



**អង្គការសហប្រជាជាតិ**

**ការិយាល័យនៃឧត្តមស្នងការទទួលបន្ទុកសិទ្ធិមនុស្សប្រចាំកម្ពុជា**



**Second National Workshop on the Draft Law on Peaceful Assembly,  
27 October 2006, Phnom Penh**

**Statement of the Cambodia Office of the High Commissioner for Human Rights**

This law is about facilitating the *exercise* of the right to freedom of assembly—a right which is guaranteed in Cambodia under article 41 of the Constitution and under the international human rights treaties which Cambodia has accepted.

The purpose of this law is to provide a *legal framework* within which Cambodians can exercise their right to freedom of peaceful assembly, as required by article 37 of the Constitution. This legal framework is necessary *not to restrict* the right to assembly, but to ensure that the exercise of the right does not unduly infringe on the rights and freedoms of others.

According to the international standards, the starting point for drafting the law should be *freedom* of peaceful assembly; restrictions are permitted, but any restrictions placed on the exercise of the right must be *fully justified in a democratic society* on the basis of public safety, public order, public health or morals.

Furthermore, any restrictions must be *proportional* to their objective: that is to say, they must be only the minimum necessary within a democratic society to safeguard public safety, order, health or morals, without undermining the basic continuing right to assembly. Each proposed demonstration should be considered on its own merits. The legal framework must aim to facilitate peaceful assembly to the maximum extent possible and restrictions should be applied only exceptionally, not as a matter of course. The presumption should be that anyone can demonstrate or assemble freely unless the authorities can show that there is a reasonable case for certain restrictions to be applied.

The draft law, and any restrictions that it imposes, must conform to the provisions of the Constitution as well as the international human rights treaties to which Cambodia is party, under which all peaceful demonstrations are constitutionally-guaranteed in Cambodia.

The adoption of a legal framework based on notification, rather than permission, would be a welcome step in the right direction. A system of notification presupposes that the right to peaceful assembly is free, but allows for certain restrictions to be imposed when there are clear grounds to believe that public order and safety might be threatened. The citizen is free to demonstrate until the authorities inform him or her that a restriction needs justifiably to be applied.

Restriction does not mean ban: only in very rare and exceptional circumstances can particular demonstrations be prohibited altogether. While seeking to strike the right balance, the law should facilitate the free exercise of the right to peaceful assembly to the maximum extent possible, within a legal framework which is proportionate and reasonable, and should never have the effect of criminalizing any peaceful demonstration or public gathering.

Once the draft law has been finalized and adopted, we must look to see how it will be implemented. Experience has taught us that it is not well-drafted laws that guaranteed people's rights, but *the way in which these laws are implemented* in practice. We will only know that we have a good law on peaceful demonstration in Cambodia when we start to see people freely exercising their right to demonstrate publicly and peacefully throughout the country in cooperation with the authorities.

Public demonstrations are an important part of any strong and stable democratic society, reinforcing each person's right to freely express their views and opinions with other people. Peaceful demonstration is healthy and essential to a meaningful democratic process.

We hope that this law will provide a sound basis within which Cambodians can exercise their democratic rights without undue restriction.

OHCHR Cambodia, 27 October 2006