

JOINT STATEMENT: THE BAR ASSOCIATION OF THE KINGDOM OF CAMBODIA MUST NOT INFRINGE LAWYERS' FREEDOM OF SPEECH

February 22, 2013 – We, the undersigned Cambodian civil society organizations, wish to express our concern at recent moves by the Bar Association of the Kingdom of Cambodia (BAKC) to prohibit lawyers from giving radio and television interviews without its prior permission. This infringes not only upon their fundamental right to freedom of expression, but also their ability and professional duty to speak on legal issues- which is in the public interest.

On January 23, the BAKC issued a letter inviting lawyers to join a new working group, which aims to improve the quality of information disseminated by lawyers in public broadcasts. The letter stated that the BAKC would take legal action against any lawyers whose public dissemination of information risks damaging the reputation of the legal profession. Subsequently, on 31 January the Ministry of Information issued an instruction to media outlets, which requires television and radio stations to seek prior approval from the BAKC before inviting lawyers to speak publicly. The Ministry of Information acted after having been asked by the BAKC to intervene.

Neither the BAKC nor the Ministry of Information have any place determining who can and cannot appear in the Cambodian media - a free and independent media being a cornerstone of any democratic society. In addition, the BAKC and the Ministry of Information should be encouraging lawyers to disseminate legal information, not attempting to stifle their free speech. Cambodian lawyers play a prominent role in explaining the law to the public and in scrutinizing the legal bases of issues which directly affect the lives of ordinary citizens - such as land grabs and forced evictions. Furthermore, considering the increased use of judicial harassment to silence government critics – journalists, rights workers, activists, opposition politicians – over the past year in Cambodia, it is critical to highlight the important role that lawyers play in pushing for justice to be served in these cases. Lawyers must be permitted to fulfill their duties without improper curtailments on their freedom of speech, which can also impinge on their duty to defend their clients and can encourage self-censorship.

The move to censor what lawyers can and cannot say in public raises serious questions about the BAKC's motives and impartiality, and worse: it could undermine the important role lawyers play in protecting the rights of Cambodian citizens. It should be noted that the BAKC code of ethics formerly contained an article (Article 15), which stipulated that lawyers must receive prior clearance from the BAKC before speaking to the media. However this article (now Article 17) was amended in the newest version of the code and no longer requires that lawyers receive prior clearance before speaking with the media, but requires only that professionalism be upheld.

The right to freedom of expression is expressly guaranteed under Article 41 of the Constitution of the Kingdom of Cambodia. This right is extended to all Cambodian citizens, including lawyers and the press. Moreover, by virtue of the ratification of relevant international covenants, Cambodia has thereby directly incorporated them into domestic law, as reflected by the Constitution under Article 31. Cambodia ratified the International Covenant on Civil and Political Rights in 1992, Article 19 of which guarantees the right to freedom of expression. Article 31 of the Constitution also recognizes and respects all rights stipulated under the Universal Declaration of Human Rights, which similarly guarantees the right to freedom of expression under Article 19. Furthermore, the United Nations Basic Principles on the Role of Lawyers provides under Principle 23 the right of lawyers to “take part in discussion of matters concerning the law”.

We the undersigned condemn the actions taken by the BAKC and the Ministry of Information to restrict freedom of the media and the free expression of Cambodian lawyers and we call on both to abandon the instruction to media outlets to seek prior permission from the BAKC before interviewing lawyers, as well as the legal threat to lawyers who speak out through the media.

Cambodian Center for Human Rights (CCHR)

Cambodian Human Rights and Development Association (ADHOC)

Cambodian League for the Promotion and Defense of Human Rights (LICADHO)