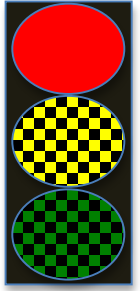


Fact Sheet: Village-Commune Safety Policy**Current Status:** Introduced on 16 August 2010**CCHR Classification:** **RED** (laws classified red should be rejected, annulled or re-drafted)

The Cambodian Center for Human Rights (“CCHR”) has classified the Instructional Plan on the Organization for the Implementation of the Village-Commune Safety Policy (the “VCSP”) as red under the CCHR Law Classification Series. Although there is evidence that the VCSP is having a positive effect in communities in terms of crime reduction and security, there are serious deficiencies in terms of (1) its legislative status and relationship with other laws and legal instruments, (2) the implications for the Cambodian people’s constitutional and civil rights, (3) grassroots political control, and (4) the increased opportunities for corruption.

**Introduction**

Introduced on 16 August 2010, the VCSP is not a law, *i.e.*, a formal piece of legislation approved by the National Assembly, but merely an executive edict from the Ministry of Interior. It proposes several measures to reduce crime at the local level throughout the Kingdom of Cambodia (“Cambodia”) – relating to theft, domestic violence, human trafficking, drugs, gambling, gang activities and the illegal use of weapons – and also focuses on improving the operation of the police force. An overview of the main deficiencies associated with both the introduction and the implementation of the VCSP is provided below. This fact sheet is written by CCHR, a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

Legislative status and relationship with other laws and legal instruments

The VCSP is a government edict rather than a law – implemented by the executive without passing through the National Assembly – which means that its provisions have not been properly debated and approved by all democratically-elected parties, who in turn represent their constituents. Decrees, sub-decrees and ministerial proclamations (“*prakas*”) *can* in practice be enacted without parliamentary approval, but must always comply with the Constitution of the Kingdom of Cambodia (the “Constitution”), unlike with the VCSP (please see below). However, if such wide-ranging, long-term and fundamental changes to society as prescribed by the VCSP are being implemented without proper legislative approval, the spirit of Article 90 of the Constitution, namely that the National Assembly has exclusive power to pass laws, becomes dangerously compromised – not to mention the principle of the separation of powers, whereby the legislature, executive and judiciary all exist and function as fully independent pillars of the state (Article 51 of the Constitution).

The role of secondary “legislation” should only be to implement, and add specific detail to, primary laws already approved by the National Assembly. In fact, worryingly, many local authorities reportedly consider the VCSP to take priority and precedence over democratically-enacted legislation, as it has come directly from the Ministry of Interior. The VCSP also contradicts some primary legislation referred to the VCSP (*e.g.*, the Law on Drug Control), and does not make any effort to be consistent with the Penal Code 2009, which purports to cover all criminal offenses, or the Cambodian Code of Criminal Procedure 2007, which the VCSP’s implementation contradicts in terms of the arrest process. The VCSP incorporates a range of obscure quasi-legal instruments, such as “action plans”, “guidelines”, “instructions” and “circulars”, which create issues of accessibility and transparency since they contain so much of the important detail relating to implementation.

Constitutional and civil rights

Article 150 of the Constitution states that the “*Constitution shall be the Supreme law of [...] Cambodia*”, which means that constitutionally no law, decree, sub-decree or circular can contradict the Constitution. Yet there are numerous difficulties with the VCSP in terms of the constitutional and civil rights of the Cambodian

CCHR classifies each law according to how acceptable it is in terms of its consistency with the Constitution and Cambodia’s obligations under domestic and international law, and the clarity of its provisions. Laws classified green are acceptable in the opinion of CCHR; laws classified yellow contain a number of concerns that should be reviewed and amended; and laws classified red are draconian and/or in violation of the Constitution and/or the country’s obligations under domestic and international law, and should therefore be rejected, annulled or re-drafted, as appropriate.

people in addition to those mentioned above. For instance, the VCSP curtails the right to peaceful assembly (Article 41 of the Constitution; Article 21 of the International Covenant on Civil and Political Rights (the “ICCPR”), which Cambodia ratified in 1992 and incorporated into its domestic legal framework by way of Article 31 of the Constitution) by asking hoteliers and bar owners to report groups of youths loitering outside their establishments to the police. Loitering is not illegal, and young people should not be stigmatized just because of fears of gang activity. Moreover, youths – and all citizens – should be treated equally and without discrimination (Article 31 of the Constitution; Article 26 of the ICCPR), be presumed innocent until proven guilty (Article 38 of the Constitution; Article 14 of the ICCPR), and have the right to privacy (Article 17 of the ICCPR): the VCSP requires the collection of detailed information on possible gang members and drug users, so that it can be sent up the chain of authority – without due regard for the aforementioned rights.

Grassroots political control

While, in principle, it is beneficial in terms of security to increase the police presence at the community level, and while policies of decentralization and local control should in theory benefit communities, the way in which the Royal Government of Cambodia (the “RGC”) is implementing such policies is cause for concern. The VCSP is already being used by the RGC as a means to suppress and control the Cambodian population right down to the grassroots level – by empowering and authorizing police and local authorities to minutely scrutinize the lives of Cambodian people and to act pre-emptively in contravention of their fundamental rights and freedoms. It is worth noting that Prime Minister Hun Sen stated on 17 May 2010 that the authorities need to ensure that the VCSP is enforced and an environment of security and social order created in time for the 2012 senate and commune council elections and the 2013 parliamentary elections, raising concerns that the objective of the VCSP is in fact to establish total political control at every level.

Increased opportunities for corruption

An endemic culture of corruption already persists throughout Cambodia, and the police are one of the worst offenders. The VCSP has done nothing to prevent corruption in Cambodia and, if anything, has increased the opportunity for police to accept bribes: there have been reports that, while enforcing the VCSP, the police have demanded bribes in return for not arresting people. Any policy that encourages and facilitates corruption in a country already crippled by this curse should be resisted by all affected parties.

Conclusion

While commendable in its purpose of reducing crime and increasing security, the VCSP raises serious concerns in relation to the rule of law, constitutionality, civil and political rights, and democracy. Its status as an edict allegedly from the highest level of the executive branch of government, its implementation by local authorities who are encouraged to allow the VCSP to take priority and precedence over instruments enacted through the proper legislative process, and its inherent disregard for fundamental rights compromise the spirit of the Constitution. Moreover, police corruption has reportedly increased due to heightened police activity, and it is feared that the VCSP may be used as a vehicle for greater political control at the local level. The VCSP should be reconsidered, and a proper and transparent law enacted by the National Assembly, so as to ensure that these deficiencies are addressed and the rights of the Cambodian people protected.

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