

JOINT STATEMENT

Civil Society Organizations Call for the Draft Law on Public Order to be Immediately Discarded

Phnom Penh, 13 August 2020 – We, the undersigned national and international organizations and communities, call on the Royal Government of Cambodia (“RGC”) to immediately discard the repressive draft *Law on Public Order* and uphold its obligations under international human rights law. The draft law contains an extensive array of provisions that effectively criminalize the legitimate everyday activities of many within the Kingdom of Cambodia (“Cambodia”), in violation of their rights to freedom of expression, association, assembly and other protected human rights. If enacted, the draft law will become yet another piece of repressive legislation in a legal framework that severely undermines human rights.

The draft law has been written in an attempt to regulate public spaces and public behavior within those spaces. It covers aesthetics, sanitation, cleanliness, noise, and social values, all under the broad aim of maintaining “*public order*”. It endeavors to set out specific activities that are prohibited, lists a range of penalties that may be imposed for breaches, and grants unfettered enforcement powers to authorities across all levels of government, with the proclaimed objective of creating “*a more civilized society*”. We are gravely concerned about the multitude of overbroad and arbitrary provisions in the draft law which violate numerous human rights protections enshrined in the *Constitution of the Kingdom of Cambodia* (“*the Constitution*”) and human rights treaties to which Cambodia is a party, including the *International Covenant on Civil and Political Rights* (“*ICCPR*”) and the *International Covenant on Economic, Social and Cultural Rights* (“*ICESCR*”). Several of our key concerns are listed below, however the only way to remedy this unnecessary draft law is to discard it in its entirety.

1. **Scope and purpose:** The draft law is extensive in scope and includes such an expanse of prohibited actions that it would be virtually impossible to uniformly enforce, in contrast with longstanding universal rule of law principles. Art. 1 of the draft law states its purpose is “*to ensure public order management by maintaining order, aesthetic value, sanitation, cleanliness of the environment, quietness, social stability, preservation of national tradition, and the dignity of citizens*”. Many of these terms and categories are not defined, and are based on purported social objectives which are arbitrary, subjective and constantly changing. This lack of clarity leaves the primary justification for enforcing the law open to interpretation, making it impossible for the public to properly understand the law, predict what actions may contravene it, and comply with it. While public order is a legitimate aim under international human rights law - meaning that it can be relied upon to justify restrictions on some human rights in certain narrow circumstances - any restrictions in the name of public order must be necessary, proportionate, and the least restrictive means of realizing the aim.
2. **Discrimination:** The draft law disproportionately impacts certain marginalized groups, in contravention of anti-discrimination guarantees protected in the *Constitution*, *ICCPR*, *ICESCR*, and other binding human rights instruments. It negatively impacts economically disadvantaged members of society, as well as those who work in the informal economy, many of whom rely on activities prohibited by the draft law for their livelihoods. For example, Art. 11 prohibits “*selling products on the roadsides that can affect public order*”, a common source of income in Cambodia, while Art. 37(i) prohibits “*all forms of begging*”. Art. 11 also effectively prohibits homelessness, by banning the use of public space for “*temporary shelters*” without approval from the authorities. Everyone has the right to an adequate standard of living, and Cambodia currently lacks a system of social protection which can guarantee this right for the people most at risk in Cambodian society. Rather than supporting marginalized members of society, the draft law has the potential to further entrench poverty and economic inequality.

The draft law also contains provisions which seriously undermine the rights of individuals with mental health conditions, as well as facilitate discrimination and stigmatization. The draft law imposes arbitrary and unjustifiable restrictions on individuals with a so-called “*mental disorder*”, which is vaguely defined as “*a change which results in the loss of the sense of right or wrong*”. This definition lacks any legal or scientific basis and fails to require an expert medical diagnosis. It instead seems to determine an individual’s mental health on their ability to make a moral judgement, while failing to consider the severity of the “*mental disorder*”. It therefore fails to comply with [international human rights standards](#) for not determining what can amount to a “*mental disorder*” in accordance with [internationally accepted medical standards](#). The draft law prohibits these individuals from “*walk[ing] freely in public places*” (Art. 25). This blanket restriction on the movement of a vast cohort of individuals, without requiring a determination as to whether it is absolutely necessary under the individual circumstances, impinges on the rights to liberty and freedom of movement as guaranteed by Art. 9 of the *ICCPR*, and violates rights protected under the *International Convention on the Rights of Persons with Disabilities*, which Cambodia has ratified. The draft law is deeply concerning as it strips people with mental health conditions of their most fundamental human rights and allows for blatant disability-based discrimination.

In addition to the above-mentioned groups, the draft law contains concerning provisions that could exacerbate discrimination against women (Art. 37, as analyzed below).

3. *Freedom of peaceful assembly and association*: The draft *Law on Public Order* raises serious concerns for the exercise of freedom of peaceful assembly and association in Cambodia. Arts. 6 and 30 require approval from authorities for the “*use of public spaces*”, and would permit authorities to stop an event if authorization has not been sought. In conjunction with Art. 48, which nullifies any existing, contrary provisions, the draft law effectively reverses the prior notification principle contained in Art. 5 and 7 of the *Law on Peaceful Assembly* and replaces it with a prior authorization requirement, in direct contravention of international human rights law, including under Art. 21 of the *ICCPR*. These provisions also provide grounds for the arbitrary interference that many individuals and associations already experience when [holding events](#). In addition, Art. 31 of the draft law allows authorities to refuse or stop events based on six overbroad categories, including if the event causes “*any hostility with the competent authorities*” or “*impact to public interests*”, which is extremely broad and could be used to prohibit assemblies or events on the unfettered discretion of authorities without predictability or certainty in application and without due consideration for fundamental freedoms. Furthermore, Art. 33 prescribes a restriction on the number of attendees to events, not exceeding “*two people within 1.20 square meters*”. This arbitrary provision empowers authorities to illegitimately restrict peaceful assemblies or association activities by arbitrarily limiting the number of participants without requiring authorities to make an informed assessment as to whether it is necessary under the particular circumstances. Indigenous communities, grassroots associations, workers’ unions, and local activists depend on the ability to assemble to advocate for their rights, and will be severely harmed by such restrictive provisions. In the new [General Comment 37](#), the UN Human Rights Committee affirms that States cannot rely on vague definitions of public order to justify overbroad restrictions, as this draft law does. The Committee emphasizes that “*public order*” and “*law and order*” are not to be confused, with the latter requiring states to exercise a “*significant degree of toleration*” for disruption caused by peaceful assemblies.
4. *Freedom of expression*: The draft *Law on Public Order* also allows for arbitrary infringements on the right to freedom of expression. Firstly, the law prohibits “*speaking loudly*” (Art. 16) and imposes a blanket curfew on any unauthorized noise “*from 12pm to 2pm and from 10pm to 5am*” (Art. 17) without meeting the requirement of necessity for achieving the aim of public order, in violation of the *ICCPR*. Moreover, Art. 36 – which prohibits men from being shirtless in public and women from wearing clothes that are “*too short*” or

“too see-through” that “affect the national tradition and dignity” – violates freedom of expression, undermines personal autonomy and fails to define innately subjective standards of dignity, thus opening the door to unequal enforcement. Art. 36 will also exacerbate discrimination against women, who face negative gender stereotypes and entrenched patriarchal societal norms. In Cambodia women have been subjected to threats and imprisonment for their choices in [clothing](#), with one woman [convicted](#) of a crime related to her clothing already in 2020. Further, the Prime Minister has [publicly blamed](#) women’s clothing for provoking gender-based violence, including sex crimes. Art. 36 would add to this culture of ‘victim-blaming’ by effectively criminalizing women, including survivors of violence, for their clothing choices.

Ultimately, the draft law has the potential to severely restrict freedom of expression both online and offline. Art. 37 prohibits a broad range of unreasonably vague categories of expression where it affects “national tradition and dignity”, without elaborating on the standards of dignity to which the public will be held accountable to. This includes, for example, “*exhibiting or disseminating writing or picture or using cursing words on social media*”, “*showing arrogant behavior*” and “*disseminating or posting writing, signs or pictures that represent any threat*”. Extending the scope of the law to the online sphere gives rise to further concern due to the widespread repression of freedom of expression online in Cambodia, with 2020 baring witness to [multiple arrests](#) of individuals for expressing opinions online.

5. ***Penalties and enforcement:*** The prohibited activities in the draft law are subject to penalties ranging from “*warnings*” and “*administrative penalties*”, to “*imprisonment and/or a fine*”. Under the draft law an individual can be imprisoned for 1 – 6 days, and fined between 100,000 – 500,000 riels. The draft law fails to regulate the application of these penalties, enabling authorities to make discretionary determinations on the appropriate penalty for each prohibited activity, which risks misapplication, lack of uniformity in application, and lack of predictability in complying with and enforcing the law. Due to the draft law’s disproportionate targeting of economically disadvantaged people, it would impose fines on those who are least able to afford them. The grounds upon which imprisonment can be imposed are unacceptably vague, in violation of the principle of legality. Judging by international human rights standards, imprisonment is highly unlikely to be either a necessary or proportionate response to many breaches of this law, and thus is not an appropriate penalty.

Art. 6 raises concerns for the enforcement of the draft law as it empowers local authorities to “*assign contractual officials to assist in maintaining public order*”. “*Security guards*” or “*para-police*” hired by local authorities in Cambodia have a long track record of violently [harassing](#) individuals and human rights defenders seeking to exercise their rights, and are [rarely held accountable](#). These contracted security forces operate in a legal vacuum, lacking regulation, accountability and training, and as such they represent a serious threat to the peaceful exercise of human rights.

The draft *Law on Public Order* has been released amid a crackdown on fundamental freedoms in Cambodia. Laws that grant overbroad and unfettered powers to the RGC are regularly misused to undermine human rights and target free speech. If brought into force, this draft law would further curtail the rights and freedoms of individuals in Cambodia to the detriment of the nation as a whole. **We therefore call on the Royal Government of Cambodia to immediately discard the draft *Law on Public Order* in its entirety and uphold its obligations under international human rights law.**

- END -

This joint statement is endorsed by:

1. *Action Aid Cambodia (AAC)*
2. *Advocacy and Policy Institute (API)*
3. *Alliance for Conflict Transformation (ACT)*
4. *Amnesty International*
5. *Article 19*
6. *ASEAN Parliamentarians for Human Rights (APHR)*
7. *Asian Forum for Human Rights and Development (FORUM-ASIA)*
8. *Banteay Srei*
9. *Beong Tunle Mrech Community*
10. *Boeung Trabek Community, Phnom Penh*
11. *Borei Keila Community, Phnom Penh*
12. *Bu Sra community, Mondulkiri province*
13. *Building Community Voices (BCV)*
14. *Cambodian Center for Human Rights (CCHR)*
15. *Cambodian Center for Independent Media (CCIM)*
16. *Cambodian Food And Service Workers Federation (CFSWF)*
17. *Cambodian Human Rights Action Coalition (CHRAC)*
18. *Cambodian Human Rights and Development Association (ADHOC)*
19. *Cambodia Indigenous Peoples Organization (CIPO)*
20. *Cambodian League for the Promotion and Defense of Human Rights (LICADHO)*
21. *Cambodian Youth Network (CYN)*
22. *Child Rights Coalition Cambodia (CRC-Cambodia)*
23. *CIVICUS: World Alliance for Citizen Participation*
24. *Coalition for Integrity and Social Accountability (CISA)*
25. *Coalition of Cambodian Farmer Community (CCFC)*
26. *Community Peace-Building Network (CPN)*
27. *Equitable Cambodia (EC)*
28. *Former Boeung Kak Women Network Community*
29. *Gender and Development for Cambodia (GADC)*
30. *Human Rights Watch (HRW)*
31. *Independent Democracy of Informal Economy Association (IDEA)*
32. *Indradevi Association (IDA)*
33. *International Commission of Jurists (ICJ)*
34. *International Federation for Human Rights (FIDH)*

35. *International Freedom of Expression Exchange (IFEX)*
36. *Khmer Kampuchea Krom for Human Rights and Development Association (KKKHRDA)*
37. *Khmer Thavrak*
38. *Khmer Youth Association (KYA)*
39. *Klahaan*
40. *Koun Kriel Community, Oddar Meanchey province*
41. *Labor Rights Supported Union of Khmer Employees of Naga World (L.R.S.U)*
42. *Land Conflict Community, Phnom Krenh Village, Pailin province*
43. *Lor Peang Community, Kampong Chhnang province*
44. *Minority Rights Organization (MIRO)*
45. *Mother Nature Cambodia (MN)*
46. *Natural Resources Protection Community in Krakor district, Pursat province*
47. *Neutral and Impartial Committee for Free and Fair Elections in Cambodia (NICFEC)*
48. *Not1More (N1M)*
49. *Phnom Bat Community*
50. *Phnom Kram Community, Siem Reap province*
51. *Phum 23 Community*
52. *Ponlok Khmer (PKH)*
53. *Prek Chik Village, Chi Kha Kraom Commune Land Community, Koh Kong province*
54. *Prey Peay Community, Kampot province*
55. *Railway Station, Toul Sangkae A Community*
56. *Sahmakum Teang Tnaut (STT)*
57. *SOS International Airport Community*
58. *Tany 197 Community, Chikhor Leur commune, Koh Kong province*
59. *The Cambodian NGO Committee on CEDAW (NGO-CEDAW)*
60. *Thma Da commune, Pursat province*
61. *Transparency International Cambodia (TIC)*
62. *Trapeang Sangkae Community, Kampot province*
63. *Women Peace Makers (WPM)*
64. *World Organisation Against Torture (OMCT)*
65. *Youth Council of Cambodia (YCC)*