, and focuses on e.g. the self-interested/legitimate geopolitical and/or commercial agenda's of donors, and aid's supportive/disruptive economic and governance effects in the recipient countries.

But the reality is that NGO sector funding is to a large extent coupled to the vicissitudes of this bi- and multi-lateral aid debate. And that coupling is not only conceptual/rhetorical but also material in that lots of NGO funding comes from bi- and multilateral sources and can legitimately be analyzed through a geo-political lens, and questioned about its economic and governance effects.

Development aid, including the share going through NGOs, is thus *inherently political*, as the above outline of the debate shows, but it is so also *more indirectly* in that donor country citizens' voting preferences play into the way politicians deal with aid. And unfortunately aid is a populist topic, similar to topics like immigration and security. Given these realities, the onus is on the NGO aid sector to ensure its impact and moral standing is beyond reproach. Reputation counts. Tolerating fraudulent peers matters. This argument has been made for quite some time already by CCC in the course of

¹⁶¹ Those familiar with the work of Chabal & Duloz (1999) on Africa may recognize their five dimensional approach in this stance (p.xvi-xviii)

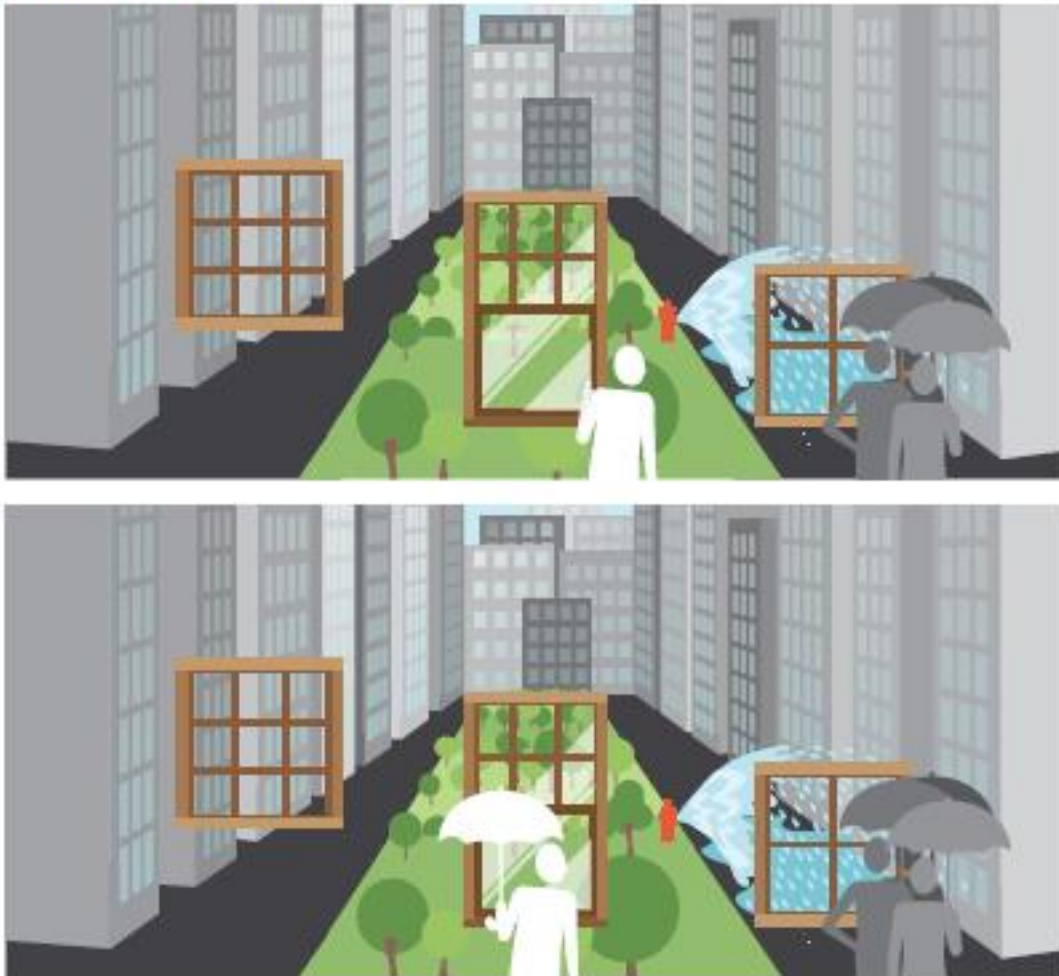
¹⁶² This doesn't preclude advocacy for new/original research as will be evident from the follow-up actions suggested by this report.

¹⁶³ This is not the place to go into this frustration. Those interested can contact the author for Cambodia specific papers etc. written on the topic

pushing its NGO certification system. But the enthusiasm to date to adopt even these *minimum* standards makes one wonder if the shared sense of urgency required to effectively respond to the sector's collective vulnerability to reputational risk is sufficiently strong.

Figure 0.3 What others think, expect, and do influences our preferences and decisions

Humans are inherently social. In making decisions, we are often affected by what others are thinking and doing and what they expect from us. Others can pull us toward certain frames and patterns of collective behavior.



On not having the assumption that bureaucracy is by definition pernicious¹⁶⁴

If anything, due diligence evokes the image of a bureaucratic audit culture of endless paper work and control routines. Bureaucracy has a bad reputation, among those of all political persuasions. One can argue that that bad reputation is actually a more recent phenomenon than we imagine, but weirdly enough, bureaucracy as a phenomenon of academic reflection seems to have moved out of fashion, after the 'market model' acquired ideological hegemony. The bureaucracy critique of the political right rules the debate and doesn't need to prove itself anymore, and the political left, on the defensive everywhere in the West, trying to salvage as much of its (inherently bureaucratic) welfare state institutions from the new ideological winds as possible, is left without any persuasive analysis of bureaucracy to replace its earlier 1960s flower power and anarchist critiques. So what we currently have is overtly anti-bureaucratic rhetoric of the neo-liberal right that doesn't match empirical reality *at all*, and nothing much by way of a more evidence-based alternative from the other end of the political spectrum.

Graeber's summarizes his reading of actual empirical reality in his Iron Law of Liberalism:

Any market reform, any government initiative intended to reduce red tape and promote market forces will have the ultimate effect of increasing the total number of regulations, the total amount of paperwork, and the total number of bureaucrats the government employs. (p.9)

¹⁶⁴ The reflections in this paragraph are taken from and/or based upon American anarchist, anthropologist and activist David Graeber's new book *The utopia of rules* (2015).

Graeber argues that to understand this rule:

[a] critique of bureaucracy fit for the times would have to show how all these threads - financialization, violence, technology, the fusion of public and private - knit together into a single, self-sustaining web. (p.42)

The point here is not to elaborate Graeber's own analytic take on this 'self-sustaining web'. What matters for thinking through one's underlying assumptions regarding bureaucracy is some of his empirical observations, which ground his 'iron law':

(1) That the law goes beyond what most would understand to be the economic sphere of society:

It was [also] a cultural transformation. And it set the stage for the process whereby the bureaucratic techniques (performance reviews, focus groups, time allocation surveys...) developed in financial and corporate circles came to invade the rest of society - education, science, government - and eventually, to pervade almost every aspect of everyday life. (p.21)

(2) That, despite the universally shared aversion to bureaucracy, tellingly, the dominant academic theorizing on bureaucracy is based on the assumption that bureaucracy really works:

Weber saw bureaucratic forms of organization as the very embodiment of Reason in human affairs, so obviously superior to any alternative form of organization that they threatened to engulf everything, locking humanity in a joyless "iron cage", bereft of spirit and charisma. Foucault was more subversive, but he was subversive in a way that only endowed bureaucratic power with more effectiveness, not less... Through concepts like governmentality and biopower, he argued that state bureaucracies end up shaping the parameters of human existence in ways far more intimate than anything Weber would have imagined. (p.55)

(3) And that despite the universal aversion, nearly all of us fear the absence of bureaucracy:

[T]he experience of operating within a system of formalized rules and regulations, under hierarchies of impersonal officials, actually does hold - for many of us much of the time, for all of us at least some of the time - a kind of covert appeal. (p.149)... Cold, impersonal, bureaucratic relations are much like cash transactions, and both offer similar advantages and disadvantages. On the one hand they are soulless. On the other, they are simple, predictable, and - within certain parameters - treat everyone more or less the same... it's hard to imagine how, even if we do achieve some utopian communal society, some impersonal (dare I say, bureaucratic) institutions would not still be necessary, and just for this reason. (p.152)

Graeber also gives plenty of fodder for the universal unease and aversion with bureaucracy. Just a couple of examples:

- The observation that bureaucracies seem to have an inescapable inner logic of expansion.
- The observation that once one creates a bureaucracy it is almost impossible to get rid of (because it is both indispensable to rulers, and *holds a genuine appeal to those it administers* - see above)
- Bureaucratic rationality tends, even if installed as a *means*, to become an *end* in itself.

Given Graeber's extremely critical reflections on bureaucracy, the analytical agenda he sets out for himself recognizes that neither gut aversion, nor uncritical eulogizing of bureaucratic 'rationality' is going to help us much in dealing with bureaucracy:

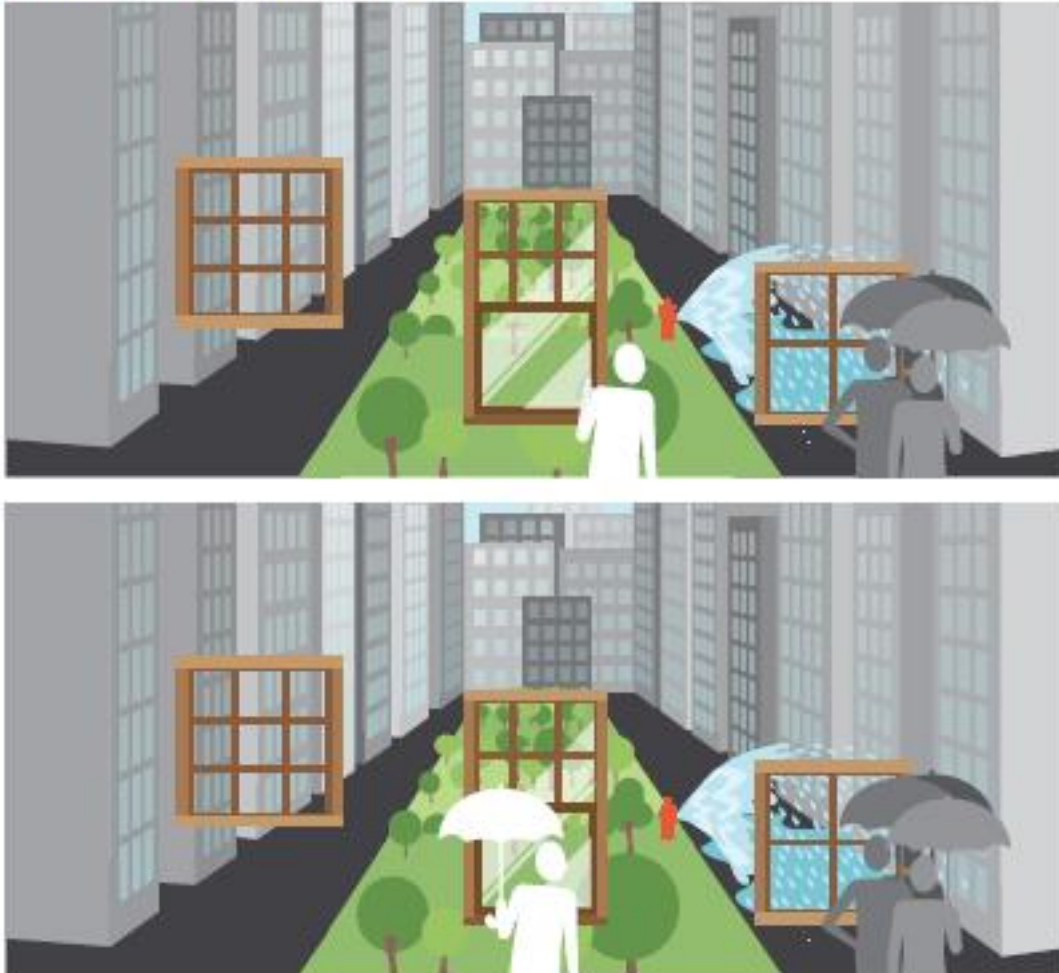
We need to find a way to talk about what it is we actually object to in this process, to speak honestly about the violence it entails, but at the same time, to understand what is appealing about it, what sustains it, which elements carry within them some potential for redemption in a truly free society, which are best considered the inevitable price to pay for living in any complex society, which can and should be entirely eliminated. (p.44)

Like anyone else, I share a deep-seated aversion against bureaucracy, but am equally deeply convinced that accountability of NGOs and donors, their organizational partnerships, and the due diligence required cannot do without bureaucracy. My assumption is that one needs to question every

specific manifestation of it, always ask the question, what specific end any regulation is meant to serve, resist acceptance of its internal logic as sufficient rationale for any measure, and always be on the look-out for the underlying power-inequalities. But, as an unavoidable instrument of social control, it has its place, and our effort should thus go into figuring out as best as we can, its proper application.

Figure 0.3 What others think, expect, and do influences our preferences and decisions

Humans are inherently social. In making decisions, we are often affected by what others are thinking and doing and what they expect from us. Others can pull us toward certain frames and patterns of collective behavior.



Governance and the liberal democracy ideal

Another core assumption, e.g. the importance of checks and balances achieved through a separation of powers model and setting an example of (internal) democratic functioning for one's legitimacy to monitor governmental and private sector institutions and behaviour, seems to hinge on the increasingly challenged assumption that liberal democracy¹⁶⁵ is the best governance model to administer societies. Or maybe this should be phrased the other way around: the assumption that a separation of powers is crucial for good governance seems challenged by ideological and empirical alternatives to liberal democracy. *Ideologically* challenged by explicitly theorized alternatives like some forms of one-party autocracy that do not subscribe to a separation of powers as envisioned by liberal democracy, and *empirically*, by:

¹⁶⁵ The [wikipedia lemma](#) provides a good introduction: *Liberal democracy is a form of government in which representative democracy operates under the principles of liberalism, i.e. protecting the rights of the individual, which are generally enshrined in law. It is characterised by fair, free, and competitive elections between multiple distinct political parties, a separation of powers into different branches of government, the rule of law in everyday life as part of an open society, and the equal protection of human rights, civil rights, civil liberties, and political freedoms for all persons.*

- Some of these autocracies seemingly performing 'better' in at least some respects, than most liberal democracies (e.g. Chinese success in poverty reduction), and by
- Some/many prominent liberal democracies, e.g. the United States, increasingly functioning as states 'captured' by private interests, i.e. displaying some structural similarity to neo-patrimonial states (see **Annex 2**) wherein there is a *fusion of public and private power*¹⁶⁶, rule of law has facade-like qualities and checks and balances on actual power seem ineffective.

The days of the 'end of history' thesis¹⁶⁷ seem to be definitely over. Analysts draw various very different conclusions from this. Some argue that (international relations) 'realism' dictates that if other versions than the ideologically 'sound' liberal democratic one of the relationship between public and private power are doing better, one should prepare for a future in which they dominate and do whatever it takes to stay on top¹⁶⁸. Others conclude that our thinking about liberal democracy thus far has been too procedural: forgetting the ends of liberal democracy, which are about values like equality and justice, and narrowing it down to procedural means has allowed de facto capture of the system by those able to influence the means. Simultaneously, the same kind of procedural assessment of any other system of governance has clouded our view of how things function in practice.

One *empirical* conclusion that most would subscribe too, is that those states that rapidly increased prosperity of their population did so by *embedd[ing free markets] within social, legal and political institutions that provide them legitimacy by ensuring that the benefits of capitalism are broadly shared*, whatever their formal ideological governance philosophy; and that the general population of states which were high-jacked by free-market fundamentalism that doesn't tolerate any restrictions on the flow of goods or capital across borders (deregulation of finance, no industrial policy, etc.), whatever their formal governance philosophy, paid a price of *unemployment, reduced wages, lost pensions and depopulated communities*.¹⁶⁹

Dani Rodrik, one of those drawing this conclusion, argues that we cannot simultaneously pursue democracy, national self-determination, and unrestrained economic globalization. The inseparable association of democracy and free markets assumed to have triumphed at 'the end of history' was an ideological fiction. Democracy wasn't an automatic corollary of free markets, and free markets turned out to be much more of a boon to the members of the global elite than to the common public. No market is free. Markets always require regulation. 'Free' was another label for a very particular regulatory set-up that favoured redistribution of economic benefits to a tiny elite. Equally, formally non-democratic polities managed to create prosperous economies by putting government checks and balances on private power so as to ensure performance legitimacy by redistribution of economic benefits to the general populace.

However that may be, the assumption underlying this study is that if one focuses on what is *actually happening* within a particular polity, effective governance requires proper checks and balances, however these may be structured within that particular context, in order to generate at least somewhat fair outcomes.

¹⁶⁶ Graeber, D. (2015), p.24

¹⁶⁷ [Francis Fukuyama's original 1989](#) article arguing that the great ideological battles were over, and that western liberal democracy had triumphed, delegitimizing any conceivable alternative.

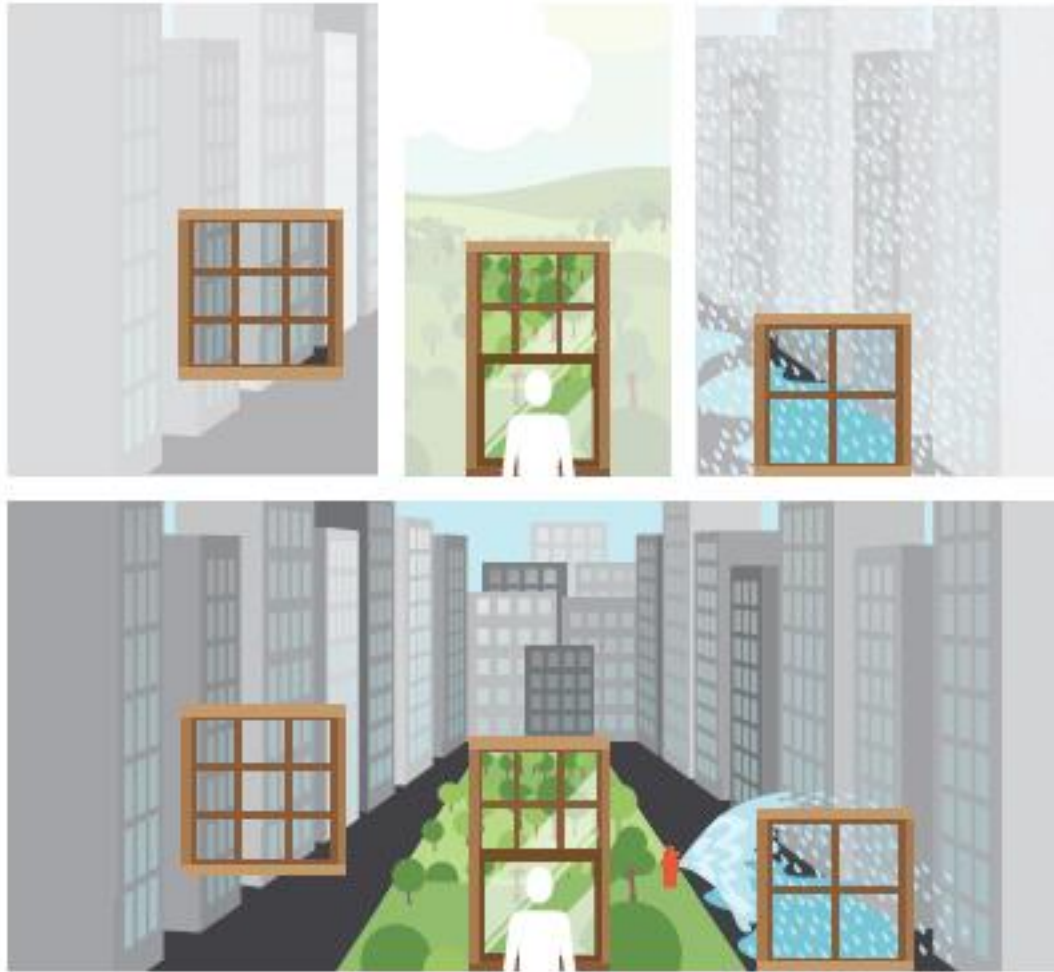
¹⁶⁸ One can interpret the writing of a political thinker like [David Rothkopf](#) in that way (e.g. his *Power, Inc.: The Epic Rivalry Between Big Business and Government-and the Reckoning That Lies Ahead*)

¹⁶⁹ The phrases are taken from a review of Dani Rodrik's *The Globalization Paradox: Democracy and the Future of the World Economy*:

<http://www.washingtonpost.com/wpdyn/content/article/2011/03/11/AR2011031106730.html>

Figure 0.5 Thinking draws on mental models

Individuals do not respond to objective experience but to mental representations of experience. In constructing their mental representations, people use interpretive frames provided by mental models. People have access to multiple and often conflicting mental models. Using a different mental model can change what an individual perceives and how he or she interprets it.



Annex 2: (Neo-)Patrimonialism and Accountability

The extracts below are taken from CDRI's seminal literature review on *Accountability and Neopatrimonialism in Cambodia*, and subsequent publications of its PORDEC research programme, and draft chapters of Louse Coventry's forthcoming PhD thesis (chapters that review governance and accountability in Cambodia)¹⁷⁰.

The purpose of CDRI's review was to situate contemporary governance of the Cambodian state within current international academic understanding of how traditional cultural orientations mesh with bureaucratic forms and processes in developing countries like Cambodia, and understand existing Cambodia-specific descriptions within that conceptual framework.

Coventry's review begins with a concise and pointedly formulated argument why any investigation of NGO governance requires an understanding of the broader Cambodian setting within which NGOs operate:

Governance is a critical challenge for development in Cambodia (Malena & Chhim 2009). In noting this, Malena and Chhim are expressing concern about national governance, which seems to differ from the concerns for civil society governance that inform the current research. Yet, it is clear that state – civil society interactions provide the context for, and interweave with, national governance. Even more critically, the collective experience of being governed at a national level – and all that this entails – helps to inform and shape the governance of civil society organisations. The interplay between national governance and civil society governance in Cambodia thus warrants scrutiny: To what extent can civil society governance transcend the limits of national governance? How will better governance of civil society advance, or might it actually mitigate, the broader agenda for political and democratic accountability?

These two sources are thorough efforts to understand Cambodian national governance through the lens of international academic and policy debates. However, one needs to keep in mind that they are primarily descriptive and typological, and lack both an in-depth historical perspective and a political-economy perspective that includes the agency of the international 'community' beyond Cambodia's borders.

The way the literature review describes the Cambodian state as *neo-patrimonial* seems historical, situating it between the governance types of the 'traditional' patrimonial regime and the modern bureaucratic state. Sort of a temporary half-way house that Cambodia watchers tend to have either 'optimistic' or 'pessimistic' development expectations about¹⁷¹.

Traditional patrimonialism is based on *patronage/patron-client relationships*, which for the Southeast Asian context have most famously been described by anthropologist James Scott:

"a special case of dyadic (two person) ties involving a largely instrumental friendship in which an individual of higher social-economic status (patron) uses his influence and resources to provide protection or benefits, or both, for a person of lower status (client) who, for his part, reciprocates by offering general support and assistance, including personal services to [the] patron" (Scott 1977: 92).

When the administration of territorial power is *designed* to run on the principle of patronage, it is a traditional patrimonial regime. When however patronage operates through the bureaucratic institutions of a modern state, it is called *neo-patrimonial*.

¹⁷⁰ Louise Coventry's PhD work, of which this review is part, is based on the Actionaid-Cord *Cooperative inquiry into civil society governance* of which she was the project leader.

¹⁷¹ These terms are taken from Caroline Hughes (2003) insightful analysis that contrasts an optimistic 'habitation' view of Cambodia's transition to democracy, with a pessimistic 'political culture' view. *The optimistic account suggests that the creation of the appropriate democratic institutions, and their maintenance by sustained international intervention, can engender a process of local 'habitation' to internationally promoted procedures and processes. The focus on political culture questions the universality of either an aspiration for or an understanding of democracy. This has informed a body of literature on Cambodia which seeks to locate the shortcomings of Cambodian democracy in a view of Cambodian culture as combining a predisposition toward hierarchy and deference with an extreme intolerance for dissent. Frequently, these cultural predispositions are regarded as having both permitted and been exacerbated by the trauma of war.* (p.7)

That the literature review is not really historical but rather typological shows itself in the absence of a historical account of the emergence of these modern bureaucratic institutions. These institutions emerged during the predecessors of the current regime, from the French colonial administration, through Sihanouk's reign, Lon Nol's Khmer Republic and the post Khmer Rouge communist 1980s and the UNTAC transition¹⁷². The current neo-patrimonial hybrid is not the result of the capture of a previously functioning-as-intended modern state, but the outcome of a continuous co-development of modern institutions and their (neo-)patrimonial functioning. And this development was steered by a succession of elites, but always in response to, supported, but also constrained by a succession of geo-political 'patron' states.

This development is hardly unique, and one of the classic definitions comes from Africanists:

Neo-patrimony¹⁷³

is a regime where: *"the chief executive maintains authority through personal patronage, rather than through ideology or law. As with classic patrimonialism, the right to rule is ascribed to a person rather than an office. In contemporary neo-patrimonialism, relationships of loyalty and dependence pervade a formal politics and administrative system and leaders occupy bureaucratic offices less to perform public service than to acquire personal wealth and status. The distinction between private and public interests is purposely blurred. The essence of neo-patrimonialism is the award by public officials of personal favours, both within the state and in society. In return for material rewards, clients mobilise political support and refer all decisions upwards as a mark of deference to patrons"*.

The review wisely doesn't take sides with either optimist or pessimist Cambodia watchers, which both assume a teleological modernization trajectory of state governance (but disagree about Cambodia's prospects to successfully move through the neo-patrimonial 'transition'). Irrespective of one's *normative* longer-term hopes for the development trajectory of Cambodia's governance, *analytically* one should assume as little as possible about the way all kinds of institutional arrangements operate, and what would make for substantial change. The actual political economy realities should take precedence over theoretical and normative expectations¹⁷⁴. Our theoretical understanding of institutional change processes is very rudimentary and thus a questionable framework for action. The best basis for action is *observation of actually occurring institutional functioning*, aimed at understanding what makes the system tick rather than how it differs from its 'intended' version.

For all we know, the current neo-patrimonial regime may be transitory. What we don't know is what 'type' it is transforming into¹⁷⁵, nor do we know how long the transformation is going to take. However, all of these uncertainties do not preclude the identification of particular micro- and meso-level processes that support particular dysfunctional (i.e. socially unjust, non-developmental, unsustainable, etc) outcomes.

This is where accountability comes in. Accountability is all about the need to ensure checks and balance and the carrots- and-sticks incentive structures required to make these checks and balances effective. The general definition below outlines three accountability dimensions (upward, horizontal and downward), and two sources of incentives (formal/legal and informal/norms) and hints at the major kinds of sticks (legal and social punishment) and carrots (status, trust/reputation).

¹⁷² The Khmer Rouge years are a hiatus and without any 'positive' contribution, but with long-term negative consequences for Cambodia's institutional development.

¹⁷³ Bratton and van de Valle, 1994:45 in Pak K. et al. (March 2007)

¹⁷⁴ Obviously, this argument is about analytic stance, not about epistemological convictions. Facts cannot be theory-free. But this is hardly the place to delve into such fundamentals.

¹⁷⁵ That may be something much closer to the 'prototypical' modern state (the optimists' scenario), it may be something different, it may be mostly cosmetic changes further cementing the existing type (the pessimists' scenario)

Accountability¹⁷⁶ is multi-dimensional and contextual. People can be held accountable formally or informally. Formally they can be judged, for example, according to specific laws, regulations and professional codes. They can also be judged informally, according to unwritten rules or social norms that in some instances are much more influential in determining behaviour. Even more complexly, a person might be subject to more than one of conflicting criteria that define their accountability. For instance, in some cultures, it might be seen as an act of gratitude to offer gifts to officers who facilitate business transactions, but the same act might be viewed as "unaccountable" by the law. These different aspects of accountability can have upwards, downwards or horizontal dimensions: upwards accountability being the responsibility to perform what higher-ups demand, downwards accountability involving responsibilities to the people served and horizontal accountability involving coordination and work alongside other agencies. All this requires a clear focus on what it is that governance arrangements seek to achieve by establishing accountability arrangements, and, especially important in Cambodia, who the key actors are in those arrangements.

In the main text governance has been described as being at heart about checks and balances (section **1.1.2**). The conceptual framework of this report understands accountability and the way it is 'enforced' as being the main mechanism by which governance makes for checks and balances.

¹⁷⁶ Pak K. & Craig D. July 2008, p.14-15

Annex 3: Recurring themes in two decades of Cambodian NGO sector assessments¹⁷⁷

This is not a comprehensive overview of assessments. Its purpose is to illustrate that judgments remain surprisingly, worryingly, similar over a twenty-year period. The issues of lacking internal democracy/autocratic management and lack of checks and balances, and the absence of downward accountability beyond some 'needs assessment' and 'consultation' remain seemingly intractable constants.

Autocratic leadership, lacking checks & balances, weak systems, donor-centric

These quotes tell a remarkably consistent story across two decades of Institutional Capacity Building of Cambodian NGO:

The common structure of most local organizations is a core organization headed by a (sometimes charismatic) chairperson without a legitimate body that controls and councils it and without an in-depth knowledge of the target group. Most local NGOs [do not focus] on their own institutional and management needs nor the participation and contribution of the target group.

M van der Drift (Nov **1993**) Impressions on the NGO movement in Cambodia

Strong leadership is a significant advantage for the successful establishment of a new local NGO...However, strong leadership in the Cambodian context seems to exclude a participatory approach and accountability...Lack of accountability to a constituency or community makes financial accountability difficult. This does not necessarily mean that fraud or corruption is taking place, but could easily lead to that.

A-M Steeman (Nov **1995**) Cambodian NGOs

Most Cambodian NGOs have autocratic structures with only paid project staff and usually no volunteer board. The organization is usually founded and managed by a charismatic and relatively "stronger" leader and a score of obedient and instruction-oriented staff. Despite not fully understanding the rules and orders and accountability required by donors, Cambodian NGOs are doing quite well relative to their government counterparts

Thida Khus (April **2000**) Non Governmental Organizations in Cambodia

Many [of the 18] NGOs stated that autocracy is very undesirable and that this is a common problem in NGOs in Cambodia. Autocracy is interpreted as decision-making by one person without consultation or input from others, creating a situation in which neither the manager nor the staff recognise the 'rights' of the staff to voice an opinion.

There is a strong belief that checks and balances need to be in place to prevent a Director with autocratic inclinations from misusing power.

VBKN (April**2000a**), p.37

¹⁷⁷ Our working definition of an NGO sector assessment is broad: any evaluation of a sample of Cambodian NGOs using at least some systematic information gathering technique.

Little has changed. While most [NGOs] continue to advocate such values as democracy, transparency, accountability, participation, non-discrimination and non-violence, only some of these values inform their internal operations. As mentioned above, many [NGOs] do not have a membership base with influence over the organisation, and to which their leaders are ultimately responsible. Most NGOs remain accountable principally to their international donors rather than to the people they are established to serve or advocate on behalf of.

Sida Advisory Team (SAT) on Democratic Governance in Cambodia (January 2006) Civil Society and Uncivilised Politics. Trends and Roles of the Cambodian Civil Society and Possibilities for Sida Support (Comparing the situation of **2003** with that of **2005**)

Unfortunately many [NGOs] in Cambodia, at all levels, suffer from a lack of internal democracy, participation and "downwards" accountability. Many Cambodian [NGOs], including professional NGOs, are formed around charismatic leaders (often its founders) on whom the success and very existence of the organization is often highly dependent. Such leaders ... play a crucially important role but few of these have had the opportunity to learn and develop transparent, democratic, participatory and accountable leadership skills.

C. Malena & K. Chhim (Feb **2009**) Linking citizens and the state: An assessment of civil society contributions to good governance in Cambodia

As most NGOs are donor dependent, their decision-making, not unexpectedly, is influenced greatly by their donors/development partners. In defining strategic focus or directions, including project designs, the priority concerns or issues of communities become secondary to donor priorities and agenda. While development partners provide technical or capacity development support for NGOs to implement good governance practices, they have not effectively addressed cultural norms and traditional values and structures that run counter to these principles and practices (e.g. authoritarian structures and patronage leadership, informal, personalized, relations based on personal rank and status). In reality, the development partner-NGO relationship mirrors the dynamics of traditional patron-client relationships.

CCC (**2010**), p.32

Transparency is mainly understood in financial terms and rarely in terms of decision-making processes. The practice of democracy is limited. Despite concerted efforts by donors to promote democratic codes within NGOs, various studies document the weak governance structures of many organisations. Democratic principles are often intertwined with embedded structures of hierarchy, nepotism and patronage, autocratic and authoritarian leadership, and secrecy...

Ou Sivhuoch and KIM Sedara (Oct **2013**)

Lack of change in effective governance and external financial oversight

There are also indicators of change in the NGO sector during those two decades, e.g. the emergence of large, professionally managed NGOs. However, the above laments suggest some core changes may be more cosmetic than substantial, the adoption of institutional facades behind which business-as usual continues as before. Obviously, one can identify positive exceptions but close reading of the quotes below, focusing on two indicators of professionalism, governance structures and external audits, suggests:

- That the awareness of the importance of these indicators has grown more acute,
- But *quantitatively* the changes are not indicative of the sector really having embraced them wholeheartedly.

Regarding governance structures, contrast the assessments dating from the end of the first decade after the NGO sector's genesis, with more recent ones. The NGO sector, following donor preferences, has largely adopted what Louise Coventry calls the *corporate governance model*, with a board as its king pin, so we focus on proportions of NGOs having a governance board (on paper). The differences between 2000 and 2010 are minor.

The proportion of NGOs with active and effective Boards hasn't increased that much

Twelve of 32 organizations (38%) indicated they have a board of directors. Of these, 5 (16%) were found to be active, 1 active but irregular, 5 not active, and one was just established so it was too soon to tell... In general, however, with the exception of two or three boards that have a reputation for being formal structures, the impression given during the interviews was that most boards continue to play an advisory rather than a governing role and that local NGOs are keen to establish them in order to gain legitimacy in the eyes of their donors.

In cases where boards are not required or particularly encouraged (yet) by donors, it is clear that boards are not the structure of choice for most NGO founder/directors.

Mansfield, C. with Chhay Sarath & Um Samav (January **2001**), p.9 (PACT NGO partners)

Governance is an important issue for LNGOs. Many reported that there were donor and legal requirements for LNGOs to have Boards of Directors. Five or six of the [18] LNGOs in the study had established, functioning Boards of Directors. All except one had Boards shown on their organisational chart. Many of these were inactive, newly formed or had never been formed.

VBKN (April**2000a**), p.31-32

Most NGOs have functional governing structures...Individual local NGOs...have Governing Boards as required during registration but only a few are fully functional. Most of them have Board of Advisers whom they seek for technical advice and support as needed...Local NGOs who have INGO partners are likely to have governing boards, which is required by the partners. Other donors also require their partner local NGOs to have one. However, the degree of functionality is not verified.

CCC (August **2010**)¹⁷⁸

Almost all organizations in our sample have a board of directors (88 % of local NGOs)... The relative infrequency of meetings suggests weak NGO-board ties, and 20 % of leaders did not know how many members were on their board or how frequently the board met. If these responses are additional indicators of the relationship between the board and the leadership in an NGO, then governance may be one of the larger capacity challenges in the sector.

Sua ´rez, D. & Marshall, J. (**2012**)

Regarding external audits, the picture is pretty much the same. A decade of capacity building and organizational strengthening hasn't resulted in significantly higher take-up. Basically: unless contractually required by a donor: no external audit occurs.

¹⁷⁸ Unfortunately the results of the 2012 NGO survey on having a governing body (78,6%) commissioned by CCC (May 2013) are not separately tabulated for LNGOs, INGOs and Associations and thus cannot be compared with these results. However, another finding of this survey adds a revealing note about the actual implementation of these institutional features meant to result in good organizational practice: *The most common form of governance was the existence of a written constitution, statutes or bylaws, which 95.9% of CSOs stated was available...When asked if they can show their written constitutions and other reports, [only] 56.8% were able to show our survey team their bylaws and constitution.* (p.56)

Proportionally not much change in NGOs that are audited by an auditing firm

Of the 32 completed profiles, 13 organizations (41%) have regular external audits by [private] firms... Six other NGOs (19%) indicated their donors regularly audit them. Ten more (31%) are not audited and we lack information on the remaining four. The presence of external audit appears to be directly related to the policies of the donor agency. In-country funding agencies with adequate financial staff usually conduct their own financial reviews of partners. Donors with no in-country presence are more likely to require an audit by a private firm and include the cost of the audit in the budget.

During the course of the survey, the researchers examined a number of audit reports. Although the audits are said to be expensive, the reports we examined were thin and did not include income statements. In at least one case, the audit firm did not visit the NGO office. Therefore, while external audits are a good idea, if they are guided by excessively vague terms of reference, donors and other agencies will cease to perceive audited NGOs as being held to a high standard of accounting practices and audits will lose their credibility.

Mansfield, C. with Chhay Sarath & Um Samav (January **2001**), p.17-18 (PACT NGO partners)

In 2005, around 27% of local NGOs and about 39% of INGOs got audited by external auditing firms.

CCC (August **2010**)¹⁷⁹

54% of LNGOs in their sample has independent financial audits (not all of those will be done by an accounting firm, some will be done by (one of their) donors.

Sua ´ rez, D. & Marshall, J. (**2012**)¹⁸⁰

Tellingly: The PACT assessment is the only one we discovered that problematized **the quality of external audits**. The combination of only about half of NGOs being externally audited and worries about the quality of a significant portion of the audits that are done (see also **Annex 7** for some data relevant to the current quality of NGO audits) implies that external audits are (still) a limited tool for ensuring good organizational practice.

NGO leadership as the critical factor in (resistance to) positive change

Undoubtedly a variety of factors play into the intractability of these core problems, but the assessments, NGO staff opinions quoted in them, and, to add another source of information, VBNK capacity building evaluations, all identify autocratic and unresponsive leadership as *a*, or even *the* most important ingredient of bad organizational practice.

Some of the above quotes directly refer to it, starting right from the earliest ones. Let's add another quote from Thida Khus **1999-2000** seminal *Country Study - NGOs in Cambodia* for the ADB:

¹⁷⁹ A more recent CCC Capacity Building needs assessment survey (CCC, 2012) , painted a questionnaire responses-based picture that is so far outside reality regarding governance (mean score of 4 out of 5 for a functioning board) and financial management (mean score of 4 out of 5 for external audit) that its only value is to show the extent to which the sector is aware that donors expect them to have these structures/procedures in place. The report shows awareness of the overly positive questionnaire results and observes: *The focus group discussions and various literature reviews suggested that personal leadership rather than collective leadership was common and an established feature in the Cambodian CSOs. The leadership was mostly concentrated in one person, usually executive director or president or group of individuals, who tended to make decisions on behalf of the whole NGO. This group of leaders sometimes could be from the NGO's founders, who have been able to maintain power and privileges over other members due to their qualifications, performance, commitment, society status, access to funding, members' personal loyalty, or dictatorship leadership style combined with other members' indifference or obedience. This makes many Cambodian CSOs run like a personal organization or business rather than institutions where decision-making and management systems follow set procedures into entities.* p.13

¹⁸⁰ Unfortunately the results of the 2012 NGO survey on being externally audited (52%, of which half conducted both organizational and project audits, a quarter only organizational audits and a fifth only project audits) commissioned by CCC (May 2013) are not separately tabulated for LNGOs, INGOs and Associations and thus cannot be compared with these results. For the trustworthiness of these results, see also note 2.

The problem...lies in that Cambodia is a traditionally authoritarian society with a leader-centred system¹⁸¹, which has grown to become a firmly engrained expectation of participants...Project staff, especially senior level, has a tendency to work independently, especially in regards to decision-making. The reason can be based on genuinely good intentions, however, after so many hundreds of years, it also becomes a compulsive nasty habit that will require conscious effort to reverse. In general, Cambodian leaders have great difficulty delegating responsibilities and also being open with the people they lead (a two-way hazard). (p.18)

Next, let's look at a core finding of one of the largest NGO evaluation exercises ever conducted in Cambodia, the **2000** SIDA Human Rights Evaluation project, which thoroughly assessed ten Cambodian Human Rights and Democracy organizations. It seems common sense to expect that of *all* NGOs, those in the business of preaching democratic values would be the *most likely* to practice them. But the evaluation results were very ambiguous:

Internal democracy in ten local NGOs (A – J)

1 = not at all; 3 = not enough but a good start; 5 = more than enough

Indicators/NGOs	A	B	C	D	E	F	G	H	I	J
Decentralised power	1	3	3	2	2	1	3	1	-	3
Transparency and accountability	2	3-4	3-4	3	3-4	1-2	3-4	1-2	1	3
Leaders promote vivid dialogue	2	3-4	3-4	3-4	3	1-2	3	1-2	1	2-3
Legitimacy in eyes of staff	2-3	4-5	4	4	3-4	2-3	4	1-2	2-3	4
Active personnel	1	3	2	2	2	1	3	1	1	2
Relation to power	2	4	3	3	3	2	4	2	2	4
Total average*	2	3	3	3	2-3	1-2	3	1	2	3

** included here are results not shown in questions – maximum score is 5.*

The evaluation identified *leadership* as the core reason for this state of affairs. The analysis explicitly mentions that having a board didn't matter. Given what we know about the proportion of NGO boards that are active and effective, let alone that proportion 15 years ago, this is as-is-to-be-expected, but certainly food for thought.

¹⁸¹ I have come across only one assessment that points to the influence of the Western benefactors of Cambodia, and the example set by INGOs and the UN: *All Cambodian NGOs are very much influenced by the example of international agencies in Cambodia. They tend to adopt the hierarchical models of management copied from INGOs and the UN but have a weak sense of organizational issues. Lack of resources, one of the most serious challenges that Cambodian NGOs face, is aggravated by the example of INGOs which suggest that four-wheel drives and hones are necessary to be a creditable NGO.* Simmons, M. c.s. (March 1996). Our study takes a co-creation perspective, as most eloquently applied to Cambodia by Caroline Hughes (e.g. 2003) and would argue that Cambodia's traditional leadership style and the INGO/UN example concluded a convenient marriage of convenience.

We found at the local NGOs not much difference of internal or democratic functioning between an organisation with a board and those without. Boards are not given the opportunity to fulfill their function or they are not making use of it... In general the relationship between management and board seems to be of an occasional nature and there is no evidence of a trend to hold leaders regularly accountable for their management decisions... All local NGOs have some or most structures needed for a democratically 'governed' organisation. However, the measurement of democratic structures and cultures demonstrates that structures alone are not sufficient to assure a democratic organisation... The application of the democracy measuring instrument, the survey about opinions among the NGO staff and the conclusions reached by the NGO Mission Units all come down to the following: the personality of the NGO's leader is the deciding characteristic in the democratic status of the local organisations.

Extract from Vijghen, J. (2001) in Östberg, S (2002)

Another source that also identifies leadership as core to good organizational practice is lessons learned documents from various VBNK NGO capacity building programs. From 2006 to 2008 VBNK's ICCO Partnership Project provided capacity building support to 18 NGOs on financial management and other organizational issues. Participation was voluntary, without implications for the grants these NGOs received from NGO donor ICCO¹⁸² (VBNK's reporting on the results to ICCO did not identify issues of individual NGOs). The capacity building was only having a noticeable impact (beyond very ethereal outcomes like 'awareness raising') in 4-6 of the 18 NGOs (25-33%), and the main determinant of that impact was the interest of the Director.

There were challenges engaging all levels of staff in the IPP throughout the entire Project particularly the senior leadership of the organisations. Of the fifteen organisations interviewed for this assessment, only about a quarter demonstrated consistent engagement from senior management and specifically their directors. (p.13)

The organisation's director strongly influenced organisational readiness. The director's understanding of the change process, willingness to allocate resources, ability to champion the change process in her/his communications, and her/his overall desire to participate in select Project activities are reliable indicators of the level of change that is possible within an organisation. When an organisation's director (or senior management team) does not fully understand the proposed organisational changes, or feels threatened by them, she/he can slow down or impede the process. When asked what would increase director engagement every participating director indicated that donor pressure was the single most influencing factor. (p.30)

Perticucci, L. & Kien, S.P. (November 2008)

A **2009-2010** capacity building project for 11 partner NGOs of an international reproductive health organisation¹⁸³, again identified leadership as the determining factor of the organisational readiness that is critical to change. How frequent was the required supportive leadership? 3 out of 11 NGOs made substantial positive changes¹⁸⁴. An ongoing Leadership Development programme which works with 15 organisations, is judged to be fully effective with 3 out of 15 partners, and beyond hope with 5-6 of them¹⁸⁵.

NGO's donor focus as a problem and a lever for change

Of all the recurring themes, the one that is even more pronounced and consistent than autocratic leadership is the donor-centric focus of NGOs. Interestingly this issue also pops up as a lever, albeit a problematic one, for change.

The extent to which checks and balances on management, particularly financial management, are perceived to be tools to enable the donor to 'trust' the NGO was striking to the study team.

VBNK (2000a), p.36

¹⁸² As was to be expected, many ICCO partners did not believe this.

¹⁸³ See VBNK (December 2012)

¹⁸⁴ 4 made some, 4 were basically hopeless cases.

¹⁸⁵ Key informant interview **November 2014**

When asked what would increase director engagement every participating director indicated that donor pressure was the single most influencing factor.

Perticucci, L. & Kien, S.P. (November **2008**), p.30

Some organisations were overly compliance driven – making only the minimum required changes that the donors were demanding...Providing a lip-service – putting in place policies and procedures without the existence of robust systems to support their implementation does not lead to sustained change. Unfortunately, those organisations that did not demonstrate ownership and commitment are also those that did not (fully) implement the revised plans, systems, or policies and procedures.

(VBANK, December **2012**)

A potentially provocative but interesting way to read these observations is that:

- As long as Cambodian NGOs remain near totally dependent upon donor-funding, donor-centrism/upward accountability is going to be the predominant reality within the sector.
- This reality is only bad to the extent in which it precludes and/or overrules horizontal (peer and collaboration focused), and downward (client-focused) accountability.
- In itself, having functioning versions of *all* three aspect of accountability in place is the best guarantee for proper oversight of organizational practice.
- There is thus nothing wrong *in principle* with making use of upward accountability 'tendencies' in the sector to incentivize and strengthen good organizational practice.
- But lots is wrong *in practice*, both in terms of *proper* upward accountability not producing the results it is meant to produce, and *improper* application of upward accountability. What is required is a good evidence-based analysis of what causes the first deficiency and when the second is at play.

Section 2.1.1 of the main text addresses these issues, as a preliminary to discussing solutions using upward accountability to leverage change.

Annex 4: Mango

Mango's tag cloud to access its Guide to financial management for NGOs



Note: Larger tags are used more on Mango's website. Hover over the tag to see exactly how many times it is used. Click on a tag to see all pages on that topic.

Mango's **Top tips** on a topic of interest and relevance. Dip into their archive below.

1. Grant management
2. **Warning signs of fraud**
3. Budgeting
4. The secrets of financial sustainability
5. Reading budget monitoring reports
6. Cashflow forecasts
7. Tips for finance trainers
8. Reporting to beneficiaries
9. Integrating financial management into programme management
10. Controlling costs
11. **Dealing with fraud**
12. Controlling cash
13. Who does what in financial management
14. Managing in the recession
15. Recruiting the best finance staff
16. Stages of procurement
17. Assessing partners' finances
18. Managing foreign exchange risk
19. Sharing financial statements
20. Financial governance
21. **Fighting bribery**
22. Managing cash in emergencies
23. How to check a bank reconciliation statement
24. Risk assessment
25. Ethical considerations in financing strategies
26. Building partners' financial capacity

Annex 5: Corruption in Cambodia

What do we know about corruption in Cambodia? Is the problem as bad as it is usually made out to be? And what does that mean?

I am not going into the quagmire of **definitions** here, of which there are countless. Corruption is a fuzzy category, which overlaps with many other categories, like fraud, bribery and nepotism. This report uses a mainstream broad definition *The abuse of entrusted power for private gain*¹⁸⁶, which isn't limited to state actors, but includes the private sector and civil society.

How do we know what the **state of affairs regarding corruption** is in a particular country?

The most widely used international index of corruption, **Transparency International's Corruption Perception Index (CPI)**, has some serious issues that make interpreting its results less than straight forward¹⁸⁷. The two major one are:

- It measures *perceptions* of the incidence of corruption, not *actual* incidence.
- And those perceptions are based on a particular, dominant but also deeply ideological interpretation of what corruption is.

It's the countries that have a 'culture of corruption' which score as corrupt on the CPI. Whether 'culture of corruption' is actually the best possible descriptor is debatable because culture (also) has some associations that are totally unwarranted. But I take my cue from one of the few in-depth ethnographic efforts to understand such a country: Daniel Jordan Smith' (2007) *A Culture of Corruption* about Nigeria. Smith describes Nigerians as seeing *corruption at work in every corner of social life*. It is part and parcel of their collective self-consciousness.:

Ordinary citizens are ambivalent about corruption. They recognize that it undermines the country's democratic political institutions, economic development, and global reputation, yet they also realize that wealth, power, and prestige in Nigeria are commonly achieved through practices that can easily be labeled as corrupt. People frequently condemn corruption and its consequences as immoral and socially ruinous, yet they also participate in seemingly contradictory behaviors that enable, encourage, and even glorify corruption...When Nigerians talk about corruption, they refer not only to the abuse of state offices for some kind of private gain but also to a whole range of social behaviors in which various forms of morally questionable deception enable the achievement of wealth, power, or prestige as well as much more mundane ambitions. The Nigerian notion of corruption encompass everything from government bribery and graft, rigged elections, and fraudulent business deals, to the diabolical abuse of occult powers, medical quackery, cheating in school, and even deceiving a lover. (p.4-5)

I'm not sure if one can replace Nigeria(ns) with Cambodia(ns) in this quote, but I am sure that Cambodians will recognize enough to make the suggestion of structural similarity plausible. Clear indications of a country being a member of this 'culture of corruption' category is having public services permeated by petty/retail corruption, i.e. street level bureaucrats' and service providers' corruption directly affecting normal citizens (thus being perceived as corrupt in national household corruption perception surveys), authorities routinely requesting and responding to bribes of the private sector (thus being perceived as corrupt in investment climate etc. surveys), and a legal institutional environment that isn't offering protection against such abuse of power, nor any recourse.

Presence of petty corruption is obviously a major determinant of corruption perceptions because it *directly affects everyone*, and thus strongly influences opinions. But the *more indirect effects of grand corruption* are no less important, and arguably even more detrimental structurally. Thus, the fact that the CPI methodology gives the presence of petty corruption so much weight in determining country score (by way of using polls) distorts the picture of how corrupt countries are.

What is and what is not corruption is to a large extent in the eye of the beholder. Countries with a culture of corruption tend to have broad conceptions of corruptions, because the lack of impersonal institutional safeguards implies a need to rely on interpersonal trust when making *any* risk

¹⁸⁶ Transparency International (2014) Financial Transparency Glossary

¹⁸⁷ A good concise introduction to the pros and cons of the CPI is U4 Brief (July 2012)

assessment (investing, dealing with government agencies, visiting a doctor, etc). This tends to go hand in hand with limited circles of personalised trust, and thus a low level of generalised trust¹⁸⁸. Generalised trust, enabled by the presence of a functioning legal system, is a huge benefit to a society, but everything has a downside, and the downside of being able to rely on impersonal institutions is a tendency to confuse their rulings with morality. So in countries scoring low in corruption, generally high generalised trust 'rule of law' societies, the quintessentially *moral* category of corruption tends to be treated and perceived by citizens and businesses primarily as a *legal* category¹⁸⁹. There is thus a strong link between actions being perceived as corrupt and their illegality.

This makes influencing the legislative process for private gain in 'rule of law' countries, through e.g. political campaign financing, lobbying, or post-political career job offers, a, if not the, major avenue for interests that would use bribery and other illegal means in 'culture of corruption' countries. This effect comes on top of the limited weight accorded to grand corruption (see above) in the CPI methodology. And we're not done yet: the financial sector and its flawed operations, largely made possible by the influence-peddling described in the previous paragraph, has received considerable criticism since the start of the various crises in 2008. But the international systemic role in making corruption possible and profiting from it of the 'rule of law' countries' tax legislation and financial infrastructure¹⁹⁰ is not really an element in the public's disenchantment, because it, again, doesn't affect them directly. When polled about how corrupt their countries are their citizens are thus not likely to take that systemic aspect into account at all.

The debate about this systemic role, often labeled tax justice, is very much a high level, academic and policy debate, and is largely happening outside the broader public domain. The way the world looks from this perspective is very different from the picture emerging from the CPI. A 2006 comparison¹⁹¹ of a ranking of tax havens and the CPI, the details of which may have changed but certainly not the trend, *reveals that 53 per cent of the countries identified by the CPI as 'least corrupt' are offshore tax havens*. It argues: *...who could disagree with the former Nigerian politician who, during protracted negotiations to secure the repatriation of assets stolen by former Nigerian President Sani Abacha, commented that: "It is rather ironical that the European based Transparency International does not think it proper to list Switzerland as the first or second most corrupt nation in the world for harbouring, encouraging and enticing all robbers of public treasuries around the world to bring their loot for safe-keeping in their dirty vaults"*.

Country rank	Tax haven jurisdictions*	2006 CPI score
1	Iceland / New Zealand	9.6
5	Singapore	9.4
7	Switzerland	9.1
9	Netherlands	8.7
11	Luxembourg /United Kingdom	8.6
15	Hong Kong	8.3
16	Germany	8.0
18	Ireland	7.4
20	Belgium / USA	7.3
24	Barbados	6.7
26	Macao	6.6
28	Malta / Uruguay	6.4
31	UAE	6.2

* source: Christensen, J. & Hampton M.P. (2005) tax us if you can, TJN-IS

So yes, the CPI is a particular, dominant but also deeply ideological interpretation of what corruption is, and hides as much as it reveals. But that doesn't mean it doesn't reveal anything, far from it. It does a commendable job of aggregating and standardizing available data on corruption perceptions,

¹⁸⁸ Cambodia is regularly labeled as extremely low on (generalised) trust, see e.g. Hean, S. & Henke, R. (2004) and Coventry, L. (forthcoming)

¹⁸⁹ Obviously, this is not black and white and one can point to lots of critiques pointing this out, as well as public unease with some especially corporate behaviour that is legal but nevertheless perceived as morally unacceptable.

¹⁹⁰ Banks, but also accountants, consultancy firms, lawyers and other supportive infrastructure.

¹⁹¹ Christensen (2007), p.3-4

and with the caveat that the kind of corruption it highlights is highly determined by the presence/absence of 'rule of law', its ranking has meaning.

What does the CPI say about Cambodia? Cambodia has been included since 2005. One shouldn't make too much of any small changes between years of country-rankings. Way too many factors, e.g. which other countries are included¹⁹², scoring methodology¹⁹³, short-term upheavals or positive developments, but long-term trends can be interpreted with confidence as telling something about the comparative state of the 'culture of corruption' countries. With the exception of the very first year, Cambodia has placed consistently in the bottom 15% of the scale, mostly in the lowest 11%, where it is in the 2014 ranking. Over that decade three countries have managed to crawl up somewhat from really down and out to slightly above Cambodia, and four have dropped down below Cambodia (from not that far above it, mainly due to war).

CPI year	Cambodia rank	total nr. of countries	Cambodia percentile position
2014	156	175	11%
2013	160	177	10%
2012	157	176	11%
2011	164	183	10%
2010	154	178	13%
2009	158	180	12%
2008	166	180	8%
2007	162	179	9%
2006	151	163	7%
2005	130	159	18%
Average			11%
Source: based on data available at http://www.transparency.org/cpi2014			

¹⁹² which varied between 159 and 183 in the 2005-2014 period

¹⁹³ changed in 2012

Average rank	2014-2005	2014	2014-2012	2011-2005
Countries				
Guinea	21	27	26	11
Kenya	31	27	30	21
Laos	28	27	25	25
Papua New Guinea	27	27	28	21
Central African Republic	26	25	28	20
Paraguay	29	25	26	24
Congo Republic	24	24	24	17
Tajikistan	22	24	23	19
Chad	11	22	14	8
Democratic Republic of the Congo	15	22	22	12
Cambodia	17	19	18	15
Myanmar	7	19	10	3
Zimbabwe	20	19	17	23
Burundi	14	17	14	17
Syria	30	17	18	29
Angola	16	12	21	13
Guinea-Bissau	18	12	18	15
Haiti	10	12	10	7
Venezuela	13	12	12	14
Yemen	23	12	14	26
Eritrea	25	8	18	28
Libya	19	8	9	27
Uzbekistan	9	8	8	9
Equatorial Guinea	12	8	13	11
Turkmenistan	8	7	7	10
Iraq	6	6	6	4
South Sudan	5	5	5	
Afghanistan	4	4	3	4
Sudan	3	3	4	6
Korea (North)	2	2	1	1
Somalia	1	1	1	2

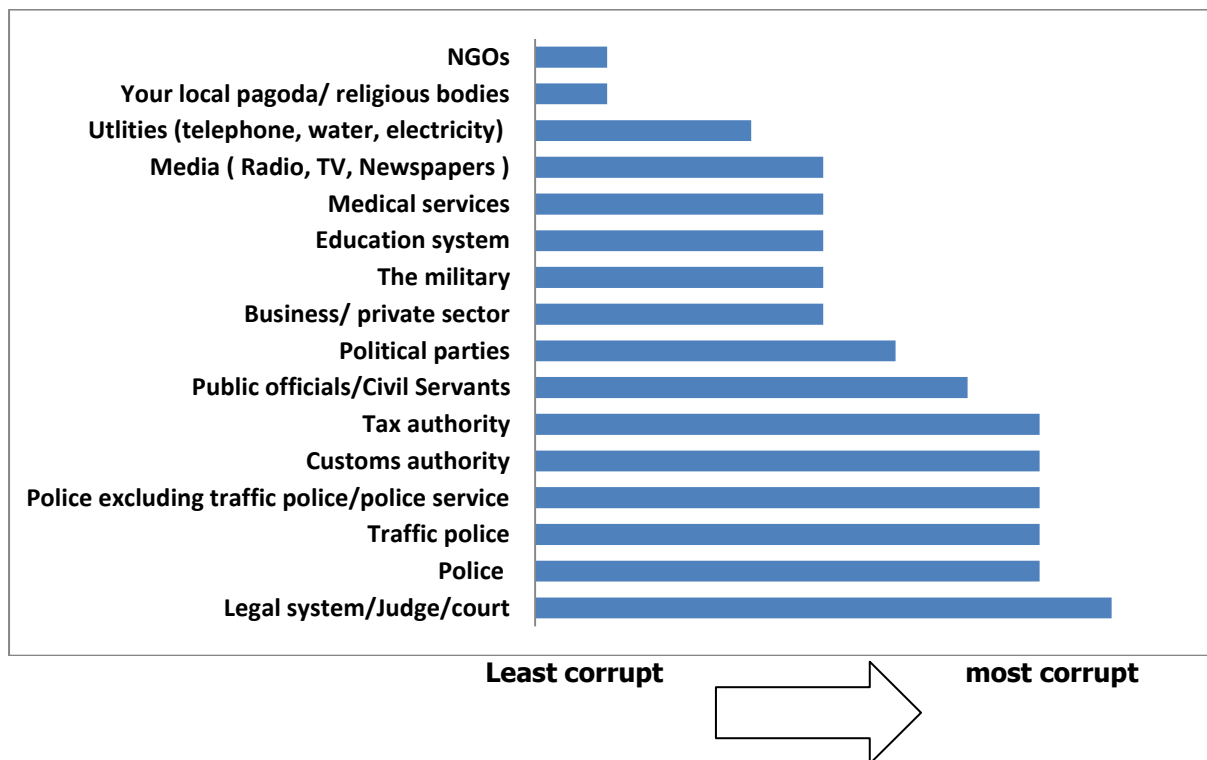
Source: based on data available at <http://www.transparency.org/cpi2014>

A last way of making sense of what the CPI scores tell us about corruption in Cambodia is to look at the absolute scores, again comparatively. Ignoring the minor change in scoring methodology and standardizing across the two periods, the differences in absolute scores between the top tier and the bottom tier is stark. Top ten ranging from 92 to 81, bottom ten ranging from 8 to 18. The next ten at the top bring down the score to 74, at the bottom only up to 21, indicating that just above the countries that are at the down and out end of the scale, it starts becoming crowded relatively more quickly than just below the top scorers. And Cambodia is located within those second ten from the bottom. Not exactly Somalia, North Korea, Sudan or Afghanistan, but close enough to rank among the world's most notoriously corrupt countries. And it has done so consistently.

Top10	2014	2014-2005
Highest	92.00	92.52
Lowest	81.00	84.61
Range	11.00	7.91
Average	86.10	88.44
Top20		
Highest	92.00	92.52
Lowest	74.00	73.95
Range	18.00	18.58
Average	81.25	83.52
Bottom 10	2014	2014-2005
Lowest	8.00	9.05
Highest	18.00	18.89
Range	10.00	9.84
Average	14.10	15.35
Bottom 20		
Lowest	8.00	9.05
Highest	21.00	21.59
Range	13.00	12.54
Average	16.95	18.01
Cambodia	21.00	20.80
Source: based on data available at http://www.transparency.org/cpi2014		

Annex 6: 15 years of Cambodian public opinion about institutional integrity

People's opinions about the comparative integrity, honesty, level of corruption of societal institutions is quite consistent over time. A compilation of opinion poll results from 2000 to 2014 results in the following public perception hierarchy of institutional integrity:



A comparison across such a diverse set of polls has issues:

- Not all will have met the minimum professional quality standards of sampling and interviewer skills and supervision.
- Question phrasing differed
- Answers in polls are influenced by the topic of the poll (is it about politics, corruption, service standards, whatever), by the length of the questionnaire, by the questions preceding the institutional integrity question, by the answer categories, and by a variety of other polling process related factors
- Answers in polls about socio-economic issues are also strongly influenced by current events. An example would be the comparatively very negative opinion about the National Election Commission expressed in the 2014 Asia Foundation election poll (see table below)

As is to be expected, there are differences between polls, and over time, regarding the particular rank order position of each institution, various polls included institutions not included in the above summary (see detailed table below) and some institutions have moved up or down the hierarchy a bit. Thus, the hierarchy isn't perfectly consistent across polls and over time, the mixed bag of institutions in the middle showing most variability, but given the considerable issues described above the variability is surprisingly limited. The consistently implemented subset of opinion polls conducted for Transparency International, the Global Corruption Barometer (2005 - 2013) reproduces the above hierarchy perfectly (see GCB-table below). And the results across all polls are rock solid for the top and the bottom of the hierarchy:

- The legal system is the least trusted of all, and consistently scores way off the middle at the unambiguously negative end of the scale.
- The NGO sector and Buddhist institutions are most trusted and consistently score way of the middle at the unambiguously positive end of the scale

Institutions /Polls	1	1	2	2	3a	3b	3b	4	4	5	5	6	6	7	7	8	9a	9a	9b	9b	10	10	11	12	12	12	13	13
Legal system/Judge/court	-51%	1	3.7	1	1	-35%	1	4	1	4	1	3.6	1	1.8	1		-77%	2	53%	1	3.9	1			-43%	1	-65%	1
Police	-19%	3	3.1	2				3.7	2			3.3	2	2.8	4						3.2	3						
Traffic police					2	-29%	2										-61%	4	17%	5					-20%	2	-22%	4
Police excluding traffic police					5	-6%	5										-55%	5	26%	3					-20%	2	-22%	4
Customs authority					4	-24%	3							1.9	2		-83%	1	28%	2	3.8	2					-49%	2
Tax authority					6	-4%	6					2.8	4				-68%	3	19%	4	3.1	4					-49%	2
Public officials/Civil Servants			2.9	3				3.5	3	3.5	2																	
Provincial administration					8	12%	7										-44%	6	9%	11			9%	2			-17%	7
District administration					8	12%	7										-41%	8	8%	12								
Central government and administration					11	35%	12							3.1	5		-42%	7	20%	6					2%	8		
Office of Council of ministers																	-38%	9	8%	12							-15%	9
Commune administration/ Chairman CC					7	21%	8									1	-32%	11	14%	7			19%	3	-5%	4	-17%	7
Political parties	-13%	4	2.8	4	3	-9%	4	3.1	4	3	3	2.9	3				-35%	10	10%	8	2.9	5						
Business/ private sector			2.7	5				2.7	6	2.6	5	2.5	8								2.6	7						
Village chief					10	42%	15										-10%	16	10%	8								
Registry and permit services												2.1	11								2.3	10						
National Election Commission	-36%	2			12	55%	17										2%	18	10%	8								
Senate																	-13%	14	1%	22								
Ministry of Interior	-8%	6																										
NA/representative/ Parliament/Legislature	-11%		2.4	9				2.9	5	2.7	4	2.6	5	3.3	7		-24%	13	4%	15	2.4	9			21%	9	-4%	10
The military	-4%	7	2.6	6	17	64%	19	2.6	7			2.6	5				21%	22	3%	17	2.5	8			-2%	5	-22%	4
Education system			2.6	6				3	8			2.5	8								2.2	11						
Medical services			2.6	6								2.6	5								2.8	6						
Media (Radio, TV, Newspapers)	1	8	2.3	10	13	32%	10	2.6	7	2.3	6	2.2	10				-13%	14	3%	17	2.2	11			0%	7		
Public hospitals/public health care/Doctor					9	38%	13							2.5	3	2	-28%	12	2%	19			7%	1	-1%	6		
Public schools/Primary Schools/Teachers					15	57%	18							3.1	5	3	12%	20	6%	14					34%	10		
Private hospitals					14	40%	14										20%	21	4%	15								
Private schools					18	52%	15										42%	24	1%	22								
Road Dept/Public Works														3.7	9													
Electricity provider					16	29%	9							3.6	8		-10%	16	2%	19							6%	11
Water service provider					21	34%	11							4.5	10		7%	19	1%	22							6%	11
Utilities (telephone, water, electricity)												1.8	12								2.1	13						
International Community	60%	10																										
Your local pagoda/ religious bodies/Sangha	58%	9	1.9	11	19	72%	21	1.8	10			1.7	13				29%	23	2%	19	1.8	14			80%	12		
NGOs	66%	11	1.7	12	20	66%	20	1.9	9			1.7	13				59%	25	1%	22	1.5	15			69%	11		

Table: Transparency International Global Corruption Barometer for Cambodia (2005-2013)

Institutional Integrity results

Institutions	2005	Rank	2007	Rank	2009	Rank	2010	Rank	2013	Rank	Average
Legal system / Judiciary	3.9	1	3.6	1	4	1	4	1	3.7	1	3.84
Police	3.2	3	3.3	2			3.7	2	3.1	2	3.33
Public officials/Civil Servants					3.5	2	3.5	3	2.9	3	3.30
Political parties	2.9	5	2.9	3	3	3	3.1	4	2.8	4	2.94
Medical services	2.8	6	2.6	5					2.6	6	2.67
Business/ private sector	2.6	7	2.5	8	2.6	5	2.7	6	2.7	5	2.62
Education system	2.2	11	2.5	8			3	8	2.6	6	2.58
The military	2.5	8	2.6	5			2.6	7	2.6	6	2.58
Media	2.2	11	2.2	10	2.3	6	2.6	7	2.3	10	2.32
Religious bodies	1.8	14	1.7	13			1.8	10	1.9	11	1.80
NGOs	1.5	15	1.7	13			1.9	9	1.7	12	1.70

Note: question asked *To what extent do you perceive the following sectors in this country to be affected by corruption?*
(1 meaning not at all corrupt, 5 meaning extremely corrupt)

Polls included

1. TAF. [Democracy in Cambodia - 2014](#). A Survey of the Electorate. Question: I will read you a list of institutions. For each institution please rate its integrity according to this scale. Very High Integrity, High Integrity, Neither High nor Low Integrity, Low Integrity, Very Low Integrity. (Net Opinion)
2. Transparency International [Global Corruption Barometer 2013](#): To what extent do you perceive the following sectors in this country to be affected by corruption? (1 meaning not at all corrupt, 5 meaning extremely corrupt)
- 3a. PACT. [Corruption and Cambodian Households](#). A Quantitative Household Survey. October 2010. Weighted answers to the Question: Can you tell me which institutions you consider to be the most dishonest, the second most dishonest, and the third most dishonest.
- 3b. PACT. [Corruption and Cambodian Households](#). Answers to the question: I would like to ask you about the integrity of various institutions. Please, if you think each of the following is Very Honest, Honest, Neither Honest nor Dishonest, Dishonest, Very Dishonest (Net Opinion)
4. Transparency International [Global Corruption Barometer 2010](#): To what extent do you perceive the following sectors in this country to be affected by corruption? (1 meaning not at all corrupt, 5 meaning extremely corrupt)
5. Transparency International [Global Corruption Barometer 2009](#): To what extent do you perceive the following sectors in this country to be affected by corruption? (1 meaning not at all corrupt, 5 meaning extremely corrupt)
6. Transparency International [Global Corruption Barometer 2007](#): To what extent do you perceive the following sectors in this country to be affected by corruption? (1 meaning not at all corrupt, 5 meaning extremely corrupt)
7. PACT/EIC. [Assessment of Corruption in Cambodia's Private Sector](#). July 2006. Question: Honesty & Integrity of Officials in Public Agencies or Services (1 = Not honest at all, 7 = Very honest)
8. PACT/EIC. [Local Public Services. Performance and Unofficial Fees](#). November 2006. Question: How Honest Do You Rate Local Services? Ranking of answers.
- 9a. CSD/CAS. [Corruption and Cambodian Households](#). Household Survey. 2005. Answers to the question: I would like to ask you about the integrity of various institutions. Please, if you think each of the following is Very Honest, Honest, Neither Honest nor Dishonest, Dishonest, Very Dishonest (Net Opinion)
- 9b. CSD/CAS. [Corruption and Cambodian Households](#). Household Survey. 2005. Unweighted aggregate of answers to the Question: Can you tell me which institutions you consider to be the most Dishonest, the second most dishonest, and the third most dishonest.
10. Transparency International [Global Corruption Barometer 2005](#): To what extent do you perceive the following sectors in this country to be affected by corruption? (1 meaning not at all corrupt, 5 meaning extremely corrupt)
11. TAF/CAS. [Commune Councils in Cambodia](#). A national survey. May 2005. Answers to the Question: How much TRUST do you have in the following --- would you say that you have Very Little, Little, Neither much nor Little, Much, or Very Much Trust in them? (Net Opinion)

12. TAF/CAS. Public Opinion Poll on Citizen's Perception of the legitimacy and Efficiency of the Cambodian Court System. October 2003. Very Little, Little, Neither Much Nor Little, Much, or Very Much Trust in them? (Net Opinion)
13. World Bank. [Cambodia: Governance and Corruption Diagnostic](#). May 2000. Evaluation of Integrity of Public Organizations. (Net Opinion)

Definition of Net opinion: The % of those expressing a positive opinion minus the ones expressing a negative opinion. In some polls, the relevant universe is all respondents, in some it excludes the ones who did not express an opinion (i.e. answered Don't Know)

Annex 7: Data on NGO financial (mis)management and its correlates

Objectives

1. Testing NGO grantmakers and NGO service providers' willingness to share partner information
2. Testing methodology for gathering valid, comparable information
3. To the extent this try-out results in useful information: getting a first indication of the status of NGO world financial management based on systematically gathered thorough external assessment information as opposed to anecdotal and/or self-reporting based insights

Partner info questions asked

Organizations were requested to share the problems that they come across in partner assessments, by way of using a matrix with kinds of problems as its rows and categories of 'severity' as its columns. This allows for a quantitative aggregated (thus confidential) picture of how many of their partners have which kinds of problems. To be able to determine how many NGOs the figures refer to, per grantmaker/capacity builder as well as in total, they were also asked to provide a list of their partners.

The problems with the questions asked are detailed below in the section on methodological learnings.

Informants

1. Two auditing and two legal companies dealing with NGOs, one exclusively with INGOs, one exclusively with LNGOs, the others with a mix (one with a majority of its clients being LNGOs, the other INGOs)
2. Three NGO capacity building service providers, that make their own independent assessment of NGOs that they work with/for
3. 13 NGO grantmakers (a mix of grantmaking intermediaries, NGO donors, implementing INGOs and International organizations with a LNGO grantmaking program)
4. Some individuals with lots of NGO financial management and/or NGO governance experience
5. Not all informants were requested to share quantitative information on NGO partners. Such data were requested from one accounting company and 15 grantmakers/capacity builders.

Objective 1: Response

The response to these request can be interpreted as a measure of the NGO grantmakers and NGO service providers' willingness to share partner information.

The auditing companies were requested to share quantitative information and one complied.

In total 15 grantmakers and capacity builders were requested to share partner information. Ten of these were briefed about the objectives and the methodology in an interview, five were approached by e-mail only.

The **level of cooperation** is summarized in the table below:

Full disclosure	2	13.3%	46.7%
Aggregated disclosure	5	33.3%	
Only number of fraud cases shared	2	13.3%	53.3%
No sharing	6	40.0%	
Total	15		

Two grantmakers went beyond the requested aggregated information sharing and disclosed which of their partners were subject to which kind of problem. Five responded using the aggregated format, two only provided the number of their partners with fraud issues, and six ended up not sharing anything (a mix of outright decline to participate, initial interest and subsequent silence, or no response at all). The responsiveness wasn't overly determined by the method of approach: 40% of the total didn't share, half of which were only approached by e-mail, 60% responded in various ways, a third of which was only approached by email.

What to make of this level of cooperation is a matter of interpretation. But, assuming that the time investment required to fill the matrix for any grantmaker/capacity builder with a half-decent system of due diligence and their administration in order should have been not be more than an hour (when the right staff is involved), I suggest that the less than 50% full-response rate indicates a combination of:

- Worries about reputational risks,
- Effective governance and solid (especially financial) systems being in short supply and felt to be at least partially beyond the influence, let alone control of donors, and 'difficult'
- Due diligence and partnership with NGOs being seen as partially conflicting objectives

This interpretation would confirm the initial analysis underlying this exercise that NGO governance, systems and fraud don't get the attention they deserve from the funding world.

Objective 2: Methodology

The basic objective of the exercise was to collect systematic (beyond the anecdotal, and reliable), objective (no self-reporting), valid (based on a thorough assessment) data on LINGO financial mismanagement, and the role played by NGO governance and NGO financial systems. The kinds of problems used to probe were described as follows¹⁹⁴:

- **governance problems:** non-functioning board, autocratic ED, claiming to be an association while the reality is being an NGO
- **Operational system problems:** systems without checks and balances, especially regarding financial management, disorganized so information is not shared, difficult to locate etc. I am using the assumption that the state/management of the orgs financial system is a good indicator for the general state of its 'systems'.
- **Fraud/financial mismanagement.** Including the suspicion that this is taking place and the decision to investigate, even if only to clear the organization from that suspicion.

The categories of severity used were:

- **severe:** have closed an NGO or brought it to a temporary standstill
- **problem:** significant problem, that needs prioritization by the NGO, require action by the board (if they are not the problem themselves) and nearly always outside support (by the grantmaker or a contracted service provider)
- **weakness:** needs addressing within a commonly agreed time frame, often requires outside support, but is within the range of 'normal' Organizational Development/improving organizational functioning,
- all seems **OK**, strong systems, no major identifiable concerns

Several weaknesses, were evident from the start or came to light early on:

- No instructions were provided about how to (best) to go about getting the figures to fill the matrix. Without instructions quite a few informants thought the exercise more confusing than it need be. When one starts by going through the list of partner NGOs and notes down the (kinds of) problems they have (if any) next to them. Subsequently filling the matrix, then is an easy counting of how many of each kind of problem of each severity category are noted down. If, however, one starts with the kinds of problems and matches NGOs with them, the unavoidable conceptual overlap between the kinds of problems and their very common co-occurrence tends to befuddle judgement.
- Closed answer categories, like the predefined kinds of problems in the matrix, are easy for the analyst but not so easy for the respondent. Describing the reality as they see it in their own words (in technical jargon 'open answers') is way easier. Processing open answers (coding, aggregating, recoding etc.) is extremely time-consuming and thus resource heavy. For a study like this one, the optimal solution, the best compromise between efficiency and validity, is to develop the closed answer possibilities collaboratively with a sufficiently large and diverse group of potential respondents. This will ensure that the answer possibilities collectively cover the conceptual field as perceived by respondents as comprehensively and unambiguously as possible.
- An added (huge) advantage of such a questionnaire development process is that it is an equally good way to decrease interpretation issues regarding the second answer dimension: the severity categories.

¹⁹⁴ Also **program issues** were probed but as the focus of this consultancy took a more narrow focus than initially envisioned, this kind of problem was excluded from the analysis.

- The ultimate ambition would be to make the data gathering not only systematic, objective and valid, but also representative of the NGO world as a whole, and useful in further exploring conditions that help or obstruct integrity, proper governance and other desired characteristics (3rd objective). To fulfil that ambition having some core organizational data for each NGO (all undoubtedly on file with their grantmakers/capacity builders, like size (in terms of budget and/or number of employed staff). This would allow to check the representativeness of the sample of NGOs covered in the exercise against the NGO census regularly conducted by CCC, as well as look for correlations between the occurrence of particular kinds of problems and such 'background variables'. Again, many will have intuitions about relationships, based on their personal experience and/or anecdotes floating about in the gossip circuit. But we don't know which of those intuitions pan out until they are explored in a representative survey.

Objective 3: a first indication of the status of NGO world financial management

Given all these methodological limitations, can we say anything at all about LINGO financial mismanagement, and the role played by NGO governance and NGO financial systems?

Can we say anything about how representative the universe of NGOs is that the results are based on?

To start with the latter: the total universe of NGOs covered in the survey was 103 for all seven grantmakers/capacity builders who (at least partially) provided answers (it is 94¹⁹⁵ NGOs for the five that filled the matrix, and 51 NGOs for the two that shared full partner information). That total is too small a sample to make an analysis of its representativeness very meaningful, even if we had had the required background data. It is nevertheless the third biggest sample of NGOs used to date to explore NGO problems¹⁹⁶. And we have the information from the NGO auditing company as an independent data set, which can be used to triangulate the information received from the grantmakers/capacity builders. So, whatever the outcomes, even if they cannot be interpreted as representing the status of 'the' Cambodian NGO world, they tell us about a sizable number of NGOs, and they are benchmarked against another source of information. So the least we can claim is that this experiment is able to show the potential of systematic, objective and valid information gathering.

We have a staggered kind of data set:

- A sub-sample of five info sources that provide quantitative data about the presence of governance, system and fraud issues amongst their partners, and another of two sources that only provide quantitative data about the presence of fraud. These data don't make correlations between the three kinds of issues visible.
- Then we have another sub-set two info sources that provided us data that enable us to correlate the absence/presence of governance and system issues and fraud.
- And we have one independent info source that shared data about the absence/presence of system and fraud issues (as well as data about previous audits) - but not governance issues.

The analysis below tries to make the most of the limited data available by looking at them from as many angles as possible. But that is not only to make maximum use of what we have in hand. It is also to provide the reader with the maximum opportunity to draw her own conclusions. Statistics are easily misused and can obscure and distort as much as they can illuminate. Often findings are presented as if they are self-evident, but they nearly always represent *particular way(s)* of looking at the data, the answer to *particular question(s)* asked of the data, and by implication, *not other questions*. I'll ask as many questions as possible, some may argue even some logically superfluous ones, because it is by exploring the information from all angles that one best reduces the risk of drawing false conclusions.

To read the following tables correctly it is important to keep the following in mind:

- Figures have been rounded

¹⁹⁵ **CORRECTION:** This number in the original write up is wrong. The correct number for NGO partners of the five organizations sharing aggregate data is **52**; the number of NGO of the two grantmakers only sharing information about the number of fraud cases during the last two years is 34. The Difference between the total number of NGOs covered (103) and the sum of these three subtotals (51, 52 and 34) is the overlap (shared partners) between the three categories.

¹⁹⁶ Excluding the CCC NGO censuses, the biggest samples are the 140 NGOs in CCC (November 2012) and (May 2013), the second biggest is 114 in Sua' rez, D. & Marshall, J. (2012)

- The two grantmakers who shared detailed information have specific profiles. One is managing a portfolio that has a history of weak due diligence, which recently went through a thorough check, the other manages a portfolio with longer-established strong due diligence. Both have partner profiles that probably include more smaller, non Phnom Penh based partners than the average grantmaker portfolio.
- Systems issues and governance issues are the aggregates of what data sources indicated as 'severe' and 'problem' cases, excluding the reported 'weaknesses'
- The auditing company's information regarding financial system weaknesses can be considered quite reliable. The company has a good reputation. It's fraud picture is by definition an under-reported reality, because cleverly executed fraud normally requires fact checking beyond what a regular audit investigates.

Summary Table of financial (mis) management and its correlates¹⁹⁷

Data Source	Total Partners	Fraud cases	%	Govern Issues	%	Systems Issues	%
Averages summary data providers	15	1.6	12%	1.2	8%	1.4	10%
Averages detailed data providers	26	6	23%	13	48%	11	44%
Total averages Grantmakers and Capacity Builders	17	2.4	14%	4	18%	3.8	18%
Auditing company	46	6	13%			11	24%

The two providers of detailed data have specific portfolios, but also were totally transparent in their assessment, and explicitly supported the objectives of this exercise. Both are known for their above average due diligence. Their judgments also did not tone down observed issues (e.g. labeling something a 'weakness', rather than a 'problem'). How much of the differences between these two data sources and those that shared only aggregate information is due to which of the above factors is impossible to say. However, the benchmark of the auditing company information does allow for some informed speculation.

The incidence of fraud:

- Given that the auditing company's figure of 13% is an underreporting of unknown but assumedly limited magnitude
- Given that the auditing figure matches the figure of the aggregated data sources
- Given that the detailed data providers have more 'risky' partner portfolios than the average grantmaker, but assumedly also more thorough due diligence procedures than the average

An average fraud incidence of around 15-20% seems a reasonable guess.

This average should be understood as the average proportion of NGOs within the average grantmaker's partner portfolio that is affected by (detected or not yet detected fraud), within any two-year period.

The incidence of serious financial system weaknesses and issues with governance:

Both the stricter than average due diligence as well as the specifics of their partner portfolios are reflected in the reported incidence of governance and systems problems of the detailed data sources. Given that the incidence figure for serious financial system weaknesses of the auditing company seems a reasonable estimate for the sector as a whole, the 10% reported by the aggregate data providers seem underreported. Assuming the same underreporting tendency is affecting their figures for governance issues:

¹⁹⁷ A more detailed table is included at the end of this Annex

It seems reasonable to assume average incidence figures of both serious financial system weaknesses and serious governance issues of around 25%.

The correlation between fraud and system/governance issues

Now we'll try to make the most of what the data sources sharing detailed information have reported. This time we cannot relegate the detail to the annex and need to deal with it in the main section:

Table of the co-occurrence of fraud and serious financial system/governance weaknesses

	Grantm. 1		Grantm. 2		Auditor	
Total NGO partners/clients	24		29		46	
Fraud cases	7	29%	5	17%	6	13%
NGOs with serious systems issues	16	67%	6	21%	11	24%
fraud cases w weak systems	7 of 7	100%	4 of 5	80%	4 of 6	67%
NGOs w weak systems having fraud	7 of 16	44%	4 of 6	67%	4 of 11	36%
fraud cases w proper systems	0 of 7	0%	1 of 5	20%	2 of 6	33%
NGOs w proper systems having fraud	0 of 9	0%	1 of 23	4%	2 of 35	6%
NGOs w proper systems and no fraud	8	100%	22 of 23	96%	33 of 35	94%
governance issues	15	62%	10	34%		
fraud cases w weak governance	6 of 7	86%	5 of 5	100%		
NGOs w weak governance having fraud	6 of 15	40%	5 of 10	50%		
NGOs w fraud having proper governance	1 of 7	14%	0 of 5	0%		
NGOs w proper governance having fraud	1 of 9	11%	0 of 19	0%		
proper governance and no fraud	8 of 9	89%	19 of 19	100%		

The trends in the three data source are very aligned:

1. NGOs plagued by fraud more often than not have serious financial system weaknesses: (67%-100%)
2. The exceptions also tell us something: up to 33% cases of fraud occurred *despite* proper systems being in place. A result that confirms the maxim that systems cannot guarantee the absence of fraud. Ill intentioned individuals will always be able to work their way around systems, at least for a while.
3. We should however not make the mistake to limit our perspective to the fraud cases¹⁹⁸. However much you may think 67%/33% is already a telling statistic about the importance of proper systems, it is a perspective that seriously undervalues them. Looking at the NGOs with and without financial system weaknesses separately reveals the importance of systems in a much more dramatic way: across the three sources, the incidence of fraud amongst the NGOs with serious financial system weaknesses, ranged from 36% to 67%. This contrasts with an incidence range of 0% to 6% among the NGOs with proper financial systems. So the chances of an NGO becoming plagued by fraud increases at least six fold with the absence of proper financial systems. So **while it is certainly true that proper systems are no guarantee, weak systems constitute a huge risk.**
4. The story for the (lack of) proper governance is very similar: NGOs plagued by fraud more often than not have serious governance weaknesses: (86%-100%).

¹⁹⁸ For the more technically interested: I'm taking a Bayesian perspective here.

5. Looking at the NGOs with and without proper governance: across the two sources (no data from the auditor for this), the incidence of fraud amongst the NGOs with serious governance issues, ranged from 40% to 50%. This contrasts with an incidence range of 0% to 11% among the NGOs with proper governance. So the chances of an NGO becoming the plagued by fraud increase at least four fold with the absence of proper governance. Again, **proper governance is no guarantee but its absence constitutes a serious risk.**

The two factors co-occurred in 10 out of the twelve fraud cases the two grantmaking data sources reported on (not visible in the table above). All three data providers were asked explicitly and agreed on what they identified as the more fundamental problem: **governance**. All of the (many) other interviewees who expressed an opinion about this, subscribed to the same view.

The importance of due diligence

The data shared by the auditing company contained another bit of revealing information that allows for some more informed speculation:

Table of the relationship between weaknesses being known through previous audits and fraud

NGO auditing company	LNGOs	%
Clients half of 2013 and 2014 mostly for FY 2013 and half of FY 2014	46	76.7%
Clients with serious financial system problems	11	23.9%
Of the above: serious weaknesses not pointed out by previous external auditors	7	63.6%
Client audits that brought Fraud to light	6	13.0%
Of fraud cases: serious weaknesses not pointed out by previous external auditors	4	66.7%
Proper systems that did not prevent fraud	2	33.3%

This table shows the importance of bringing weaknesses to light, and thus about the importance of thorough and high quality external audits. Of the 11 weak systems detected by this particular auditor, 7, i.e. 64%, were not mentioned in previous audit reports by other auditing companies. Of the 4 fraud cases within the sub group of NGOs with weak systems, none occurred within an NGO of which the system weakness had already been brought to light by a previous external audit.

It's not so easy to get one's head around interpreting this, but a probable reading, given that we are talking *systemic* weaknesses here, of the fact that *none of the four* NGOs with systemic weaknesses which *had been* brought to light in a previous audit had fraud issues, while *four of the seven* of those which *had not been* brought to light in a previous audit did have fraud, is that **at least some of those weaknesses were present already during the time of the previous (sloppy and/or colluding/ fraudulent?) audit.** This again can be understood as indicating that the longer NGOs (are able to) avoid proper scrutiny of their systems and are able to operate for a longer duration of time without the presence of checks and balances provided by such proper systems, the greater the likelihood of the *opportunity* for fraud turning into *actual* fraud¹⁹⁹.

Do Local NGOs stand out?

Finally, the audit company data give us a first inkling of how LNGOs compare to other entities in terms of fraud risk and their enabling factor. The company was able and willing to not only report on their LNGO but also their INGO clients, a much smaller sample than their LNGO portfolio, but large enough to make a comparison worthwhile.

¹⁹⁹ One may even assume that not only some of the system weaknesses but probably also some of the fraud was already present during the time of the earlier (sloppy) audit.

Comparing data on LNGOs and INGOs

	LNGO		INGO	
Total NGO clients	46		14	
Fraud cases	6	13%	2	14%
Serious weaknesses not pointed out by previous external auditors	4	67%	1	50%
NGOs with serious systems issues	11	24%	6	43%
Serious weaknesses not pointed out by previous external auditors	7	64%	2	33%
fraud cases with weak systems	4 of 6	67%	2	100%
NGOs with weak systems having fraud	4 of 11	36%	2 of 6	33%
fraud cases with proper systems	2 of 6	33%	0	0%
NGOs with proper systems having fraud	2 of 35	6%	0	0%
NGOs with proper systems and no fraud	33 of 35	94%	8 of 8	100%

With such sample sizes and no possibility to check for any bias in the samples, it is impossible to say anything definite but the patterns in this comparison certainly do *not point to much difference* regarding either the incidence of fraud nor the presence of serious weaknesses in the financial systems of LNGOs and INGOs²⁰⁰.

That LNGOs in general are equally (non-) problematic as INGOs may seem counterintuitive. Many would have expected otherwise, international status being associated with at least some kind of functioning oversight and budget control. Other factors than the status of being locally or internationally registered *per se* seem to be more important determinants²⁰¹.

As argued earlier, this study cannot provide a solid evidence base to further explore this but it hopefully brings enough non-common-sensical data to the table to convince the NGO world audience that we the matters at hand need serious attention. And repeating an exercise like this properly, i.e. methodologically better executed, and comprehensively enough to be able to go beyond informed speculation.

This is probably the right place to challenge another common popular perception on the basis of information received during this study. Another source, a law firm (with many INGO clients) shared their overall evaluation that INGOs in Cambodia are troubled by fraud and governance problems *to the same extent* as the private sector in Cambodia. LNGOs and especially INGOs are more trusted by the general populace, as consistently evidenced by opinion surveys, than the private sector²⁰². But the reality, as illustrated by the experience by that particular law firm's clientele, is probably that it is not the not-for-profit status *per se* but other factors that matter in differentiating between responsibly and accountably run integer organizations and fraudulent organizations.

The auditor's data, in combination with the law firm's assessment suggest that LNGOs, INGOs and the private sector in Cambodia *all* operate within and are affected by the same general environment (wherein impunity rules) *to roughly the same extent*. Within these broad categories there are big differences, bigger than the differences between them. It seems reasonable to expect corruption within the government sector to outweigh that of the private and not-for-profit sectors by several factors. But it would be extremely unwise to assume that the NGO sector stands out from other parts of society as an island of propriety within this flawed institutional setting.

²⁰⁰ As well as confirm the importance of due diligence, and attention to proper financial systems and effective governance.

²⁰¹ The only study available that looks in some detail into INGO/LNGO differences in Cambodia is Sua´rez, D. & Marshall, J. (2012) and it (also) suggests that capacity and good practices variability patterns don't overlap with the local-international dichotomy

²⁰² See Annex 6

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Detailed table of financial (mis) management and its correlates

Data Source	Total Partners	Fraud cases	%	Govern issues	%	Systems issues	%
Donor 1	22	0	0%	3	13.6%	0	0.0%
Donor 2	9	0	0%	0	0.0%	0	0.0%
Donor 3	7	3	43%	0	0.0%	0	0.0%
Capacity Build 1	11	0	0%	3	27.3%	3	27.3%
Donor 4	18	2	11%	0	0.2%	4	22.2%
Donor 6	23	3	13%				
Donor 7	16	3	19%				
Average	15.14	1.57	12.3%	1.21	8.2%	1.4	9.9%
Donor 1	24	7	29%	15	62.5%	16	66.7%
Donor 2	29	5	17%	10	34.5%	6	20.7%
Average	26.5	6	23%	13	48.5%	11	43.7%
Total averages	17.24	2.40	14.3%	4.03	18.3%	3.80	18.3%
Auditing company	46	6	13.0%			11	23.9%

Annex 8: Elements of a corruption risk management system

This annex is an extract of the most relevant sections of [Developing an NGO corruption risk management system: Considerations for donors](#) (September 2011) U4 Issue. The recommendations contained in this report are based on an analysis of a number of corruption risk management systems in place in donor agencies and large national and international NGOs. These good practices are presented in two separate sections:

- Elements of a comprehensive institutional corruption risk management system
- NGO partner standards

This annex focuses only on the first. The report distinguishes:

1. Measures for Prevention

These are measures that identify and/or reduce corruption risks

1.1 Environmental corruption risk analysis

- Of the country, region, or locality where engagement is to take place, and
- Of the sector (e.g. health) or activity (e.g. food distribution) that is being contemplated.

1.2 Partner selection criteria/due-diligence measures

- Compliance with national NGO laws and regulations (e.g. concerning registration and financial reporting);
- Legal representatives of the NGO;
- NGO's managing and accounting system, including routines for audit;
- NGO's past performance;
- NGO's institutional capacity for financial management and corruption prevention.

1.3 Programme operations and activities

Unfortunately, there is no consolidated guidance for identifying and mitigating corruption risks in all operational contexts and all types of activities, but some of the most challenging ones have been codified²⁰³. Many such instruments also exist as internal materials among implementing agencies – particularly among the high-capacity NGOs with extensive operational experience. Even where the materials have not been codified, important knowledge often resides with individuals within organisations, including with local partners with otherwise limited institutional capacities.

Whether or not published resources exist, donors are advised to evaluate to the extent possible specific operational corruption risks and potential responses in close consultation with the partners. The same advice holds for high-capacity NGOs with regard to their national implementation partners. In the longer term, donors are also advised to support their partners in codifying and sharing the experience gained, as well as other efforts to develop guidelines on tackling activity-related corruption risks.

2. Measures for Detection

2.1 Implementation monitoring

2.2 Evaluations and audits

Existing research, including feedback received from organisations surveyed for this report, suggests that the effectiveness of audits may be overestimated. Despite their lack of demonstrable effectiveness in terms of detecting corruption, donors might be able to enhance the effectiveness of audits by:

²⁰³ See for instance, Transparency International's 2010 publication *Preventing Corruption in Humanitarian Operations*, available at: http://www.transparency.org/publications/publications/humanitarian_handbook_feb_2010.

- Screening and identifying quality auditors to be engaged by NGOs; and
- Requiring a comprehensive audit of an organisation's finances, rather than a project audit, to increase the likelihood of identifying double-billing or other irregularities.

2.3 Reporting and whistle-blowing mechanisms²⁰⁴

...There is a need to identify and protect any evidence that may exist, as well as to protect both the whistle blower and the suspect(s) until some clarity about the case can emerge, and it should not be assumed that staff automatically know how to do so.

3. Responses

These are investigative measures and sanctions to address corruption once it is suspected or identified with certainty.

3.1 Corruption investigations

Distinct from initial investigations that can be considered part of a whistle-blowing mechanism, specialised corruption investigations – typically in-depth financial investigations – require extensive expertise and resources... In most cases of financial misconduct, external assistance is needed, as well as the funds to support it... Donors and NGO partners are... advised to define arrangements for dealing with corruption investigations. Among other steps, this would include:

- Agreement on when – at what stage – to notify each other about corruption incidents or suspicions;
- Protocols for such communication;
- Agreement on the investigation protocols and division of responsibilities;
- Contractual obligation to provide access to all internal documents and archives (in case the partner is uncooperative) – such agreements should extend to all the partners in the implementation chain; and
- Funds to support the costs of the investigation.
- Implementation mechanisms for the totality of the measures noted above.

The most important consideration of all is that founded suspicions of corruption are adequately investigated and, if sufficient evidence exists, sanctioned. The quality of the investigative process – both competence/rigour and the perceived fairness – determines the applicability of appropriate sanctions, which in turn impacts the credibility and the deterrent effect of the entire sanctioning system.

3.2 Sanctions

If corruption is indeed uncovered, sanctions proportional to the scope and seriousness of the offence need to be applied, and many donors have adopted a differentiated penalty system to reflect the circumstances of an offence. While the monetary value of the breach is one of the variables to be considered, there are other equally, if not more important, ones. For instance, some donors, such as DfID, apply stricter sanctions in cases where it has been determined that a *deliberate* effort to defraud had been made (as opposed to, for example, a single opportunistic act made possible by some flaw in the control systems). At the other end of the spectrum are rigid systems that respond to all incidents of corruption in the same manner – for instance, by freezing programme funding and requiring repayment of the unaccounted for funds, regardless of the circumstances. *A warning against such unsophisticated policies is in order, as they may generate serious negative consequences, precisely contrary to intended objectives.* The following considerations should be borne in mind when designing a sanctions strategy:

- Proportionality of sanctions is a core principle of justice (and justice systems in democracies). The same principle should equally apply in non-criminal, institutional sanctions strategies, with a range of reactions and penalties defined to reflect the circumstances and severity of each particular offence.
- Criminological studies repeatedly confirm that the *likelihood* of punishment is far more effective deterrent than their severity. In other words, it is more important to always punish wrongdoing

²⁰⁴ For those interested: the report contains quite a substantial section on this

with appropriate (proportional) sanctions than to apply tough penalties inconsistently or occasionally.

- Insufficiently differentiated sanctions strategies often lead to situations where the decision-maker is presented with two equally problematic options: applying a disproportionately harsh penalty or dismissing the case and not applying one at all. In view of the deeply engrained sense of injustice inherent in the former, most enforcers opt for the latter. A lack of an adequate range of available sanctions therefore actually undermines sanctioning altogether, and any deterrent effect it may hold: the non-application of sanctions increases the risk that corrupt acts will be perpetrated.
- Disproportionate sanctions and sanctioning systems perceived as unfair or unjust can also have a negative effect on the *reporting* of wrongdoing. In effect, an unfair system undermines cooperation and compliance, again, increasing the risk that corruption will go undetected or unreported.
- An important factor contributing to the perceived fairness of a sanctioning system is the transparency and predictability of the decision-making process – clarity as to what steps would be taken, how the “suspect” can respond, what evidence and contextual factors would be considered, and who would be involved in the process, including who makes the final sanctioning decision.

To deter future wrongdoing, a sanctioning policy needs to:

- Promote a clear understanding of what practices are considered corrupt by the donor and in the project being supported;
- Encourage detection and reporting of all corrupt practices through a variety of mechanisms;
- Define a range of sanctions that are broadly perceived as fair and proportional to the offences;
- Ensure that such differentiated sanctions are applied consistently, for all identified breaches;
- Verify that the entire sanctioning system is clearly defined, transparent, sensitive to the context, and perceived as fair by partners who are subject to it.

A sanctioning policy should also reflect on the circumstances under which criminal sanctions or a civil case would be pursued. There are sometimes legitimate reasons to refrain from seeking a judicial outcome, for instance, if the offence occurs in a national context with weak rule of law or poor law enforcement capacities. Many corruption offences are notoriously difficult to prove even in well-resourced and effective criminal justice systems. *The decision to pursue particular cases should be made in close consultation with partners to ensure that the full range of relevant issues is considered before a decision is reached.*

Furthermore, a sanctioning policy should include considerations of information-sharing and public disclosure of detected wrongdoing. Information-sharing may include, for instance, passing on to partners (other donors, implementers, NGOs) information about organisations that have been sanctioned for corruption or blacklisted from further cooperation. Public disclosure of incidents – often a legal obligation for donors under national access to information laws as well as a good practice – could be misused by opponents of development efforts or particular organisations, and hence needs to be executed with some care. The needs of NGO partners and presentation strategies should be carefully considered while remembering that having a corruption case independently “discovered” by the media creates the impression of concealment and dishonesty, which ultimately causes far more harm in the long term.

Many of the shortcomings of existing donor sanctioning policies reflect a need to present a tough stance against corruption in development aid for domestic purposes, originally in response to increased awareness of corruption challenges in development (and numerous scandals) over the past couple of decades, and more recently in the wake of the global economic crisis that has necessitated painful budget cuts and dampened popular support for development aid in many countries. Some of this posturing has led to the adoption of ill-conceived “zero tolerance” slogans (slogans rather than fully fledged anti-corruption policies), which appear equally popular among donors and some of the world’s most corrupt regimes.

A zero-tolerance policy could be elaborated so as to be perfectly consistent with the considerations outlined above – at least in the context of NGO partners – for instance, in the insistence that even the smallest corruption manifestation receive a response proportional to its severity. In practice, however,

this tends not to be the case, as zero-tolerance positions are not intended to describe a policy but rather to signal toughness. As a result, they typically emphasize severity rather than the likelihood of sanctions – practices contrary to core principles of effective deterrence noted above.

The limitations of a poorly nuanced zero-tolerance slogan as a policy principle is further exposed when one considers the disincentives they create for other corruption risk management practices such as openly discussing corruption risks and corruption challenges, or for reporting incidents of corruption.

Zero-tolerance positions also ignore broader development objectives, and particular challenges associated with them – for instance, in humanitarian relief operations. Few people would advocate a strict zero-tolerance response in a situation where a small bribe to an armed militia leader is the price of delivering food, water, and medical assistance to thousands of refugees fleeing armed conflict. In such a setting, saying no to corruption needs to be weighed against the potential loss of countless lives. Even beyond this extreme example, *sanctions and all other corruption responses must be sophisticated and flexible enough to respond to very different circumstances so to function in service of, rather than contrary to, primary development objectives.*

Two issues to keep in mind when designing and applying measures

Primacy of development objectives

Development objectives should not only dictate the acceptance of certain (levels of) corruption risks; they should also influence the choice of the mitigation measures applied. By way of example, when confronted with the prospect of working with an NGO with poor financial management capacities, the possible mitigation measures will include, one, increased oversight and two, capacity development. As promoting civil society participation is very likely to be among the objectives of the programme in question, an investment in capacity development of the NGO should be seen as essential, even if increased oversight alone would have been far less costly...

Costs of corruption risk management

Finally, the most important challenge for many organisations will be the administrative and/or financial burden inherent in many corruption risk management measures recommended in this paper. Whether the burden is expressed in numbers of staff or the cost of services (e.g. independent audits or evaluations), the measures are at some point expressed in financial terms, and typically as *administrative costs*.

Administrative costs are never a cherished budget line item, and with development aid in particular, individual donors and tax payers alike want to see the bulk of their support to go to programming – feeding the hungry or vaccinating children – rather than to “inefficient bureaucracy.” This is of course an incomplete and superficial view of aid operations, but one that is persistent and difficult to counter in public discourse: this paper would be difficult to reduce to a populist campaign slogan, and the value of funds *not* stolen is not easy to quantify and use as a counterargument.

The lack of figures on the value of corruption prevention measures is a particular challenge for advocates of their more extensive application. Whilst it may be possible to generate some estimates – for instance, by calculating average annual amounts of “leakage” several years before a new corruption risk management system was implemented compared to several years afterwards – a more effective short-term strategy may be to redefine the terms used, starting by insisting that corruption risk management costs are *not* administrative costs, but rather essential institutional and programme investments.

Annex 9: Common forms of NGO fraud, common occurrences in cases of NGO fraud

Originally the study had envisioned including a couple of case studies of NGO fraud. The purpose of that would have been to provide some illustrative examples. The study's resource constraints didn't allow for an in-depth case study approach. As one of the suggested solutions of the study is to conduct a follow-up using a *proper* case study approach, it was decided to skip the inclusion of short case study vignettes. This annex replaces it with a short overview of forms of NGO fraud and common occurrences in cases of NGO fraud mentioned in interviews and literature. The below order of presentation is random and not suggestive of either frequency or importance.

Forms of NGO fraud²⁰⁵

- Conflict of Interest
- Double billing (of purchases and/or salaries and/or whole events/projects/programs)
- Theft of funds
- Falsification of costs or expenses
- Forgery or alteration of documents
- Destruction or removal of records
- Use of inconsistent (salary) rates in different donor reports
- Supplementary salary payments
- NGO equipment (cars, computers) is used for personal purposes
- NGO staff is used by management for personal, non-NGO related work.
- Employees seeking or accepting cash, gifts or other benefits from third parties in exchange for preferment of the third parties in their dealings with the NGO
- Blackmail or extortion
- Paying of excessive prices or fees to third parties with the aim of personal gain
- "Ghost" employees, participants or beneficiaries that inflate the costs of project activities

Common occurrences in cases of NGO fraud

- The ED doesn't share problems with the board or way too late
- The NGO doesn't share problems with their donors
- No legal advice is sought until it is too late
- NGO board and donors tolerated a financial management system that did not produce a proper audit trail²⁰⁶
- NGO board and donors tolerated the unavailability of an (external) audit way beyond what is a reasonable time period and without justification
- NGO management and/or board gave full trust to one individual without *any* checks
- NGO board and donors accepted the absence of a global budget and a global audit
- External audits were only required to check with finance staff, not program staff, let alone a sample of beneficiaries
- Donors did not communicate with (the responsible) boards, only with management, until it was too late
- Crucial documents/records are not available (missing or under the control of the perpetrator of the fraud) frustrating the investigation and finding conclusive proof difficult/impossible
- When NGO closes its assets disappear into the hands of the ED and/or other staff
- Offering, promising or giving of a bribe and requesting, agreeing to receive or accepting a bribe for any reason

²⁰⁵ For quite comprehensive overviews of fraud/corruption risks in the specific sectors of humanitarian aid and in health and education services, the only ones that this study is aware of that have received such detailed attention, see the relevant sections in the bibliography.

²⁰⁶ For an explanation see section **2.1.3.1**

Annex 10: The role of NGOs and civil society in development and poverty reduction

This annex extracts relevant observations for better understanding the Cambodian NGO sector from a paper²⁰⁷ that gives a succinct and informed overview of the history, promises, and problems of development NGOs.

When assessing the Cambodian NGO sector it is important to look at its history and seeming peculiarities within the context of global NGO developments. Quite a lot of what seems Cambodia-specific has happened elsewhere too. Without discounting the specificities of Cambodian culture, history and political-economy, these similarities point to underlying similarities in institutional incentives. This annex focuses on these similarities.

The paper's **abstract** summarizes its argument:

Since the late 1970s, NGOs have played an increasingly prominent role in the development sector, widely praised for their strengths as innovative and grassroots-driven organisations with the desire and capacity to pursue participatory and people-centred forms of development and to fill gaps left by the failure of states across the developing world in meeting the needs of their poorest citizens. While levels of funding for NGO programmes in service delivery and advocacy work have increased alongside the rising prevalence and prominence of NGOs, concerns regarding their legitimacy have also increased. There are ongoing questions of these comparative advantages, given their growing distance away from low-income people and communities and towards their donors. In addition, given the non-political arena in which they operate, NGOs have had little participation or impact in tackling the more structurally-entrenched causes and manifestations of poverty, such as social and political exclusion, instead effectively depoliticising poverty by treating it as a technical problem that can be 'solved'. How, therefore, can NGOs 'return to their roots' and follow true participatory and experimental paths to empowerment? As this paper explores, increasingly, NGOs are recognised as only one, albeit important, actor in civil society. Success in this sphere will require a shift away from their role as service providers to that of facilitators and supporters of broader civil society organisations through which low-income communities themselves can engage in dialogue and negotiations to enhance their collective assets and capabilities.

The rising prominence of NGOs

Until late 1970s: A limited number of small NGOs receiving little external support constitute the NGO sector. Most are northern-based with a southern presence, often based on religious assistance and/or in short-term relief.

Late 1970s to 1980s: 'The NGO decade' takes place amidst the Western pursuit of neoliberal agendas, with NGOs emerging as a promising development alternative.

Late 1990s: Alongside emergence of the good governance agenda, the first concerns surrounding NGOs take off alongside a focus back on the role of the state.

2000s: A new international aid regime promises greater consultation and focus on non-growth factors. NGOs with their people-centred, rights-based, and grassroots-driven approaches are well-suited to continue riding the NGO wave.

2010s: With persistent concerns of NGOs remaining unaddressed and recognition of their limited success in advocacy and empowerment, there is increasing recognition that NGOs are only (p.6) one sector within broader civil society and they must reorient themselves with their grassroots-roots.

The paper's NGO story starts when [a] remarkable change in their scale and significance was triggered in the late 1970s, when NGOs became the new sweethearts of the development sector. (p.5) It was perceived failures of state-led development approaches throughout the 1970s and 1980s that fuelled interest in NGOs as a development alternative, offering innovative and people-centred approaches to service delivery, advocacy and empowerment (p.3)

However, **NGO origins and history differ significantly across regions and countries.** A couple of Examples:

A withering of formal representative institutions fuelled the explosion of NGOs in India, with political parties since the 1970s being increasingly dismissive of excluded castes and groups... Likewise, in the Philippines, too, the inability of political parties to secure representation and participation for a large

²⁰⁷ The extracts in this annex exclude the paper's many references. For those: see the original

proportion of the population created an institutional vacuum into which NGOs stepped... In contrast, NGOs in the East Asian countries of Indonesia and Vietnam proliferated in response to state hegemony rather than the weakness of formal institutions, attempting to expand the limited political space available to civil society... Characterised by its history of active associational life in which indigenous membership-based organisations have long played a role in community life and development..., Africa experienced its NGO boom a decade later, starting in the 1990s... In Latin America, NGOs have historically functioned in opposition to the government, playing a crucial role in strengthening civil society... Consequently, the NGO sector here emerges from a stronger and more radicalised body of civil society organisations in opposition to the authoritarian regimes across the region. (p.7)

Wherever they started from, **everywhere [t]he shape of NGOs has changed over time**. While many NGOs, particularly in Latin America, were created around the explicit intention of addressing structural issues of power and inequality and expanding civil society against hegemonic or weak and unrepresentative states, they have seen a shift in their organisational character and in the nature of their work, instead adopting technical and managerial solutions to social issues such as poverty through service delivery and welfare provision... Interests in the contribution of NGOs to service delivery did not rise only because of the enforced rollback of state services, but also because of their perceived comparative advantages in service provision, including their ability to innovate and experiment, their flexibility to adopt new programmes quickly, and most importantly, their linkages with the grassroots that offer participation in programme design and implementation, thereby fostering self-reliance and sustainability... It was not until later in the 1990s that donors started promoting a second important role for NGOs, viewing them as organisational embodiments of civil society that could play a role in political reform... While their role in as 'democratisers of development'... is highlighted as frequently as their role as service providers, rarely is it articulated how NGOs should participate in the political process to achieve this... Their role as social development agencies, therefore, takes precedence over their role as political actors. (p.7-8)

The above description makes it evident that **this change was clearly an expression of donor agendas**. Despite this, donors, especially those promoting a social change rather than a neo-liberal agenda (and other 'NGO watchers' like academics and social activists) have become increasingly critical:

Throughout the 1990s, NGOs may have been viewed largely as 'heroic organisations' seeking to do good in difficult circumstances..., but this rose-tinted view has been rolled back amidst increasing acknowledgement that NGOs are not living up to their expectations. A number of emerging criticisms highlight problems of representativeness, limitations to effectiveness and empowerment, and difficulties remaining loyal to their distinctive values, which are all undermining the legitimacy of NGOs. (p.10)

Despite the very particular history and context of Cambodian NGOs (see **Annex 11**), the enumeration of **problems perceived with NGOs in general** will sound very recognizable to anyone in touch with the Cambodian debate. The overall analysis already sounds familiar:

With their participatory and bottom-up development approach, they are differentiated by the fact that their programmes should reflect local contexts, needs and realities. Institutional imperatives of organisational survival and growth dominate over these development principles, however, and over several decades this has led to a redefinition of NGO goals and objectives and a change in their relationships with the state, donors and the poor... Their unequal position in the international aid chain means that NGOs have become too close to the powerful, and too far from the powerless. (p.12)

But the real revelation is that even quite detailed descriptions could have been lifted directly from Cambodia NGO sector assessments:

Grassroots orientation

- *While donors may recognise the role of NGOs in making the voices of the poor heard in programme design and holding governments to account, the reality is that at the same time they are funding NGOs to supply target-oriented services directly, both professionalising and*

depoliticising operations by turning NGOs into implementers or contractors of donor policy, rather than representatives of grassroots constituencies. (p.13)

- *The external determination of local agendas erodes the concept and processes of grassroots participation. NGOs flutter around the bottom rungs of a 'participation ladder'²⁰⁸, with communities rarely exercising control over their activities. (p.13)*
- *Other negative influences on participation are grounded in the organisational interests of NGOs, who, given their prioritisation of institutional survival, are incentivised to keep power over decision-making and the distribution of funds between themselves and community groups highly unequal, developing and maintaining patron–client relationships with beneficiary communities, rather than garnering their true participation in programmes, and thereby threatening programme sustainability and empowerment outcomes. (p.14)*
- *Where NGOs choose to locate can also limit the proximity of NGOs to disadvantaged groups and communities necessary for grassroots participation. (p.14)*

Accountability and autonomy

- *In emphasising upwards and external forms of accountability..., NGOs have proven themselves unable and/or unwilling to innovate to find greater downwards accountability, prioritising their organisational imperatives over their development vision... In addition, ...since both donors and NGOs focus on short-term functional accountability, longer-term strategic processes necessary for lasting social and political change are often overlooked. (p.16)*
- *There is, of course, good reason for ensuring accountability in fund usage, with several studies highlighting examples of misrepresentation or misreporting by NGOs of activities and impact. While commonly perceived that NGOs possess an intrinsic value base through which they act on altruistic motives, in reality, as with all organisations, survival is paramount, and to survive, they must put their own interests before those of others, including donors and beneficiaries... Good intentions, they conclude, "do not provide insurance against human fallibility", and they caution against an over-reliance on self-reported data from NGOs when regulating, monitoring, or surveying NGOs. (p.17)*

Innovation

Alongside the external determination of local agendas, a number of internal and external factors constrain the innovativeness of NGO activities, which instead fall into a 'predictable range' of activities, varying little by region, country or continent:

- *Increased focus on the scaling-up of programmes*
- *The quest for an effective 'model' that can be implemented regardless of context*
- *Dependence on donor funding also narrows scope for innovation given the high demand from donors to find simple, neat and comprehensive solutions to complex development problems... this means NGOs are also less likely to innovate in tackling the more difficult and structural conditions of poverty.²⁰⁹ (p.18-19)*

Sustainability

It is concerns of financial sustainability and organisational survival that drive the erosion of an NGO's original values and mission, with NGOs forced to focus on financial sustainability, professionalism and survival as they expand. (p.19)

Fierce competition for donor funds exacerbate these problems, preventing NGOs from forming networks or coalitions. (p.19)

The **conclusion** of this assessment of criticisms is quite harsh but also suggests a particular direction forward:

For NGOs, therefore, the end of the first decade of the 21st century was characterised by their shrinking room for manoeuvre and cooptation into the international aid system ... Ultimately, the inability and/or unwillingness of NGOs to fulfil their strengths of grassroots orientation, innovativeness

²⁰⁸ Participation ladders distinguish between different levels or kinds of participation, ranging from a narrow focus of beneficiaries being 'informed', 'involved', to achieving bargaining power vis-à-vis NGOs or the state, and finally, to owning the entire process.

²⁰⁹ This strong focus on success also leads NGOs to be secretive and isolated, sharing little information with other NGOs and development actors and being reluctant to encourage evaluations.

and experimentation, and accountability and autonomy, undermines their legitimacy as true 'development alternatives' as well as their impact in structurally entrenched forms of poverty. That there has been little action from NGOs to overcome these problems has been called the elephant in the room' that NGOs and the wider development community are reluctant to acknowledge... Priority, therefore, must lie in finding ways through which NGOs can return to their roots, regain their distinctive values, and remove these institutional distortions . (p.20)

The below includes, in addition to the paper's *singular* suggested direction, a list of observations that it draws from the literature on the role of NGOs in development which open the door to *other* possibilities/perspectives *and/or* issues to take into account when NGOs and donors would want to implement change (which they haven't shown much enthusiasm for so far).

Suggested way forward: returning to the roots

NGOs are not institutions of the poor because they are not based on membership, and therefore face difficulties being recognised as genuine civil society actors since they rarely truly represent their constituencies... A "civil society" function for NGOs entails moving from a supply-side, service-based approach, to a 'demand-side' approach that assists communities to articulate their concerns and participate in the development process, keeping NGOs bonded and accountable to civil society... It also requires a shift away from conventional approaches to advocacy – in which NGOs generate campaigns on behalf of the poor – to more effective advocacy work that strengthens the bargaining power of the poor themselves to defend their rights and enhance their capacity for organisation and collective action. (p.24)

NGOs must move from 'development as delivery to development as leverage', requiring more equal relationships with other civil actors, new capacities, and stronger mechanisms for accountability. This highlights the role of NGOs within the broader context of civil society, in which representation and accountability (or a lack thereof) can be challenged and negotiated. One solution is to develop a paradigm in which NGOs and constituents are both clients simultaneously to each other..., finding a place for NGOs as the organised face of more deeply-seated, networked forms of social action, in which people are already pursuing strategic goals, and create NGOs in order to further these strategies... This is not a natural or easy transition for NGOs to make from their current position of relative autonomy in programme design and implementation, decision-making, and fund management. (p.25-26)

It is not only NGOs that must change their approach in this direction; donor strategies too must be adjusted to improve the flexibility of grants and ensure that resources reach their intended beneficiaries. (p.29)

Asides to take into account

- *[I]n many countries NGOs started life not as actors in their own right, but as support organisations for wider popular movements... Sometimes NGOs may support the creation of social movements, in others NGOs may emerge from them,³⁰ but **it is not the case that all NGOs can or will become, or partner with, social movements.** (p.25)*
- ***There is some debate as to whether NGOs are an externally-driven phenomenon threatening the development of indigenous civil society and grassroots activism** by distracting attention and funding from more politicised organisations... At worst, given their incentives to operate as non-political institutions, NGO involvement can bring an end to citizen-driven movements, losing the transformative power of radical ideas and threatening the sustainability of long-term processes seeking structural change. (p.21)*
- *Interestingly, in an argument similar to the transition of NGOs away from their clients as a result of upwards accountability to their donors as they 'professionalise' and expand... **social movements moving towards the formation of NGOs may also lose direction, spending too much time and resources on 'NGO-isation'** (accessing the hardware and infrastructure necessary for their new role and spending time primarily on project proposals and strategic plans, rather than their primary mandate). (p.25)*

- Largely missing from the international development community's understanding of civil society is **the possibility of 'uncivil society'**, for example, that under deteriorating political conditions, civil society can emerge as a foe rather than friend of democracy, most likely by being hijacked by antidemocratic forces. In supporting civil society development at the expense of political institutionalisation, therefore, democracy promotion may harm rather than advance the cause of democratisation. (p.22)

Annex 11: Development of the Cambodian NGO sector²¹⁰

Mysliwiec in a report written for the Expert Group on Development Issues provided a chronicle of Cambodia's recent history citing the presence of NGOs and role/s these played at every stage beginning from the period 1954 to 2004. In summary:

From 1954 – 1970 following independence from France, there was no evidence of indigenous NGO movement although civil society was present in many forms. During the war from 1970 – 1975, International NGO assistance in the form of relief to victims of war replaced bilateral development assistance.

From 1975 – 1979 during the Khmer Rouge period, there was no international presence in Cambodia apart from China and North Korea.

From 1979 – 1982 following the liberation from the Khmer Rouge regime, a handful of International NGOs initiated emergency programmes both inside Cambodia and in border camps just over the Thai-Cambodian border. There was massive relief operation, which spanned in almost all the sectors of economy and society such as health, agricultural production and transportation and encouraged good co-operation and co-ordination between UN agencies, International Red Cross, NGOs and government counterparts.

In 1982, the UN declared the Cambodian emergency to be over and an imposed aid embargo (apart from the socialist bloc), which was not lifted till 1991 after the signing of the Peace Agreement. **Up until 1987**, bilateral assistance for emergency was provided through UNICEF, WFP, UNHCR, and ICRC. INGOs were forced into a new role of 'supporting' the central administration as opposed to their traditional strength in working at grassroots level. In 1986, INGOs launched an international advocacy campaign with the aim to bring about pressure for a change in the western policy of isolation and embargo.

From 1988 – 1991, increased bilateral funding available for humanitarian activities was being channeled through INGOs, many of whom were coming from the border to work inside Cambodia. Most of these organisations expanded the scope of their work and geographical locations including training of Cambodian counterparts; more meaningful participation in planning and implementation of programmes; and started to shift to their more traditional community based roles. Multi/bilateral donors used INGOs as substitutes for Cambodian institutions. Together with rest of the international community at the time, INGOs contributed to supporting the Cambodian peace negotiations, which resulted in the signing of the Paris Peace Accords in October 1991.

From 1992 – 1997, the UN supervised multi-party elections was held (1993) which resulted in a coalition government, reintegrating Cambodia into the world community. Many Cambodians from abroad returned to the country. **Local/Cambodian NGOs (LNGOs) emerged and mushroomed largely as a result of donor funding and the need to implement donor agendas.** During this period, **the donor community's understanding of civil society meant the newly created local NGOs.**

From 1998 – 2004: The Second Legislature of the Royal Government of Cambodia was elected and with encouragement from international donor community, it turned its attention to an ambitious reform agenda across many sectors i.e. economic reforms; demobilisation; administrative reform and social sector reforms. It was acknowledged that the limitation of human resources at the time constrained significantly the implementation of the reform agenda and it was recognised that this would require significant financial and technical support...

From 2005 to 2010

One political party, the Cambodian People's Party (CPP) continues to dominate the still new multiparty democracy in the country...During this period, the government has been increasing its capacity to provide for social services and **most development donors have continued with their poverty reduction agenda with some introducing the rights based approach (RBA) to programming as focus for their funding support, particularly for NGOs.** Some INGOs have

²¹⁰ Taken from CCC (August 2010), p.4-5; the most recent history is based on personal assessment and observations of some key informants

moved from direct implementation to working with or through local partners (LNGOs), providing funding and capacity development support. The areas of interventions have continued to be dominantly in service delivery, advocacy and some into providing support services e.g. capacity development, research, micro financing. **The WB study on Linking Citizens and the State found that based on their registration documents 70% of national NGOs describe their purpose as providing services in social affairs, while only 7% declared a purpose of democracy and human rights.** In this period, there is evidence of increasing reprisals made against human rights advocates (e.g. giving prison sentences to journalists, NGO workers, parliamentarians) making the space for criticism very limited contributing to an increasingly dire situation of civil and political rights.

From 2010 to date

Trends that started in the previous five years²¹¹ become more pronounced:

- Increasing competition for more limited funds²¹²
- Increasing tendency of INGOs and grantmaking intermediaries to engage LNGOs in sub-contracting roles, less willingness to core fund
- Increasing interest of a subset of NGO donors and others to support community organizing NGOs and even find ways to engage directly with rural and urban activist networks
- Increasing government repression of grassroots activists and their NGO supporters, in general everyone perceived as 'oppositional'.

²¹¹ But not mentioned by Mysliwicz

²¹² Quite a few informants were very explicit about this. Cambodia is definitely a 'donor darling' (probably a partly path-dependent heritage of UNTAC) and the decreasing availability of funds may have become noticeable later than elsewhere, but even Cambodian NGOs cannot escape the combined effects of the financial crisis and its ongoing economic and political impacts in donor countries and the increasing 'securitisation' of aid over the last decade (see also Banks, N. & Hulme, D. June 2012, p.15)

Annex 12: Research on the NGO sector, on moving towards more conceptual clarity

The assessment of the status of research on the NGO sector of the Banks-Hulme overview of the history, promises, and problems of development NGOs (summarized in **Annex 10**) is that we still very much lack a solid theoretical body of knowledge:

Research on the NGO sector²¹³

Limitations of early research:

- *hard-to-generalise case-studies*
- *or carried out on a quasi-consultancy basis for NGOs, thereby bringing into question the positionality of researchers and their ability to establish greater analytic distance*
- *and, with research treating the organisation as the unit of analysis, much research has failed to analyse NGOs in terms of the institutions and social structures of which they are a part*

Despite some significant advances, *including some cross-sector quantitative studies at the national and international level using new survey data..., and several recent qualitative cross-country or cross-sectoral studies...* Research has not yet lived up to what many would see as its role:... *to put together a solid theoretical body of knowledge that can be stripped down into a persuasive policy narrative in order to propose and outline a full-blooded development alternative.*

There are obviously various ways to work toward a more solid theoretical body of knowledge.

More descriptive research of the actual operational reality of NGOs, taking into account the effects of sources of funding, kinds of work done by the NGO (e.g. provision of social services, human rights monitoring, etc.), and other aspects that can be expected to be influential, is one way forward. Such a bottom-up approach might bring repetitive patterns to light that provide clues to possible causal mechanisms and thus better understanding.

Another would be to explore the existing major ideological positions regarding civil society and NGOs. Ideological positions tend toward fundamentalism, blotting out the grey tones of the real world.

Two major ideological positions regarding civil society would be the Gramscian/'radical' one which defines it *as the ground from which to challenge the status quo and build new alternatives²¹⁴* and the more mainstream/'neo-liberal' one which looks at it as the *domain in which people are free to form independent and autonomous associations to mediate with the state and pursue their political goals²¹⁵*. And perspectives on NGOs tend to stress either their status as representing grassroots constituencies or their status as implementers/contractors of donor policies.

The way one thinks about civil society is bound to influence one's perspective on NGOs and vice-versa. Hence the strong correlations between theoretical positioning on civil society and NGOs: radical civil society thinkers are often the most vociferous about most NGOs being nothing more than donor agenda subcontractors. And those looking at civil society through an organizational lens tend to have a stake in portraying NGOs as grassroots-driven or at least grassroots responsive.

But it isn't difficult to see that these dichotomous dimensions, let alone the correlations between positions taken on either, simplify reality beyond usefulness. We need a framework for understanding civil society that includes *both* the organizational and the ideological, an understanding of civil society that allows for the possibility of the uncivil²¹⁶, an understanding of NGOs that allows for accountability, upward and downward, that doesn't by definition preclude having their own independent agency, an understanding of NGOs that allows for transformative action in more ways that directly challenging the state.

²¹³ Banks, N. & Hulme, D. (June 2012), p.11

²¹⁴ Banks, N. & Hulme, D. (June 2012), p.21

²¹⁵ Missingham, B. (2003), p.7

²¹⁶ See also **Annex 10**

We need to ask questions that go beyond these dichotomous simplifications:

- What about the risk of NGO-isation of social movements, even if these are fully controlled by them?²¹⁷
- What about NGO social service provision in support of violent or non-democratic ideological agenda's (a common strategy of many revolutionary movements, e.g. the Muslim Brotherhood)
- Is it possible to be primarily upward accountable for the efficient and effective use of money but primarily downward accountable for the purposes the money is used for?
- Etc., etc.

A productive interplay between more ethnographic and sociological description of NGO realities and theoretical exploration of more multi-faceted conceptualizations can be expected to result in more conceptual clarity.

The need for such clarity is all the more urgent because, as the box above argues, we need a new policy narrative. The existing one, sometimes described as a collusion between NGOs and donors, based on their shared interest to legitimate support to NGOs, is just too much of a fiction to be a proper basis for effective action:

The policy narrative needing replacement²¹⁸

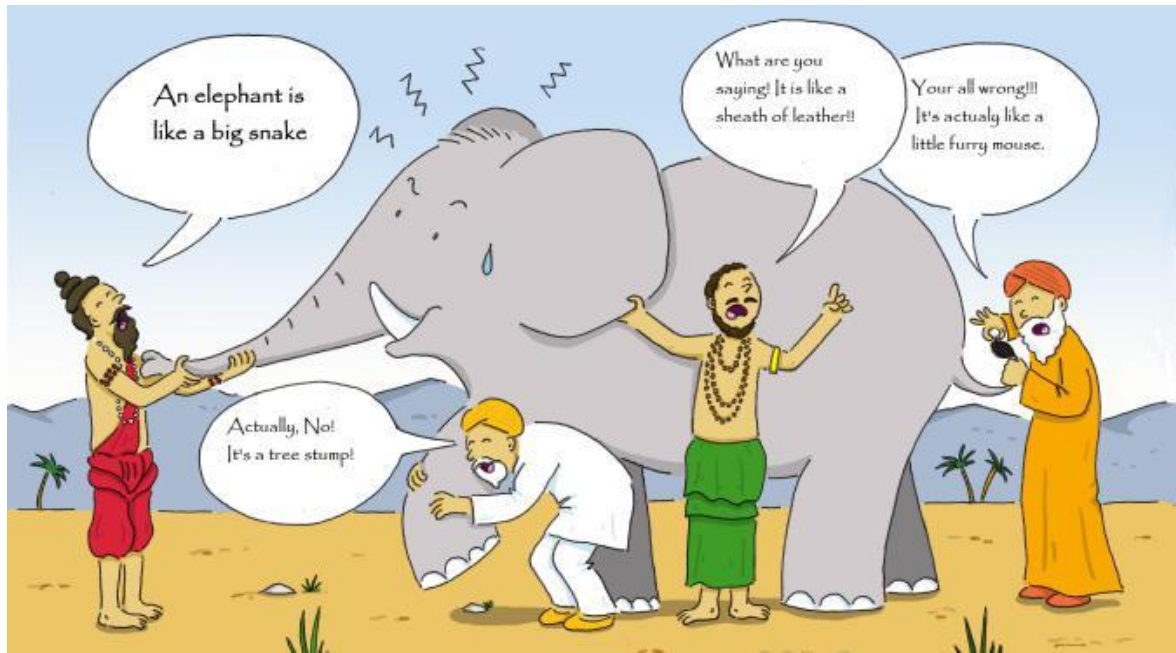
'Best practice' in civil society associations is full control and/or ownership of the organisation by constituents through an active membership structure ... They gain legitimacy by working locally through an active membership base that identifies and participates in development activities, and build trust and cooperation with members through regular interaction.. Their active membership base differentiates them from NGOs, allowing them to be characterised by more democratic and less hierarchical forms of governance and accountability and the predominance of volunteers... Indeed, this is the very reason that donors justify funding towards NGOs to create and strengthen social capital and civil society through their operations. That is why, contrary to reality, NGOs are portrayed as voluntary associations of altruistic citizens, responsive to their beneficiaries, accountable to their constituencies, and advocates for the poor... NGOs and donors both want this value-oriented perception of NGOs to continue, giving them a special status in public opinion and justifying continued funding to the sector.

Obviously the thoughts in this annex are not even a proper start for pursuing such clarity. But it is hopefully sufficient to make the reader wary of the hold the current poor mental models of civil society and NGOs exert on our thinking²¹⁹.

²¹⁷ See also Annex 10

²¹⁸ Banks, N. & Hulme, D. , June 2012, p.23

²¹⁹ See also Annex 1



Sufi Story...Elephant & blind sages by Blanca Marti for Equilibre

One doesn't have to go to state-of-the-art policy research (WDR 2015, Annex 1) for the risks of coming to quick conclusions based on part truths. But that such insights are nothing new only shows how deeply engrained and universal the underlying psychological tendencies are.

Annex 13: The need for detection and sanctions to give accountability teeth

Accountability remains an empty shell if fraud can be easily hidden. Thus the conceptual relationship between transparency and accountability. The box below (about accountability of government, but the principles apply to the NGO sector as well) describes what 'quality' of transparency is required to create the answerability that is associated with accountability. However, the conceptual analysis doesn't stop here and argues that answerability doesn't in itself create accountability. For that the possibility of sanctions must be added.

The uncertain relationship between transparency and accountability²²⁰

The concepts of transparency and accountability are closely linked: transparency is supposed to generate accountability. This article questions this widely held assumption. Transparency mobilises the power of shame, yet the shameless may not be vulnerable to public exposure. Truth often fails to lead to justice. (p.663)

it is relevant to distinguish between two different kinds of transparency: clear and opaque... Opaque or fuzzy transparency involves the dissemination of information that does not reveal how institutions actually behave in practice, whether in terms of how they make decisions, or the results of their actions. The term also refers to information that is divulged only nominally, or which is revealed but turns out to be unreliable. For example, in principle, in the USA, data on who gets farm subsidies, and how much, are considered to be in the public domain. But for the information to be publicly accessible in practice, a public-interest watchdog organisation, the Environmental Working Group, had to invest US\$ 12 million in six years of difficult technical work... This case reminds us that an enormous civil-society investment may be required to translate nominally public data into clearly transparent information. Clear transparency refers both to information-access policies and to programmes that reveal reliable information about institutional performance, specifying officials' responsibilities as well as where public funds go... Nevertheless, clear transparency by itself does not guarantee hard accountability... Returning to the example of farm subsidies, even though public-interest groups generated an impressive impact in the media, afterwards US government payments to large agribusiness corporations not only were not reduced, they increased enormously (because of their electoral logic)...

*[T]he distinction between opaque and clear transparency provokes reflection about their relationships with accountability. Space does not permit a full review of the multiple variants of public accountability, but they share an emphasis on the fundamental right to call those in authority to justify their decisions – the idea of 'answerability'. For many, however, **answerability without consequences falls short of accountability**. This discussion will be limited to distinguishing between **two basic dimensions of accountability**. One could call answerability the 'soft face', while **the 'hard face' includes answerability plus the possibility of sanctions**. (p.667-p668)*

One should not expect answerability from opaque transparency, and one should not expect hard accountability from answerability. (p.669)

The argument above already refers to examples of answerability without the possibility of sanctions having no teeth. But anecdotal evidence is at best a start, it doesn't make for a strong argument. The next box, based on what a systematic review of anti-corruption strategies shows about proven effectiveness²²¹, also emphasizes detection and sanctions:

²²⁰ Taken from Fox, J. (2007)

²²¹ Hanna, R. et al. (July 2011), p.48-49

What makes for effective anti-corruption strategies

The starting relevant observation is the dearth of proper evaluations: *Given the small number of high-quality empirical evaluations that measure the effectiveness of anti-corruption strategies in the developing world, we are wary of making any sweeping conclusions.* (p.48)

But of the conclusions they are willing to draw the following are relevant for fraud in the NGO sector:

- *Monitoring and incentives should be combined.* A programme that utilises this combination can prevent corruption by increasing the probability of being caught engaging in corrupt activities, and increasing the punishment for being corrupt (or, conversely, by increasing the reward for not being corrupt). Monitoring on its own is ineffective, because the individual must face a punishment for being corrupt. Similarly, increasing the incentive to stay honest has no effect when the probability of getting caught is too small.
- *The monitoring and incentives scheme must align with all involved parties' incentives and local-specific market structures.* When nurse managers permitted nurse absences to bypass a monitoring mechanism intending to punish absenteeism, the programme became toothless... Similarly, if auditors are corruptible themselves, monitoring will be ineffective.

Next, let's have a look at a Cambodia-specific, be it still government accountability example:

Lessons from One Window Service Office initiative²²²

What works?

- Leadership
- Flat staffing structure
- Threat of Sanction
- Threat of Complaint

What doesn't work

- Changing attitudes and behaviors

The importance of answerability/possibility of detection, e.g. threat of complaint, and the possibility of sanction is evident.

Section **2.1.1.1** argued that trust is *always* 'covered' by either formal or *informal* institutional guarantees that ensure its misuse can be sanctioned suggesting that **these elements are universal and not specific to any particular setting**. The box below gives an argument for the importance of this based on the way business communities in India deal with cheating:

The business of honesty²²³

Successful community institutions for collective action have existed for at least a millennium...Most importantly, the community needs an efficient method to detect and punish cheating... additional channel for detection. The facts may be difficult to prove in a court of law, but this is where an internal tribunal has an advantage: it can use broader standards of evidence, and has insider expertise to evaluate the evidence. As for punishment, the community can deploy even more effective sanctions than the fines a court of law would impose: it can ostracise offenders, basically driving them out of business. Of course such a potent weapon must be used with care; the process needs to guard against false accusations and must ensure that it does not become an insiders' cartel that keeps out new or disruptive entry.

²²² World Bank Demand For Good Governance Project. Learning Note 6. These are the factors mentioned that are not specific to the Citizen Service Centers/Cambodian government agency situation

²²³ Basu, K. & Dixit, A. (2015)

Annex 14: The positive effects of properly responding to reputationally risky events

The paradigmatic extreme event threatening permanent damage to the reputation of an organization is a mass fatality incident. They are by definition in the public eye, the organization has to respond, and the response is going to be judged. In the case of publicly listed corporations shareholder value provides a direct measure of that response. Management consultancy Oxford Metrica, specialized in risk, value, reputation and governance, has analyzed this relationship over many years and concludes²²⁴ that perceived proper response (transparency, strong leadership and sensitivity toward affected stakeholders) during the crisis translates in substantially increased shareholder value later on.

Extreme events provide an opportunity for investors to review their opinions about a firm and, more pertinently, about its management. Additional corporate information is forthcoming around such events that would not be available in more normal circumstances. This new information is received and digested by markets which form new estimates of future cash flow performance expected from these firms. The share price rises or falls, suddenly and significantly, in the light of the new information and the new expectations. These sudden shifts in share price tend to be sustained; until the next extreme event.

Mass fatality events are as extreme as they get. The circumstances are, by their nature, a gruelling ordeal for the management of any firm. It is precisely under such circumstances, however, that senior management can demonstrate the stuff of which they are made. These situations are not only logistically challenging but also profoundly emotionally traumatic. Mass fatality events demand strong leadership, honest communication and compassion. The awareness of what managerial decisions and behaviour are required, and the courage to act accordingly, reveals qualities in managers appreciated by the markets.

The research results presented herein support our earlier findings and demonstrate that the care, honesty and sensitivity with which management responds to mass fatality events inspire confidence in investors and add substantial value. Furthermore, the results suggest that the presence of mass fatality in an extreme corporate event has a multiplicative effect on the value impact. The market judgement of managerial ability is decisive, considerable and sustained.

No comparable NGO sector research exists, but it is difficult to imagine that 'reputational mechanisms' functions very differently and whatever anecdotal evidence is available would confirm it doesn't. By way of example DCA's experience²²⁵ with implementing a transparency and accountability policy toward corruption:

There is no doubt that adopting a pro-active and transparent approach to dealing with corruption can pose short-term risks to an NGO's reputation. But there are signs that NGOs are changing, keen to show better operational efficiency and accountability.

DanChurchAid (DCA), a major Danish NGO, has been publishing its annual corruption report since 2008, and a second which logs all complaints made against the organisation. But why did DCA decide to take the risk, despite initial reservations from the organisation's communications directors?

"Credibility and trust is any NGO or private company's main driver," ... "There is a perception that corruption can harm trust/image/brand. That is true – especially if the issue is mismanaged or hidden instead of being openly and pro-actively presented.

DCA's transparency and accountability systems and mechanisms are now "some of the most convincing tools to fundraising, credibility and brand recognition" and is used by face-to-face fundraisers, volunteers and PR to promote the organisation.

²²⁴ Oxford Metrica (May 2010), p.23

²²⁵ Adetunji, J. (January 2013)

Annex 15: When using a case study approach?

Michael Woolcock²²⁶ recently made the case for using case studies in development practice as clearly and succinctly as anyone possibly can:

Making the case for case studies in development practice²²⁷

The frequency and sophistication with which case studies are deployed by social scientists has greatly expanded in recent years. The goal now is not merely to document or describe, but to diagnose, explain, interpret, and inform a basis for action... Rather than seeking universal 'best practice' responses as a basis for policy advice, analysts use case studies to learn from 'natural' (or sometime overtly experimental) sources of intra-country variation. Everyone can agree in the abstract that context and high quality institutions matter for development, and that one size doesn't fit all, but these truisms aren't much help when trying to provide specific advice in response to a specific problem in a specific place.



²²⁶ Lead Social Development Specialist in the Development Research Group at the World Bank

²²⁷ <http://blogs.worldbank.org/developmenttalk/making-case-case-studies-development-practice>