JOINT STATEMENT

AFEC and ARTICLE 19 call on the Cambodian Government and the National Assembly to fully decriminalize defamation

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The Alliance for Freedom of Expression in Cambodia (AFEC), network of 28 Cambodian civil society organizations, and ARTICLE 19, an international human rights NGO, welcome last week’s decision of the Council of Ministers to amend Article 63 of the UNTAC law by removing imprisonment as a penalty for defamation. “This is an important step on the way to implement the human right to freedom of expression in Cambodia. But defamation is still treated as a criminal offense that may be punished by hefty fines of up to 10 million riel. There is a serious risk that it will be abused to silence debates on public issues. Therefore, we call on the Royal Government and the National Assembly to decriminalize defamation altogether and to adopt progressive civil defamation laws to break with the ideology of punishment”, said Kem Sokha, Chairman of the AFEC Steering Committee.

Toby Mendel, Law Programme Director, ARTICLE 19, stated: “Moving defamation to the civil code will help to implement the right to freedom of expression as guaranteed by the Cambodian Constitution and to bring Cambodian legislation into line with international standards.”

According to international standards, as set out in the ARTICLE 19 publication, *Defining Defamation: Principles on Freedom of Expression and Protection of Reputation*, defamation laws should aim to protect the reputations of individuals. They should not protect other interests, for example the "reputation" of the government or the State. In particular, it is inappropriate to use defamation laws to maintain public order or national security, as was intended by the authors of the UNTAC law.

AFEC and ARTICLE 19 make the following ten recommendations for reform of the civil law on defamation:

1. Public bodies of all kinds – including the legislative, executive and judicial branches of government – should be prohibited altogether from bringing defamation actions.

2. Public figures should enjoy less protection from defamation than ordinary citizens and should tolerate more, rather than less, criticism. Furthermore, they generally have the means to defend their reputation without resort to defamation cases, including through access to media.

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3. In all cases where an objected statement of fact is found to be true the defendant should be absolved of any liability. No plaintiff can claim a reputation that he or she does not deserve.

4. In cases involving issues of public concern, the plaintiff should bear the burden of proving the falsity of any statements of fact alleged to be defamatory.

5. No one should be liable under defamation law for the expression of an opinion.

6. Journalists and others who obtain information from confidential sources, with a view to disseminating it in the public interest, should have a right not to disclose the identity of those sources.

7. The limitation period for filing a defamation lawsuit should be no more than one year from the date of publication of the statement.

8. Courts should ensure that defamation cases are processed rapidly, as protracted cases can have a negative impact on freedom of expression.

9. The overriding goal of providing a remedy for defamation should be to redress the harm done to the reputation of the plaintiff, not to punish those responsible for the dissemination of the statement. Non-monetary remedies for defamation should be given priority to fines.

10. Fines must always have a symbolic character for trying to restore the dignity of the victim. They should not be aimed at or have the effect of ruining the offender.

For questions and interviews please call Ou Virak, General Secretary of the AFEC, Tel. 012-404051 or Toby Mendel, ARTICLE 19, a19law@hfx.eastlink.ca, +1 902 431-3688.

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