PRESS RELEASE

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THE DRAFT LAW ON PEACEFUL DEMONSTRATIONS IS SERIOUSLY FLAWED

The CCHR is concerned that certain provisions within the current proposed law on demonstrations will seriously impinge upon Cambodia’s national and international human rights obligations.

The reality is that peaceful assemblies, currently and historically, have lead disruption of public order. The unfortunate reality is that some form of regulation is required. Nevertheless, the fragile balance between upholding peoples’ right to freedom of speech and association, and protection of the public from mass violence, is one which must be vehemently and carefully maintained. In times of peace, this balance must fall in favour of the freedoms enshrined in a democracy.

Furthermore, due attention must be given to the context in which this law is being released. Freedom of speech and association has been seriously threatened by authorities within Cambodia in terms of, inter alia, the recent defamation and disinformation cases and attempts by authorities to prevent public gatherings held by local NGOs. This law and the timing of its release must be read in light of these events.

The proposed draft law has several provisions which appear to unnecessarily violate the right to peaceful assembly. Of particular concern is the ambiguity surrounding the definition of a “demonstration.” Article 4 defines Peaceful Demonstration as: Peaceful demonstration is the gathering or procession made by a group of people to demand, protest or express publicly their feelings/sentiments, idea/opinion or will by using peacefully various forms or means.

However, read together with Article 3 which provides that this law does not apply to: “gatherings for the purposes of...promoting awareness for social interests,” the distinction becomes unclear, leaving subjective interpretation open to abuse.

CCHR also expresses concern with Article 14, Section 2 of the draft law, which discusses peaceful demonstrations held on private and collective property. The current restrictions on such demonstrations include a cap of 200 participants, a requirement of notice to the provincial-municipal authorities, and a specified time frame of 6:00am to 6:00pm. These restrictions seriously harm the peoples’ right to freedom of expression and freedom of assembly. Individuals who wish to hold peaceful demonstrations and gatherings on their property should be allowed to do so freely, without any intervention by the authorities. Any misconduct resulting from such gatherings are governed by existing legislation,
relating to, for example, disturbance of the peace, trespass, or destruction of personal property.

Furthermore, chapter 3, in particular Article 16, raises concerns due to its vague terminology. Organisers of such demonstrations, whose identities are recorded pursuant to Article 6, are “responsible for taking appropriate measures to ensure” that the demonstration complies with the law and the preconditions determined prior to the assembly. Whilst Article 21 states that a written warning shall be issued for the organiser(s) of peaceful demonstrations who violate these provisions, there is no explanation as to the consequence(s) following the receipt of a warning.

The draft law as it stands suggests that organiser(s) exert an unachievable level of control over an indeterminate number of people, burdening organisers with full accountability for the obviously unforeseeable factors which could influence the outcome of such an event. The CCHR is concerned that this provision effectively constitutes a hidden bar on peaceful demonstration, by leaving the organisers open to sanction for the unforeseeable acts of those who attend the demonstrations, including, paradoxically, those who attend peaceful demonstrations with the intention of disrupting them and even attacking the demonstrators, this provision places an unjustifiably level of responsibility on the organiser. The extent of the sanction, a warning, is undefined. The CCHR fears that, by leaving organisers open to unspecified sanctions for the unforeseeable acts of others, no one will be willing to organise a peaceful demonstration.

The CCHR reaffirms its support for the existence of a law on Peaceful Demonstration. However, we would insist on the following amendments and clarifications:

- Firstly, the discrepancy between Article 3(3) and Article 4 must be resolved and re-worded to avoid confusion.
- Secondly, gatherings held at places of private or collective property should not be regulated or restricted by authorities, and are especially inappropriate within a law governing peaceful demonstrations. This section is particularly unacceptable given the excessive restrictions previously mentioned.
- Lastly, the CCHR is against the unreasonable obligations placed upon organisers. The draft law should be amended to ensure these responsibilities are not overly onerous. Furthermore, clarification is essential as to the ramifications of being issued a “warning” as this will have major implications for freedom of assembly within Cambodia.

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