To: Samdech Akeak Moha Sena Padey Decho Hun Sen
Prime Minister of the Kingdom of Cambodia
Cabinet of the Prime Minister, Council of Ministers
Phnom Penh, Kingdom of Cambodia

07 March 2014,

Joint Open Letter from CCHR and CHRAC Regarding the Publication of Draft Legislations on the Judiciary

Your Samdech Akeak Moha Sena Padey Decho,

The Cambodian Center for Human Rights (CCHR) and the Cambodian Human Rights Action Committee (CHRAC) would like to welcome the recent commitment made by your administration to adopt fundamental legislations crucial to guarantee the independence and impartiality of the judiciary. In this respect, we respectfully urge you to immediately publicly release the full draft of the laws, to ensure sufficient time is provided for genuine, inclusive and meaningful participation in the drafting process.

Your government has committed to legal and judicial reforms by establishing the Council for Legal and Judicial Reform in 2002 and adopting a legal and judicial reform strategy in 2003. More recently, in your address on the new “Rectangular Strategy” on 25 September 2013 you again acknowledged the need for legal and judicial reforms including through the adoption of the Law on the Status of Judges and Prosecutors, the Law Organization and Functioning of the Courts and the Law on amending the Supreme Council of Magistracy. The same commitment was reiterated on 28 January 2014, at the United Nations Universal Periodic Review, and on 4 March 2014 in your address during a dialogue forum between the government and the private sector where you stated that the National Assembly is expected to adopt the three fundamental laws on the judiciary during the first semester of 2014.

While we welcome your government’s commitment to promptly adopt these three fundamental laws, we are seriously concerned by the opacity surrounding the draft legislations. Both CCHR and CHRAC have contacted the Ministry of Justice to ask for the draft legislations. Our requests were rejected on the ground that the documents are currently only drafts and under revision.

However, it is crucial that the draft legislations are made public immediately to allow for relevant stakeholders including civil society, judges, lawyers and other legal professionals, and the general
public, to give feedback and make comments on the draft legislations. If only a final version of the legislation is made public, this would give no opportunity for the Ministry of Justice and the Parliament to analyze the recommendations made by the different stakeholders, and to incorporate them into the final version. In addition, the draft laws must be released as soon as possible to ensure sufficient time is provided for analysis and comments.

Releasing the draft laws will benefit the quality of the legislation and allow for public scrutiny in compliance with Article 35 of the Constitution of the Kingdom of Cambodia which guarantees Khmer citizens the right to participate actively in the life of the nation. In addition, not releasing the draft legislations only reinforces the need for the urgent adoption of a right to information law. Your government itself, in the 2003 Legal and Judicial Reform Program, recognized free access to information as a fundamental pre-requisite for a functioning liberal democracy.

For the above mentioned reason we respectfully urge your government to immediately publicly disclose the draft laws and to organize genuine, inclusive and meaningful consultations with civil society, legal professionals and the public as a whole.

Sincerely yours,

Cambodian Center for Human Rights

Ou Virak
President

CC: His Excellency Ang Vong Vathana
Minister of Justice of the Kingdom of Cambodia
Phnom Penh, Kingdom of Cambodia

Cambodian Human Rights Action Committee

SuoN Bunsak
Executive Secretary