

Universal Periodic Review
Submission on the Right to Peaceful Demonstration
in the Kingdom of Cambodia

The right to demonstrate peacefully is one of the many elements which create an *enabling environment* for civil society. Linked as it is to freedom of expression and assembly, it is also a cornerstone of democracy. At the same time, those who exercise the right and freedom to hold peaceful demonstrations must act in accordance with the law, that is to say they shall not infringe on the rights and freedoms of others, or jeopardize national security, public safety or public order.

In Cambodia, the right to peaceful demonstration is secured both by international agreement and constitutional law. This report is submitted on behalf of civil society in order to ensure that the right is also recognized and protected in the Kingdom. It identifies three issues and puts forward three recommendations.

I. Methodology

This submission was developed by Cooperation Committee for Cambodia (CCC) after interviewing five people from the communities and human rights organization who have been involved in various demonstrations in Phnom Penh.

The Advisor has acted as an instructor in many training sessions on the Law on Peaceful Demonstration conducted and funded by UNOHCHR in collaboration with EWMI-PRAJ and the comments from participants during training were also incorporated in the report. Most of the participants were human rights activists who have been involved in demonstrations in the past.

The related legal instruments, particularly Law on Peaceful Demonstration, also has been reviewed and analyzed.

This submission is written in brief form, so that only focused issues can be straightforwardly identified. Some points, which were originally written, were withdrawn given that they overlapped with other submissions.

II. Introduction

Fundamental to the enabling environment sought by civil society around the world is full recognition of the right to Freedom of Assembly and the freedom to organize and participate in peaceful demonstrations. These rights are protected by various international instruments including the Universal Declaration of Human Rights (UDHR), Article 20, and the International Covenant on Civil and Political Rights (ICCPR), Article 21. They are encompassed as well by United Nations Human Rights Council Resolution 5/1 which ensures the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions.

These instruments have long been ratified by Royal Government of Cambodia and the rights are protected explicitly in Cambodia's foundational law. Article 37 of the Constitution of Cambodia states that "the right to strike and to organize peaceful demonstrations shall be exercised within the framework of law". Article 41 states that "Khmer citizens shall have the freedom to express their

personal opinions, the freedom of press, of publication and of assembly. No one can take abusive advantage of these rights to impinge on the dignity of others, to affect the good mores and custom of society, public order and national security”

III. Key Issues and Recommendation

Issue 1: The Law on Peaceful Demonstration (LPD) was adopted by National Assembly and promulgated in late 2009 to assure freedom of expression of Khmer citizens through peaceful demonstration. In December 2010, the Government’s Ministry of Interior adopted an Implementation Guide (IG) to be used as a basic tool to assist the relevant competent authorities and citizens in respecting and complying with the LPD and to elaborate on some of the guiding principles to assist both citizens and implementing authorities to comply with the law. The IG also advises the relevant competent authorities to carry out their roles and duties in accordance with the LPD and the guidance as define in the IG. So far, many people from the community-based organization, civil society organizations, NGOs have been aware of the LPD and IG through regional trainings conducted collaboratively by UNOHCHR and EWMI-PRAJ. However, relevant authorities dealing with various demonstrations haven’t been trained yet. Some of them, especially, provincial authorities seem not even to be aware that the LPD and/or IG exist.

Recommendation 1: Government of Cambodia should actively work with and/or seek support from donors, development partners and/or international organizations, especially UNOHCHR to publish the LPD and IG as many as possible in order to raise awareness amongst relevant authorities and stakeholders. Whenever possible, Government of Cambodia through Ministry of Interior should conduct the trainings or any dissemination workshop on LPD and IG to all relevant authorities across the country to ensure that state’s officials from municipal/provincial and district levels are aware of all the provisions of the LPD and its IG. To do this, it can ensure that freedom of assembly and freedom of expression be respected in Cambodia.

Issue 2: One of the strongest concerns about human rights violation is that the police intervention is not proportional to the situation and they fail to show a reasonable degree of patience. Ex: On June 17, 2013, more than 100 police and security guards, including riot squad members, were deployed to the capital’s Beung Kok lake community to block a protest that, at times, involved only three shouting women. And on June 18, 2013, at least two protestors fainted and a third was injured after Boeung Kok villagers clashed with police in front of the Royal Palace when the villagers attempted to submit a petition to Queen Mother Norodom Monineath, pleading for a birthday intervention on behalf of imprisoned activist Yorm Bopha¹. Another significant disproportion of police intervention was on May 29, 2013 when a woman was knocked unconscious and many more fell to the ground when municipal authorities unleashed water cannon on Boueng Kok lake, Borei Keila and Thmor Kol protesters, who were blocking the capital’s Monivong Boulevard².

¹ Phnom Penh Post. Khouth Sopheak Chakrya. June 18-19, 2013. Police block Beuong Kak Protestor. And Activists, cops clash at palace.

² Phnom Penh Post, Khouth Sopheak Chakrya. May 30, 2013. City turns up pressure.

Recommendation 2: Such violations would occur less frequently if competent authorities were aware that they are designated to maintain security, safety and public order at venues of peaceful demonstration and should adhere to an attitude of absolute patience (article 19 of PDL). In case a peaceful demonstration turns violent, competent authorities shall take proper measures to prevent or stop the demonstration immediately (article 20). More importantly, police intervention must be proportional to the situation, and only be to the extent necessary to promptly restore order (3-6-5 of IG).

Issue 3: On January 14, 2007 Government of Cambodia, through Interior Ministry, issued a letter to Governor of Kratie and Strung Treng province to advise all concerned Associations and NGOs to send a notification when holding the public forums to the provincial/municipal authorities with precise agendas, topics, venue and dates. On November 10, 2004 it also issued a similar letter to the governor of Pursat province stating that “any association or non-governmental organization which has already been allowed to establish its office in cities or provinces and wishes to open vocational training, conventions or workshops or meeting must inform its local authority five days in advance.”

These letters or instructions should have been nullified by LPD 2009 and IG 2010 Article 5 of LPD which states that “any group of individuals who wish to organize a peaceful demonstration at any public venue shall notify the competent municipal or provincial territorial authorities in charge of that place in writing.” Article 3 provides the scope of implementation including “part of a parade, funeral procession or other gathering to serve religion, art, culture, national customs and tradition or educational dissemination activities for social interest”.

The IG further provides the examples of “educational dissemination” *not covered* by the law including; trainings, workshops, public forum, and press conferences. This means that there is no requirement to notify such activities to authorities. However, some local authorities still use the letter or instruction to stop some educational dissemination activities on grounds they had not received advanced notification.

Recommendation 3: Relevant authorities should be made aware that the LPD 2009 and IG 2010 nullified those letters or instructions. All educational dissemination no longer requires prior notification.

IV. Conclusion

The LPD has a key role in the creation and maintenance of an enabling environment for civil society in Cambodia. It ensures that demonstrations can proceed in an orderly, peaceful manner. As such it deserves the understanding and support of authorities at the provincial and municipal level except for cases in which there could be a real and actual threat to national security, safety and public order³. CSOs and NGOs look forward to using the rights of peaceful demonstration and we also look forward to seeing law enforcement officials abide by the law. We also hope to see that penalty provisions will be used to punish those who violate any laws and instruments.

³ The Implementation Guide of LPD. Dec. 2010. Forward. Para 6