

# **ENFORCEMENT OF RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY IN CAMBODIA**

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The Academic Faculty of  
Paññāsāstra University of Cambodia**

**By  
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The Degree in Master of Law  
Major in International Human Rights Law  
Faculty of Law and Public Affairs**



**Paññāsāstra University of Cambodia**

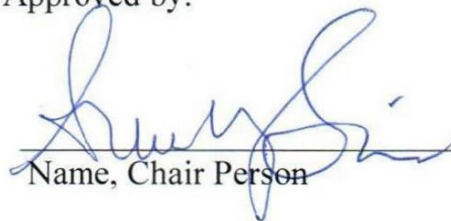
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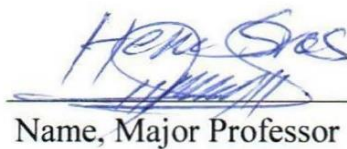


**Paññāsāstra University of Cambodia**

**ENFORCEMENT OF RIGHT TO FREEDOM OF  
PEACEFUL ASSEMBLY IN CAMBODIA**

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## **ABSTRACT**

This paper examines the enforcement of the right to freedom of peaceful assembly in Cambodia. The paper finds that the right to freedom of peaceful assembly has not broadly been implemented in Cambodia. For the last several years, this right has been more restricted due to rising political tension. Requests for peaceful assemblies are often denied on vague or political grounds. The cited reason used to justify such denials is the “public order.” However, this term is so broad and should not be used to justify the banning of the right to freedom of peaceful assembly. The paper suggests that the right to freedom of peaceful assembly should be well interpreted and protected under the international instruments, and guidelines on the right to freedom of peaceful assembly should be properly implemented and publicly disseminated. Authorities and stakeholders should be trained of such concepts. The term “public order” should be properly defined, and denial based on this should be reduced. Authorities should facilitate and protect any peaceful assembly. Therefore, the right to freedom of peaceful assembly in Cambodia will be enhanced and complied with international norms.

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Finally, this paper is dedicated to my beloved parents.

## **LIST OF ABBREVIATION**

ADHOC	: Cambodian Human Rights and Development Association
ASEAN	: Association of Southeast Asian Nations
BKL	: Boeung Kak Lake
CC	: Cambodian Constitution
CCHR	: Cambodian Center for Human Rights
CERD	: International Convention on the Elimination of All Forms of Racial Discrimination
CFSWF	: Cambodian Food and Service Workers' Federation
CHRC	: Cambodian Human Rights Committee
CNRP	: Cambodia National Rescue Party
CRC	: Convention on the Rights of the Child
CSO	: Civil Society Organization
ECHR	: European Convention on Human Rights
FP	: Freedom Park
HRC	: Human Rights Committee
ICCPR	: International Covenant on Civil and Political Rights
IHRD	: International Human Rights Day
IWD	: International Women's Day
LANGO	: Law on Associations and Non-Governmental Organizations
LICADHO	: Cambodian League for the Promotion and Defense of Human Rights
LPD	: Law on Peaceful Demonstration
LTU	: Law on Trade Unions
MLVT	: Ministry of Labour and Vocational Training
MOWA	: Ministry of Women's Affairs
NA	: National Assembly
NGO	: Non-Governmental Organization
NSDP	: National Strategic Development Plan
PPA	: Paris Peace Accords
PPCH	: Phnom Penh Capital Hall
PUC	: Paññāsāstra University of Cambodia
RGC	: Royal Government of Cambodia

SC	: Solidarity Center
STT	: Sahmakum Teang Tnaut
UN	: United Nations
UDHR	: Universal Declaration of Human Rights
OHCHR	: Office of the High Commissioner for Human Rights (Cambodia)
WHD	: World Habitat Day

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## CHAPTER I

### INTRODUCTION TO RESEARCH PROBLEM

#### 1.1. Statement of the Research Problem

Right to freedom of peaceful assembly is a human right.<sup>1</sup> Everyone has the right to freedom of peaceful assembly.<sup>2</sup> The right to freedom of peaceful assembly is the right to gather publicly or privately and collectively express, promote, and defend common interests of any group.<sup>3</sup> This right includes the right to participate in peaceful assemblies, meetings, protests, strikes, demonstrations, and other gatherings for any specific purpose, while government authorities not only have an obligation to protect peaceful assemblies, but also have to take measures to facilitate them.<sup>4</sup>

The right to freedom of peaceful assembly was introduced to Cambodia in early 1990s. It was brought through the Paris Peace Accords (PPA) in 1991 after the end of civil war.<sup>5</sup> Furthermore, this right was incorporated into the Cambodian Constitution (CC) in 1993.<sup>6</sup> Although this right was introduced to Cambodia some time ago, the enforcement of this right remains a challenge in Cambodia.

According to previous research, several institutions and non-governmental organizations have researched on the right to freedom of peaceful assemblies in Cambodia. For instance, Maina Kiai, the Former United Nations Special Rapporteur on the rights to freedom of peaceful assembly wrote in his

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<sup>1</sup> 1948 UNIVERSAL DECLARATION OF HUMAN RIGHTS. art. 2.

<sup>2</sup> Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (I), available at <http://freeassembly.net/freedoms/> (Accessed on June 15, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 1993 CONST. art. 51.

<sup>6</sup> DANIEL HEILMANN, *FUNDAMENTAL RIGHTS PROTECTION: A COMPARATIVE AND INTERNATIONAL LAW PERSPECTIVE*, in CAMBODIAN CONSTITUTIONAL LAW 353 (2016).



annual report to UN Human Rights Council, that expressions of peaceful assemblies in Cambodia were often intervened and harassed by police, military, and security forces.<sup>7</sup>

According to the report, the Special Rapporteur raised concerns over the adoption and application of the Law on Associations and Non-Governmental Organizations and the Law on Trade Unions signals a source of narrowing space for the exercising of the right to freedom of peaceful assembly in Cambodia.<sup>8</sup>

Besides this, a number of local NGOs also worked on the right to freedom of peaceful assembly in Cambodia. For example, Cambodian League for the Promotion and Defense of Human Rights (LICADHO) investigated over one hundred cases that obstructed the exercise of the right to freedom of peaceful assembly, which almost increased threefold from 2015 to 2016.<sup>9</sup> Furthermore, a report released by Sahmakum Teang Tnaut (STT) found that even though the right to freedom of peaceful assembly was guaranteed by international human rights instruments and domestic laws, various gatherings were often interrupted and accused of disrupting the security and peace.<sup>10</sup>

On the other hand, a joint press release by Cambodian Center for Human Rights (CCHR), The Cambodian Human Rights and Development Association (ADHOC), and Solidarity Center, found that the freedom of assembly continued to be restricted from

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<sup>7</sup> United Nations HUMAN RIGHTS COUNCIL, *REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN CAMBODIA* REFWORLD, para 46 (2017), available at <https://www.refworld.org/docid/59b811ce4.html> (Accessed on January 01, 2019).

<sup>8</sup> Human Rights Council: *Report of the Special Rapporteur on the situation of human rights in Cambodia* (A/HRC/39/73), para 61 (2018) (Accessed on January 01, 2019).

<sup>9</sup> LICADHO: *The Dangers of Dissent: Attacks on Human Rights Defenders 2* (2017), available at [https://www.licadho-cambodia.org/reports/files/2232017\\_HRD\\_ENG\[finalWeb\].pdf](https://www.licadho-cambodia.org/reports/files/2232017_HRD_ENG[finalWeb].pdf) (Accessed on January 09, 2019).

<sup>10</sup> Facts and Figures #32: *Monitoring Community Advocacy Activities in Phnom Penh 3* (2017), available at [http://teangtnaut.org/wp-content/uploads/2017/09/FF-32\\_STT\\_Monitoring-Community-Advocacy-Activities\\_Eng\\_FINAL.pdf](http://teangtnaut.org/wp-content/uploads/2017/09/FF-32_STT_Monitoring-Community-Advocacy-Activities_Eng_FINAL.pdf) (Accessed on August 12, 2017).

2017 to 2018.<sup>11</sup> Likewise, Amnesty International (AI), in its report, found that the authorities restricted and violated the right to freedom of peaceful assembly through excessive use of force.<sup>12</sup>

In recent years, the right to freedom of peaceful assembly seems more restricted. Requests to exercise the right to freedom of peaceful assembly, have often been denied without clear grounds.<sup>13</sup> Furthermore, the exercise of peaceful assemblies are often intervened by authorities.<sup>14</sup>

## **1.2. Objectives of the Research**

As described above, numerous research reports on the right to freedom of peaceful assembly in Cambodia, have been made by institutions and NGOs. However, this paper will view the exercise of the right to freedom of peaceful assembly in Cambodia from the academic perspective. The objective of this paper is to examine the challenges of exercising the right to freedom of peaceful assembly and to provide some recommendations for improvement of its exercise in Cambodia.

The paper will conduct the following: (1) to examine the general situations and causes of restrictions to the right to freedom of peaceful assembly in Cambodia; (2) to check and analyze the scope of enforcement of the right to freedom of peaceful assembly under

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<sup>11</sup> Cambodian Human Rights and Development Association (ADHOC) Cambodian Center for Human Rights (CCHR) & Solidarity Center, *CAMBODIA FUNDAMENTAL FREEDOMS MONITOR* vi (2017), available at [https://docs.google.com/viewerng/viewer?url=https://cchrcambodia.org/admin/media/report/report/english/FFMP\\_Second+Annual+Report\\_EN.pdf](https://docs.google.com/viewerng/viewer?url=https://cchrcambodia.org/admin/media/report/report/english/FFMP_Second+Annual+Report_EN.pdf) (Accessed on February 19, 2019).

<sup>12</sup> AMNESTY INTERNATIONAL, *TAKING TO THE STREETS: PEACEFUL OF ASSEMBLY IN CAMBODIA* 7-8 (2015), available at <https://www.amnesty.org/download/Documents/ASA2315062015ENGLISH.pdf> (Accessed on August 29, 2017).

<sup>13</sup> CAMBODIAN LEAGUE FOR THE PROMOTION AND DEFENSE OF HUMAN RIGHTS: *A BRIEFING PAPER, ATTACKS AND THREATS AGAINST HUMAN RIGHTS DEFENDERS* 5 (2013-2014), available at [https://www.licadho-cambodia.org/reports/files/21120150912\\_HRD2013-3014\\_ENGFinal%20\(3\).pdf](https://www.licadho-cambodia.org/reports/files/21120150912_HRD2013-3014_ENGFinal%20(3).pdf). (Accessed on July 17, 2017).

<sup>14</sup> HUMAN RIGHTS COUNCIL, *REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN CAMBODIA* (2016), available at <https://documents-dds-ny.un.org/doc/1/GEN/G16/192/31/PDF/G1619231.pdf> (Accessed on January 20, 2019).

national and international laws; (3) to provide some recommendations to improve the exercise of the right to freedom of peaceful assembly in Cambodia.

### **1.3. Significance of the Research**

The significance of this research is first to provide better understanding on the enforcement of the right to freedom of peaceful assembly in Cambodia. Second, it will help contribute to the better exercise of the right to freedom of peaceful assembly in Cambodia in compliance with international norms. Third, it will provide recommendations on better protection of human rights, especially the right to freedom of peaceful assembly in Cambodia, in the future.

### **1.4. Research Methodology and Scope of Limitations**

In order to write this paper, the author has conducted the following research methods for data collecting and analysis.

First, the author conducted review and analysis from books, journal articles, various online sources, media articles, government reports, laws and regulations, decisions, notices and other reports published by national and international non-governmental organizations.

Second, the author conducted review and analysis from case studies, especially, on the recent cases in Cambodia, as primary sources for supporting the analysis in this paper. The first case is “Peaceful Assembly of Land Dispute Community,” while the second case is “Peaceful Assembly of Workers and Unions,” and the third case is “Request of Peaceful Assembly of Political Party.”

Third, the author conducted comprehensive interviews with relevant practitioners, including land communities, non-governmental organizations, a trade union, a political party, The Office of the United Nations High Commissioner for Human Rights in Cambodia, and the government human rights body in order to understand the general situations of exercising

the right to freedom of peaceful assembly in Cambodia. The analysis and findings in this paper are from those sources.

However, this paper focuses on the exercise of the right to freedom of peaceful assembly in Cambodia, especially between the fifth mandate until the submission of this paper. Analysis and findings in this paper are also within this scope of limitations. Later changes to the situation are beyond the scope of this paper. Any errors of the facts and analysis are the sole responsibility of the author within this scope of limitations.

### **1. 5. Research Questions**

This paper will try to answer the following main questions:

- (1) What are the fundamental grounds of the right to freedom of peaceful assembly under international and national instruments?
- (2) How has this right been implemented in Cambodia?
- (3) What are the main causes of restricting the right to freedom of peaceful assembly in Cambodia?
- (4) What should we do in order to improve the exercise of the right to freedom of peaceful assembly in Cambodia?

### **1.6. Outline of the Paper**

This paper is divided into 6 Chapters. Chapter I introduces the problem and objective of this research as well as the methods to achieve it. Chapter II elaborates the right to freedom of peaceful assembly under international and national instruments. Chapter III looks at how Cambodia applies the right to freedom of peaceful assembly in its context. Chapter IV provides general views from authorities and persons involved in the exercise of this right. Chapter V analyzes the causes of restricting this right in Cambodia. Chapter VI conducts an overall conclusion of the enforcement of the right to peaceful assembly and provides some recommendations for improving this right in Cambodia.

## CHAPTER II

### PRINCIPLES OF RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

This Chapter will review and elaborate on the principles of the right to peaceful assembly under international and national instruments.

#### 2.1. Right to Freedom of Peaceful Assembly under International Instruments

The right to freedom of peaceful assembly is a fundamental right that is stipulated in and guaranteed by international instruments. There are a number of international instruments that provide this fundamental right. For instance, Article 20 (1) of the Universal Declaration of Human Rights (UDHR) provides that “everyone has the right to the freedom of peaceful assembly and association.”<sup>15</sup>

Article 21 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that the “right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.”<sup>16</sup>

Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) specifically guarantees the right to strike, “provided it is exercised in conformity with the laws of the particular country.”<sup>17</sup> Moreover, the European Convention on Human Rights guarantees that “everyone has the right to freedom of peaceful assembly and [...] with others for the protection of his interests.”<sup>18</sup> In addition, the American Convention on Human Rights

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<sup>15</sup> 1948 UNIVERSAL DECLARATION OF HUMAN RIGHTS. art. 20.

<sup>16</sup> 1966 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS. art. 21.

<sup>17</sup> 1966 INTERNATIONAL CONVENTION ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS. art. 8.

<sup>18</sup> 1950 EUROPEAN CONVENTION ON HUMAN RIGHTS. art. 11, para 1.

provides that “the right of peaceful assembly, without arms, is recognized. No restriction may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.”<sup>19</sup>

Furthermore, Article 11 of the African Charter of Human and People’s Rights provides that “every individual shall have the right to assemble freely with others.”<sup>20</sup> It further states that “the exercise of the right shall be subject only to necessary restrictions provided for by the law, in particular those enacted in the interest of national security, safety, health, ethics, rights and freedoms of others.”<sup>21</sup>

With indifference from international bills of human rights and regional human rights frameworks, the Charter of Association of Southeast Asian Nations (ASEAN Charter) also provides that “its Member States shall act the principle of respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice.”<sup>22</sup> Whereas the ASEAN Human Rights Declaration underpins that “every person has the right to freedom of peaceful assembly.”<sup>23</sup>

Article 5 (a) of the United Nations Declaration on Human Rights Defenders states that “everyone has the right to meet or assemble freely, individually and association with others, at the national and international levels for the purpose of promoting and protecting human rights and fundamental freedoms.”<sup>24</sup> This also highlights that “the ability to assemble and act collectively is vital to democratic, economic, social and personal development, to the

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<sup>19</sup> 1969 AMERICAN CONVENTION ON HUMAN RIGHTS. art 15.

<sup>20</sup> 1998 AFRICAN CHARTER OF HUMAN RIGHTS AND PEOPLE’S RIGHTS. art 11.

<sup>21</sup> *Id.* at art 11.

<sup>22</sup> 2008 THE CHARTER OF ASSOCIATION OF SOUTHEAST ASIAN NATIONS. art. 2, para 2 (i).

<sup>23</sup> 2013 ASEAN HUMAN RIGHTS DECLARATION. art. 24.

<sup>24</sup> 1998 UNITED NATIONS DECLARATION ON HUMAN RIGHTS DEFENDERS. art. 5 (a).

expression of ideas and to fostering engaged citizenry, and the assemblies can make a positive contribution to the development of democratic systems and, alongside elections, play a fundamental role in public participation, holding governments accountable and expressing the will of the people as part of the democratic processes.”<sup>25</sup>

In addition, the right to freedom of peaceful assembly is also guaranteed in other United Nations instruments including the Convention on the Rights of the Child (CRC), Article 15 (1) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Article 5(d) (ix).<sup>26</sup>

## **2.2. Right to Freedom of Peaceful Assembly under Cambodian Laws**

The right to freedom of peaceful assembly is also provided and guaranteed under Cambodian law. In Cambodia, this right was introduced by the Paris Peace Accords (PPA) in 1991 after the end of the civil war.<sup>27</sup> This right was further incorporated into the Cambodian Constitution (CC) in 1993.<sup>28</sup>

The 1991 Paris Peace Accords on a comprehensive political settlement of the Cambodian conflict provides that “all persons in Cambodia and Cambodian refugees and displaced persons shall enjoy the rights and freedom embodied in the UDHR and other relevant international human rights instruments.”<sup>29</sup>

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<sup>25</sup> *Id.* at art. 5.

<sup>26</sup> CONVENTION ON THE RIGHTS OF THE CHILD. art. 15, para 1; INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION. art. 5 (d) (ix).

<sup>27</sup> 1993 CONST. art. 51.

<sup>28</sup> DANIEL HEILMANN, *supra* note 6 at 288.

<sup>29</sup> 1991 PARIS PEACE ACCORDS. art. 15, para 1.

Article 41 of the 1993 Cambodian Constitution guarantees that “Khmer citizens shall have [...] freedom of assembly. No one shall exercise these rights to infringe upon the honor of others, or to affect the good customs of society, public order and national security.”<sup>30</sup>

Furthermore, Cambodia passed the Law on Peaceful Demonstration (LPD) in 2009. The purpose of this law is to “assure freedom of expression of Khmer citizens through peaceful assembly, but this right shall not be used abusively affecting the rights, freedom and honor of others, good customs of the national society, public order and national security.”<sup>31</sup> This law sets forth that peaceful assembly refers to “a gathering or a march conducted by a group of people to publicly demand, protest or express their sentiments, opinions or will by using various forms or means peacefully.”<sup>32</sup>

Article 1 of the Decision on the Introduction of the Implementation Guide to the Law on Peaceful Demonstration in 2010, introduces “the Implementation Guide to the Law on Peaceful Demonstration” as a basic tool to assist the relevant competent authorities and citizens in respecting and complying with the LPD.<sup>33</sup> This guideline also introduces that “the relevant competent authorities shall carry out their roles in accordance with the LPD and the guidance as defined in the Implementation Guide.”<sup>34</sup>

Furthermore, it also emphasizes that “the right to peaceful demonstration is a cornerstone of any democracy as it is linked to freedom of expression.”<sup>35</sup> This also draws that the “authorities should show restraint in using force against demonstrators and should create an

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<sup>30</sup> 1993 CONST., *supra* note 5 at art. 41, para 1.

<sup>31</sup> 2009 LAW ON PEACEFUL DEMONSTRATION. art. 2.

<sup>32</sup> 2009 LAW ON PEACEFUL DEMONSTRATION. art. 4.

<sup>33</sup> DECISION NO. 2337 SSR (MINISTRY OF INTERIOR) ON THE INTRODUCTION OF THE IMPLEMENTATION GUIDE TO THE LAW ON PEACEFUL DEMONSTRATION. art. 1, Dated December 08, 2010.

<sup>34</sup> *Id.* at art. 2.

<sup>35</sup> MINISTRY OF INTERIOR, IMPLEMENTATION GUIDE TO THE LAW ON PEACEFUL DEMONSTRATION Foreword (2010).



environment that will be conducive to holding demonstrations peacefully.”<sup>36</sup> In addition, this law “will assist citizens and authorities in protecting the right to assemble peacefully, and assure that provincial and capital authorities take responsibility for the implementation of this law.”<sup>37</sup>

Moreover, Article 319 of Cambodian Labor Law states that “the right to strike and a lockout are guaranteed.”<sup>38</sup> With this law, Article 318 identifies “a strike as a concerted work stoppage by a group of workers that takes place within an enterprise or establishment for the purpose of obtaining the satisfaction for their demand from the employer as a condition of their return to work.”<sup>39</sup> Furthermore, “it can also be exercised, in a general manner, to defend the economic and socio-occupational interests of workers.”<sup>40</sup>

Relevant to this, Article 2 of the Law on Trade Unions, which was promulgated in 2016, “protect the legitimate rights and interests of all persons who fall within the provisions of the labor law.”<sup>41</sup> This law also prevents various means of interference by employers against workers who take part or intend to take part in a strike.<sup>42</sup>

Besides, the Royal Government of Cambodia (RGC) developed the National Strategic Development Plan (NSDP) which is also a mechanism to promote human rights. In the 2014-2018 NSDP, the RGC clearly stated its commitment to the promotion and protection of fundamental rights and freedom.<sup>43</sup>

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<sup>36</sup> *Id.* at Foreword i.

<sup>37</sup> *Id.* at Foreword i.

<sup>38</sup> 1997 CAMBODIAN LABOR LAW. art. 319.

<sup>39</sup> *Id.* at art. 318, para 1.

<sup>40</sup> *Id.* at art. 320, para 3.

<sup>41</sup> 2016 LAW ON TRADE UNIONS. art. 2, para 1.

<sup>42</sup> *Id.* at art. 63 (i).

<sup>43</sup> NATIONAL STRATEGIC DEVELOPMENT PLAN OF ROYAL GOVERNMENT OF CAMBODIA, para 2.11 (2014-2018).

### 2.3. Procedure of Request and Authorization of Peaceful Assembly in Cambodia

This section will describe the procedure of request and authorization of peaceful assembly in Cambodia. The procedure is mainly stipulated in the Law on Peaceful Demonstration, which was promulgated in 2009. Article 5 of the LPD states that “any group of individuals who wishes to organize a peaceful assembly at any public venue shall notify the competent capital or provincial territorial authorities in charge of that place in writing.”<sup>44</sup> Where organizers plan to hold a demonstration in a public location other than the designated Freedom Park, Article 7 of the LPD requires that “a notification letter shall be submitted at the capital or provincial hall within at least five (5) working days prior to the due date of conducting the peaceful assembly.”<sup>45</sup>

Article 6 of the LPD further requires organizers to provide the names and addresses of three leaders and a copy of their national identification cards, and to state the date, time, duration and purpose of the assembly, the venues and routes to be used for activities, and the number of participants and vehicles involved.<sup>46</sup>

Upon receiving the notification letter, the capital or provincial hall will issue an acknowledgement letter in writing to the applicants and will post it immediately at a visible place in its administrative building or on its official homepage, as well as deliver the copies to local police stations, gendarmerie stations, and other competent authorities relevant to the venue of the demonstration.<sup>47</sup>

In this sense, the competent capital or provincial territorial authorities will respond positively in writing towards the notification letter except if “the peaceful assembly is to be

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<sup>44</sup> LAW ON PEACEFUL DEMONSTRATION, *supra* note 31 at art. 5.

<sup>45</sup> *Id.* at art. 7.

<sup>46</sup> *Id.* at art. 6.

<sup>47</sup> *Id.* at art. 8.

held on the King's birthday, Coronation day, Water Festival, National Independence day, Khmer New Year day and Pchum Ben day; and there is clear information indicating that the demonstration may cause danger or may seriously jeopardize security, safety and public order.”<sup>48</sup>

Furthermore, the competent capital or provincial territorial authorities will examine and respond within a maximum period of three (3) working days starting from the date of which the notification letter is submitted. If the competent capital or provincial authorities fail to respond to it by the due date, it will be considered that the request for peaceful assembly is approved.<sup>49</sup>

However, there is no requirement as states in paragraph 1 of Article 6 of this law, but just a written notification with signatures or thumbprints and attached copies of the Khmer national identification cards of three (3) leaders shall be given to the competent capital or provincial territorial authority at least twelve (12) hours during working days or thirty-six (36) hours during holidays if the peaceful assembly takes place at the following venues:

- (1) at the freedom park created appropriately in compliance with laws or regulations, and where that peaceful assembly is to be conducted by a maximum of two hundred (200) persons for each capital or province; or
- (2) at the places of private property or in, case of collective property, there is approval from the landlord or the board in charge of the management over the collective property, and where the peaceful demonstration is to be conducted by a maximum of two hundred (200) persons.<sup>50</sup>

## **2.4. Main Pillars of Right to Freedom of Peaceful Assembly**

Through reviewing international and national instruments, several key principles of the right to freedom of peaceful assembly have been identified. Firstly, the right to freedom of peaceful assembly is a right, in which individuals, organizations, legal entities, and corporate bodies can freely enjoy gathering publicly, privately or collectively to express, promote, and defend interests of specific groups.

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<sup>48</sup> *Id.* at art. 9.

<sup>49</sup> *Id.* at art. 10.

<sup>50</sup> *Id.* at art. 14.

Secondly, the right to freedom of peaceful assembly includes the right to participate in peaceful assemblies, meetings, protests, strikes, demonstrations and other gatherings for any specific purpose, while authorities not only have an obligation to protect peaceful assemblies, but also have to take appropriate measures to facilitate them.

Thirdly, the right to freedom of peaceful assembly is one of the basic functions of democracy, which facilitates a human rights based-approach to peaceful assemblies ensuring that all people in society have the opportunity to express their opinions with others to discuss their problems, demand solutions, and work together.

## **CHAPTER III**

### **EXERCISE OF RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY IN CAMBODIA**

This Chapter will look at the exercise of right to freedom of peaceful assembly that is enshrined and guaranteed by international and national instruments in the Cambodian context. It looks at how this right is requested and denied by raising a number of remarkable cases for studying in detail.

#### **3.1. Peaceful Assembly of Land Dispute Community**

The first case is related to the exercise of the right to freedom of peaceful assembly by affected land communities. Affected land communities extensively implement the right to peaceful assembly by collective demand and march to raise the issue and submit petitions to relevant authorities and institutions. However, such assemblies are often denied, if allowed, they are often restricted, observed, and intervened by authorities. In order to show this, the paper raises a remarkable case related to the request for peaceful assembly by the Boeung Kak Lake land dispute community, which was denied by the authorities, illustrated as follows.

In 2014, on the occasion of the 103<sup>rd</sup> anniversary of the commemoration of International Women's Day (IWD), a Boeung Kak Lake (BKL) community, which had experienced forced evictions, together with others, celebrated the IWD inside its community, and this was supported by its urban partner communities and Buddhist monks.<sup>51</sup> The purpose of this assembly was to conduct a public forum and also march from BKL community to submit a petition to the Ministry of Women's Affairs (MoWA) calling for the government to stop all forms of violence against women, to free the 21 imprisoned land and union advocates who were arrested during the strike in January 2014 and to end forced evictions in Cambodia.<sup>52</sup>

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<sup>51</sup> Interview with a Boeung Kak Lake Community Representative (2017), *See* Appendix 2: Questionnaire for Affected Land Communities.

<sup>52</sup> *Id.*

Before the event started, BKL submitted a notification letter to Phnom Penh Capital Hall (PPCH) on February 28, 2014 in order to inform them about the event.<sup>53</sup> In response, Phnom Penh Capital Hall did not allow participants to march from BKL community to MoWA because they reasoned that this march would cause traffic congestion and affect public order.<sup>54</sup> Instead, the Phnom Penh Capital Hall requested the organizers to hold this event at a private place.<sup>55</sup>

However, on the morning of event (March 8, 2014), more than 300 participants gathered together in BKL and started marching from BKL to MoWA.<sup>56</sup> Immediately, approximately 200 government forces (including military police and security guards) were deployed where all the participants were walking and the government forces blocked the marchers on the intersection of Street 86 (Street Moat Chrouk) and Monivong Boulevard, between Calmet Hospital and Phnom Penh Hotel.<sup>57</sup>

At that time, the BKL residents and other protesters were blocked for two hours, but all participants remained to keep the peaceful gathering, though confronted with the authorities, they were especially trying to convince police officers to calm down by saying soft and polite words in order to refrain from escalating the situation and causing any violence.<sup>58</sup> At that stage, the peaceful protesters were also holding lotus flowers, national and religious flags, and women were wearing Khmer traditional clothes to show that Khmer ladies were soft and represented the peacekeepers.<sup>59</sup> As a result, though the event went peaceful, but they were not allowed to march and submit the petition to the ministry.

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<sup>53</sup> Boeung Kak Lake community, *Notification Letter of Boeung Kak Lake Informing about International Women's Day* (2014).

<sup>54</sup> Interview with a Boeung Kak Lake community representative, *supra* note 50.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

Based on this fact, the Phnom Penh authorities had not respected either the Cambodian Constitution or Law on Peaceful Demonstration because Article 41 of the Constitution guarantees that all Khmer citizens will have [...] freedom of assembly; while Article 17 of Law on Peaceful Demonstration, states that the government authorities have an obligation to take measures to protect the peaceful demonstrators to ensure security, safety, public order and no interfere with the conduct of peaceful assembly.<sup>60</sup>

In addition, the group of organizers had followed the procedure of the LPD which is clearly stated in Article 5 of this law. In regards to the venue, it was unjustified by the authorities to prohibit the participants from organizing at the public place because neither the Constitution nor LPD mentions that every assembly should be conducted at private or public spaces.<sup>61</sup>

Moreover, they had not brought any materials or equipment such as weapons which would cause any harm, disrupt public safety, or create public disorder.<sup>62</sup> They only had lotus flowers, petitions, Cambodian national flags, religious flags, and United Nations flags. Additionally, Phnom Penh Capital Hall did not have a clear legal ground in the response letter to the organizers as to why they would not be allowed to march during the celebration, this led to the violation of the right to freedom of peaceful assembly.<sup>63</sup>

### **3.2. Peaceful Assembly of Workers and Unions**

The second case is relevant to the peaceful assembly of workers and unions. This body has often implemented the right to freedom of peaceful assembly in Cambodia. The requests for such exercises are also often denied. The following case will showcase this.

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<sup>60</sup> LAW ON PEACEFUL DEMONSTRATION, *supra* note 31 at art. 17.

<sup>61</sup> 1993 CONST., *supra* note 5 at art 41, para 1.

<sup>62</sup> Interview with a Boeung Kak Lake community representative, *supra* note 50.

<sup>63</sup> *Id.*

On the occasion of the 131<sup>st</sup> International Labor Day on May 1, 2017, the trade union groups planned to organize a global event by inviting a group of 1,000 people from different trade union organizations, including garment factory workers, food and service workers, civil servants, farmers, informal economic workers, domestic workers, construction workers and youth.<sup>64</sup> The purpose of the assembly was to demand better wages and working conditions. The theme of this celebration was: “To have rights, to better livelihood, and to have decent living conditions.”<sup>65</sup>

In the notification letter to Phnom Penh Capital Hall dated on April 21, 2017, they said they plan to hold this event by gathering outside and in front of the Olympic National Stadium, on the sidewalk, and not on the street, on the morning of May 1, 2017, at 7 am, prior to marching to the Ministry of Labour and Vocational Training (MLVT) for submitting the petition.<sup>66</sup>

The notification letter also wrote that the Cambodian unions had organized this event annually for years in order to raise awareness on efforts of the government to help union workers, as well as raise concerns and requests to the government to intervene properly on these issues.<sup>67</sup> The letter also stated which streets and directions the group of organizers and participants would march, namely from the Stadium to the Ministry.<sup>68</sup> The participants would also speak out during the march.<sup>69</sup>

Nevertheless, in the response letter from Phnom Penh Capital Hall, which was signed by the Deputy Governor on April 27, 2017, the capital authority did not allow the unions to march, but allowed them to organize the event inside the Olympic Stadium.<sup>70</sup> The Phnom

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<sup>64</sup> UNION ORGANIZATION, NOTIFICATION LETTER OF UNION GROUP INFORMING TO PHNOM PENH CAPITAL HALL ON ORGANIZING INTERNATIONAL LABOR DAY (2017).

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> RESPONSIVE LETTER OF PHNOM PENH CAPITAL HALL TO THE ORGANIZERS OF INTERNATIONAL LABOR DAY (2017).



Penh Capital Hall also warned that the organizers would face legal action if they gathered outside the Olympic Stadium or marched, causing public safety, security, and order issues.<sup>71</sup>

In this regard, according to Article 8 of Law on Peaceful Demonstration, once capital or provincial authorities received the notification letter from organizers, they would issue the acknowledgement letter in writing to the applicants. Then they would post it immediately at a visible place in its administrative building or on its official homepage, and deliver the copied one to the local police station, gendarmerie station, and other competent authorities near the venue.<sup>72</sup>

In this case, the authorities violated the Cambodian Constitution, Labor Law and Law on Trade Unions which guarantee the right of all Cambodian citizens to participate in legitimate activities such as the right to march, assemble, and to strike with others in order to protect their interests.

### **3.3. Request of Peaceful Assembly of Political Party**

The third case is relevant to the exercise of the right to freedom of peaceful assembly by political parties, especially the opposition party. This right has been observed to be more restricted if compared with the others. The requests were often denied and dozens of public gatherings have been observed and intervened by authorities. The following case is one of many that showcases this.

On the celebration of the 25<sup>th</sup> anniversary of the Paris Peace Accords, the Cambodia National Rescue Party (CNRP) planned to organize a memorial day on October 23, 2016, and would meet its supporters at Freedom Park.<sup>73</sup> The party submitted the notification letter to PPCH on

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<sup>71</sup> *Id.*

<sup>72</sup> LAW ON PEACEFUL DEMONSTRATION, *supra* note 33 at 8.

<sup>73</sup> Interview with a Member of Parliament of Cambodia National Rescue Party (2017), *See* Appendix 4: Questionnaire for Political Party.

October 18, 2016 in order to inform them about this event.<sup>74</sup> In the letter, the party called on the governor to provide cooperation and security for the ceremony on October 23.<sup>75</sup>

However, in the response letter dated October 21, 2016, the PPCH did not allow the party to organize this event at Freedom Park (FP), arguing that all the principles of the 1991 PPA were already integrated in the 1993 Cambodian Constitution.<sup>76</sup> The letter also wrote that PPCH's administration understood that the gathering on the 25<sup>th</sup> anniversary at FP was on a topic that was not suitable for presenting the current circumstance, so the PPCH requested the party to hold this event at its party office or any private place.<sup>77</sup> This also sought the implementation from CNRP's following the spirit of decision above.<sup>78</sup> This showed that the party's right to the freedom of peaceful assembly was under restriction because politicians and their supporters could not exercise their rights as stated under the law.

Regarding this case, the PPCH violated various principles such as the Constitution, LPD and international laws, because the celebration of the Paris Peace Accords followed the notification procedure of Article 5 of LPD. In another sense, the PPCH did not follow the Article 9 of LPD which requires the territorial authority to respond positively in writing towards the notification letter. Furthermore, the Article 41 of the Constitution guarantees the freedom of assembly of all Khmer citizens.<sup>79</sup>

The three cases showcase that the scope of the right to freedom of peaceful assembly is restricted.

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<sup>74</sup> PHNOM PENH CAPITAL HALL, RESPONSIVE LETTER OF PHNOM PENH CAPITAL HALL TO HE. MAO MUNY VANN, HE. HO VANN AND HE. LONG RY REGARDING THE ORGANIZING 25TH PARIS PEACE ACCORDS AT FREEDOM PARK (2016).

<sup>75</sup> PANG VICHEA, NO APPROVAL YET FOR CNRP RALLY PHNOM PENH POST (2016), available at <https://www.phnompenhpost.com/national/no-approval-yet-cnrm-rally> (Accessed on January 20, 2019).

<sup>76</sup> PPCH, *supra* note 73.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> 1993 CONST., *supra* note 5 at 41.

## **CHAPTER IV**

### **FACTORS RESTRICTING RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY IN CAMBODIA**

This Chapter will view the general atmosphere of the exercise of right to peaceful assembly in Cambodia. As the three case studies above showed that the right to freedom of peaceful assembly is restricted, requests for exercising this right are often denied. This Chapter will seek out the causes of such restrictions and denials of requests.

This Chapter will assess the exercise of the right to freedom of peaceful assembly in Cambodia by looking at the different views and understandings of this from authorities and bodies involved in exercise and observation of this right. In order to understand this, the author conducted extensive interviews with government officials, people-affected in communities, non-governmental organizations (NGOs), a union organization, a political party, and the United Nations (UN) office in Cambodia.

These views are critical for analyzing the overall enforcement and the general understandings of the right to freedom of peaceful assembly in Cambodia. The first section of this Chapter will look at the views of the right to freedom of peaceful assembly from the authorities, and the second will look at the views of this right from civil society organizations (CSOs) in turn.

#### **4.1. View from Competent Authorities**

From the author's interview, the view from the authorities raised three points regarding the exercise of the right to the freedom of peaceful assembly. First, the exercise of the right to freedom of peaceful assembly is good.<sup>80</sup> It can be said it is better than neighboring countries.<sup>81</sup>

Cambodia has more freedom than other neighboring countries in ASEAN. Cambodia is open for assembly. According to PPCH's report, there are more than 3,000 gatherings (including demonstrations, protests and strikes) in Phnom Penh Capital.

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<sup>80</sup> Interview with a Cambodian Human Rights Committee official (2017), *See* Appendix 1: Questionnaire for Government Institution.

<sup>81</sup> *Id.*

We have more televisions, media, social media (for example Facebook) and everyone can comment and talk freely in social media, especially Facebook.<sup>82</sup>

Second, according to the government official, the authorities have the exclusive administrative power to decide whether they allow any request for assembly by communities, NGOs, unions, and other groups.<sup>83</sup> If the purpose of the assembly (such as demonstration or protest) causes public disorder, social immorality, and affects the public interest, then the authorities will not allow them to gather.<sup>84</sup>

If there is no permission from authorities, it will be considered as unlawful demonstration or protest and then they can be stopped immediately.<sup>85</sup> If demonstrator committee causes any violence, authorities can disperse or suppress them in order to prevent public disorder and protect the interest of the public.<sup>86</sup> Despite this, the authorities crack down on protesters, it does not mean that it is violation of human rights.<sup>87</sup>

Third, there is no restriction if any public gathering which follows the procedures in the laws. Authorities can intervene and stop if any gathering does not follow the law, and it is likely to lead to unusual acts such as violence, road blockade, destruction of public properties and so on.<sup>88</sup> For example, if 10 Boeung Kak Lake land activists want to protest at Phnom Penh Capital Hall, they must have representatives meet and discuss with PPCH's officials first. If they block the road, it means they violate the law as well as the right of others because they cannot travel. Therefore, the authority can stop or disperse the protesters since it is considered as illegal activity.<sup>89</sup>

If there are less than five people gathering at a public space, they do not need to request permission from authorities, but if there are more than five people, they have to request permission from authorities by providing a specific location and objectives of the activity.<sup>90</sup>

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<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

However, if the demonstration follows the procedures of the law, and it does not affect “public order,” it will be allowed. The authorities will provide good cooperation with organizers in assisting to facilitate traffic and security of participants.<sup>91</sup>

In relation to what extent the “public order” is, the official claimed that authorities have the power to maintain the public order, which remains the interests of the public or public security, meaning that the security of the people as well as protection of the state’s properties.<sup>92</sup> Thus, requesters of peaceful assembly should not use their rights to destroy the public order and interest of others. These will be considered illegal and will face legal actions.<sup>93</sup>

In the second national report submitted to the Human Rights Council in 2014, the Royal Government of Cambodia (RGC) presented the continued development in the efforts of improving human rights at the national and local levels and addressing the challenges towards achievement of human rights.<sup>94</sup> The RGC also claimed that there was a favorable environment to exercise the freedom of assembly.<sup>95</sup>

Based on the views from the authority’s side and the RGC’s report, the exercise of the right to freedom of peaceful assembly is good. The authority follows the procedures stated in the law. Ones who want to conduct this right need to request permission from the authority. The authority has exclusive right to give permission or not depending on whether or not it affects the public order.

#### **4.2. View from Civil Society Organizations**

To balance the perspective from the authority’s side, this paper looks at the views of the exercise of the right to freedom of peaceful assembly in Cambodia from civil society

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<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> HUMAN RIGHTS COUNCIL: *National Report Submitted to Human Rights Council (Cambodia)*, (A/HRC/WG.6/18/KHM/1) para 2 (2014).

organizations such as affected land communities, NGOs, labor unions, and OHCHR, as well as the opposition party in Cambodia.

#### **4.2.1. Affected Land Communities**

For affected land communities, they think the exercise of the right to freedom of peaceful assembly is restricted. The community members feel that when they do any activities at their community, they are under the watchdog of authorities.<sup>96</sup> Presently, they feel that they still cannot assemble freely.<sup>97</sup>

When we started our advocacy activities against the private development company in Boeung Kak Lake area in 2010, we organized a meeting with our community members in a house where the door was closed and even our shoes were kept in the house too. Because we were followed by a village chief and local police officers as they always came to threaten us from organizing any gatherings to discuss our issues.<sup>98</sup> Our meetings were not openly discussed, we whispered during our talks.<sup>99</sup> There was no right to freedom of peaceful assembly because even if only two or three people of my community gathered and talked, local authorities would follow us.<sup>100</sup>

The restriction of the community's right to public gatherings can be seen in the case of the shutdown of a World Habitat Day (WHD) event in Phnom Penh. The police forces shut down a World Habitat Day (WHD) event in September 2018 when the community members began collecting rubbish in their community, claiming the gathering was illegal.<sup>101</sup> However, this event aimed to raise awareness about sanitation, hygiene, and to discuss land rights in their community.<sup>102</sup>

#### **4.2.2. NGOs**

Likewise, a number of NGOs view that the right to freedom of peaceful assembly is restricted and seems to have gone backward if compared with the starting of the new

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<sup>95</sup> *Id.* at 53.

<sup>96</sup> Interview with a Boeung Kak Lake community representative, *supra* note 50.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> Interview with a Borei Keila Community Representative (2017), *See* Appendix 2: Questionnaire for Affected Land Communities.

<sup>101</sup> LICADHO: Authorities Stop Communities Collecting Garbage and Discussing Land Rights (2018), available at <http://www.licadho-cambodia.org/articles/20181001/152/index.html> (Accessed on February 28, 2019).

democracy in 1993. At that time, the right to freely assemble was doable and it was quite good, though there were dispersion of authority forces in the national elections of 1998, 2003 and 2008, but the space of exercising of this indicating right was much better.

Presently, there is no right to freedom of peaceful assembly such as gathering or marching though authorities know that this right is provided and guaranteed by national and international laws, and they have never cooperated and allowed us to enjoy our right.<sup>103</sup>

The right has become more restricted and narrower for exercising when authorities have taken actions against those who advocate for human rights and peaceful assemblies such as land protesters, unionists, NGO staff, and other human rights advocates.

The principle of democracy in Cambodia is backwards because authorities have targeted peaceful protesters and cracked down on any event of peaceful assembly; thus, people cannot enjoy their right to assemble and express freely.<sup>104</sup>

According to the opinion of an NGO staff, the factors which have contributed to the restriction of the right to freedom of peaceful assembly are political factors and coloring.<sup>105</sup> Any public gathering can be accused of protests to support other political parties.<sup>106</sup> These assumed reasons have made authorities take measure against any public gathering activities. This leads to the narrow space of the exercise of the right to freedom of peaceful assembly in Cambodia.

#### **4.2.3. Union Organization**

Union organizations also feel the right to freedom of peaceful assembly is restricted, especially since the enactment of the Law on Trade Unions (LTU) in 2016.<sup>107</sup> They mentioned, this law outlines, that if employees want to conduct any demonstrations, they must register in the

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<sup>102</sup> *Id.*

<sup>103</sup> Interview with a Sahmakum Teang Tnaut representative (2017), *See* Appendix 3: Questionnaire for NGOs and Union Organization.

<sup>104</sup> Interview with a Cambodian League for the Promotion and Defense of Human Rights representative (2017), *See* Appendix 3: Questionnaire for NGOs and Union Organization.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> Interview with a Cambodian Food and Service Workers' Federation (CFSWF) representative (2017), *See* Appendix 3: Questionnaire for NGOs and Union Organization.

list of unions.<sup>108</sup> Unions' actions shall be considered as unlawful if they lead any strike or demonstration that contravenes the legal procedures.<sup>109</sup>

If protestors do not have a registry of union and a representative and if they protest, it can be suppressed because it is considered as illegal.<sup>110</sup> Besides this, they also feel discriminated among union organizations.<sup>111</sup>

#### **4.2.4. Political Party**

Regarding the view from the political party, the right to freedom of peaceful assembly seems restricted. They feel that, in the last two mandates, the right to freedom of peaceful assembly which includes peaceful gatherings, protests, and demonstrations, have seen as setbacks in this democratic society.<sup>112</sup> People cannot freely enjoy exercising their rights when authorities have assumed and accused such a gathering of harming the public order and social security.<sup>113</sup>

In the last few years, the situations of human rights have been setback since the right to freedom of peaceful assembly has been worsened and badly restricted, then the right to expression of our concerns is also affected.<sup>114</sup> Sometimes, we were not allowed to meet and discuss with supporters in Phnom Penh's head office even though we sent a notification letter to capital authorities because they reasoned that the gatherings would cause traffic congestions.<sup>115</sup>

As of today, the space for political parties is narrow for exercising our right to peaceful assembly.<sup>116</sup> Peaceful assemblies are under close monitoring and sometimes face

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<sup>108</sup> LAW ON TRADE UNIONS, *supra* note 43 at art. 11.

<sup>109</sup> *Id.* at art. 65 (h).

<sup>110</sup> Cambodian Food and Service Workers' Federation, *supra* note 107.

<sup>111</sup> *Id.*

<sup>112</sup> Interview with a Member of Parliament of Cambodia National Rescue Party, *supra* note 71.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*



crackdown.<sup>117</sup> Protesters may face legal actions if they are accused of causing violence.<sup>118</sup> Thus, the exercise of peaceful assembly in political right is more restricted if compared with others.<sup>119</sup>

#### **4.2.5. Representative of Office of the High Commissioner for Human Rights in Cambodia**

The view of the right to freedom of peaceful assembly from the Office of the High Commissioner for Human Rights (OHCHR) in Cambodia is also restricted.<sup>120</sup> In the present time, when people want to conduct a public meeting or forum within their communities, they have to request permission from the competent authorities first. If they do not ask for a request or notify their activities to the authorities, it could be considered as a demonstration and they could face suppression.<sup>121</sup>

Authorities have misused the Law on Peaceful Demonstration because the authorities always demand demonstration organizers to request permission from capital/provincial administration, but the Law on Peaceful Demonstration just states that the organizers send the notification letter to the authorities.<sup>122</sup> This means that authorities do not respect the law.<sup>123</sup>

Even if community members and NGOs want to conduct any activities like meetings, workshop, and training course at the grassroots level, they often face local authorities. Authorities often ask them the reasons why they did not request a permission from the authorities first.<sup>124</sup> This also contributes to restricting the right to freedom of peaceful assembly in Cambodia.

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<sup>117</sup> *Id.*

<sup>118</sup> The Advocates for Human Rights: CAMBODIA, *Restrictions on civil society and political participation: Stakeholder Report for the United Nations Human Rights Council's Universal Periodic Review 2* (2018), [https://www.theadvocatesforhumanrights.org/uploads/cambodia\\_upr\\_july\\_2018\\_2.pdf](https://www.theadvocatesforhumanrights.org/uploads/cambodia_upr_july_2018_2.pdf) (Accessed on February 19, 2019).

<sup>119</sup> Interview with a Member of Parliament of Cambodia National Rescue Party, *supra* note 73.

<sup>120</sup> Interview with a representative from OHCHR (2017), *See* Appendix 5: Questionnaire for the Representative of Office of the High Commissioner for Human Rights in Cambodia.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

## **CHAPTER V**

### **THRESHOLDS OF ENFORCEMENT OF THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY IN CAMBODIA**

Based on the case studies in Chapter III and the views described in Chapter IV, there are two main factors contributing to the restriction of the right to freedom of peaceful assembly in Cambodia. First is that there is limited understanding of the right to freedom of peaceful assembly, and second is that there is rising political tension.

#### **5.1. Limited Understanding of Right to Freedom of Peaceful Assembly**

The first factor has contributed to the restriction of the right to freedom of peaceful assembly in Cambodia. Based on the case studies and the interviews, there are limited understandings of the right to freedom of peaceful assembly among relevant stakeholders. In general, the views of this right depend on personal understanding.

So far, there is no clear interpretation of the right to freedom of peaceful assembly guaranteed under the top law (the Constitution) and international laws. Sometimes, law and regulations lead to the restriction of this right. Sometimes, when exercising, there are narrow interpretations of allowing and forbidding this right.

As we can see the views from the authorities, any assembly needs to request and obtain approval from them first. Furthermore, the authorities have administrative discretion whether to allow or it or not.<sup>125</sup> Also, they have the right to intervene when any assembly is likely to affect public order. Above all, most peaceful assembly requests are denied by citing prevention of “public order” as grounds for such denials, but authorities rarely provide reasonable justifications to this. In this sense, public order is a broad concept, and it should not be a ground for denial of the request for the right to freedom of peaceful assembly.

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<sup>125</sup> Interview with a Cambodian Human Rights Committee official, *supra* note 79.

## 5.2. Rising Political Tension

The second factor that contributes to the restriction of the right to freedom of peaceful assembly is the rising political tension in the last several years. The right to peaceful assembly has observationally been restricted since the crackdown of the workers' strike, resulting in the death of at least four individuals, in early January 2014.<sup>126</sup>

After that there was public statement from authorities to restrict the use of right to freedom of peaceful assembly. For instance, according to the statement, the right to freedom of peaceful assembly must be exercised within the framework of the Law on Peaceful Demonstration and it "will not be exercised to violate and affect the right and honor of other people, good customs of the nation, public order, and national security."<sup>127</sup>

The statement also considered past rallies had resulted in violence, "...over the last period, rallies gave rise to violence, blocking of public roads and destruction of private and public property, which seriously affected the social security and order and daily lives of the citizens."<sup>128</sup> The statement left a chance to restore public order as provided "to guarantee public security and social order, demonstrations by public rallies or marches must be provisionally suspended until public security and order return to normal."<sup>129</sup>

Above all, the right to freedom of peaceful assembly has been more restricted when the term "color revolution" appeared in Cambodia. Requests for peaceful assemblies were often denied, and if they happened, they were under suppression.<sup>130</sup> So far, the right to freedom of peaceful assembly seems to be at a standstill in Cambodia.

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<sup>126</sup> Amnesty International, *supra* note 13 at 37.

<sup>127</sup> Press Statement of Ministry of Interior, (January 4, 2014).

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> LICADHO: HUMAN RIGHTS 2016, SIX MONTHS IN REVIEW 3 (2016), available at [http://www.licadho-cambodia.org/reports/files/218LICADHO\\_SixMonthsInReview\\_2016.pdf](http://www.licadho-cambodia.org/reports/files/218LICADHO_SixMonthsInReview_2016.pdf) (Accessed on October 22, 2017)

## **CHAPTER VI**

### **CONCLUSION AND RECOMMENDATIONS**

In conclusion, the right to freedom of peaceful assembly has not been fully implemented in Cambodia. Two main factors have contributed to narrow enforcement of the right to freedom of peaceful assembly in Cambodia. First, there are limited understandings of the right to freedom of peaceful assembly among stakeholders. In general, it is viewed as a demonstration or strike, which could result in violence and illegal activities. Second, the rising political tension in the last several years has contributed to more restriction of the exercise of this right. Thus, requests for peaceful assemblies are often denied based on public order and political trends. These factors have given rise to the narrow scope of exercise of the right to freedom of peaceful assembly in Cambodia.

Thus, in order to ensure that the proper exercise of the right to freedom of peaceful assembly is guaranteed under the Constitution and international law, this paper provides the following suggestions:

- Implementation Guide on the LPD should be appropriately implemented, widely shared among authorities, and publicly disseminated;
- Authorities and relevant stakeholders should be well trained of the concept of the right to freedom of peaceful assembly;
- Notification and response requirements of peaceful assemblies should be ensured within the specified period prescribed under law;
- All forms of restrictions on the right to freedom of peaceful assembly should be reduced; and denial of requests for peaceful assembly should be provided with clear reasons. Public order should not be justified grounds for denial of the right to freedom of peaceful assembly;

- Requesters and participants of peaceful assemblies must keep order in arranging them with good cooperation with authorities;
- Authorities should cooperate and ensure there is proper exercise of peaceful assembly and make sure organizers and participants follow laws;
- Equal enforcement of punishment for ones who violate the right to freedom of peaceful assembly.

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## APPENDICES

### Appendix 1: Questionnaire for Government Institutions

Questionnaire Code: /\_\_\_\_/\_\_\_\_/

#### Topic: Enforcement of Right to Freedom of Peaceful Assembly in Cambodia

##### Objectives:

- To examine the general situations and causes of restrictions to the right to freedom of peaceful assembly in Cambodia.
- To check and analyze the scope of enforcement of the right to freedom of peaceful assembly under national and international laws.
- To provide some recommendations to improve the exercise of the right to freedom of peaceful assembly in Cambodia.

Name of Interviewer: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

#### 1. Demographic Information

1.1	Name of primary respondent		
1.2	Primary respondent's contact number		
1.3	Gender	a. <input type="checkbox"/> Male	b. <input type="checkbox"/> Female
1.4	Position		
1.5	Department		

#### 2. Circumstance of the Right to Freedom of Peaceful Assembly in Cambodia

2.1	Can you describe generally about the right to freedom of peaceful assembly in Cambodia?	
2.2	What are laws which guarantee the right to freedom of peaceful assembly in Cambodia?	
2.3	What does the term "peaceful protester" mean to you? Who are they?	
2.4	How does the government address issues for peaceful protesters? How does the government respond to peaceful protest if protests are against the government in order to call for intervention regarding human rights violations?	
2.5	Does the government have any mechanisms to solve problems that peaceful protesters	

	face? What are they?	
2.6	As a government agent, what is the necessity of banning protesters from protesting? Why?	
2.7	What do you think the protesters in Cambodia follow the law?	
2.8	Can you compare the right to freedom of peaceful assembly between Cambodia and other countries?	
2.9	Does the government have any comments or suggestions for peaceful protesters who want to exercise their rights to freedom of peaceful assembly in Cambodia?	
2.10	Other comment on the right to freedom of peaceful assembly?	

## Appendix 2: Questionnaire for Affected Land Communities

Questionnaire Code: /\_\_\_/\_\_\_/

<p><b>Topic: Enforcement of Right to Freedom of Peaceful Assembly in Cambodia</b></p> <p><b><u>Objectives:</u></b></p> <ul style="list-style-type: none"> <li>• To examine the general situations and causes of restrictions to the right to freedom of peaceful assembly in Cambodia.</li> <li>• To check and analyze the scope of enforcement of the right to freedom of peaceful assembly under national and international laws.</li> <li>• To provide some recommendations to improve the exercise of the right to freedom of peaceful assembly in Cambodia.</li> </ul>
---

Name of Interviewer: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

### 1. Demographic Information

1.1	Name of primary respondent	
1.2	Primary respondent's contact number	
1.3	Age of respondent	_____ Years
1.4	Gender	a. <input type="checkbox"/> Male      b. <input type="checkbox"/> Female

### 2. Socio-Economic Details

2.1	What is your total household's monthly average income?	KH _____ / USD\$ _____
2.2	What is your current primary occupation?	

a. <input type="checkbox"/> Garment/factory worker	b. <input type="checkbox"/> Construction worker	c. <input type="checkbox"/> Moto-dop/Tuk tuk driver
d. <input type="checkbox"/> Farmer / vegetable grower	e. <input type="checkbox"/> Fisherman	f. <input type="checkbox"/> NGO staff
g. <input type="checkbox"/> Government staff	h. <input type="checkbox"/> Private company staff	i. <input type="checkbox"/> Trash collector
j. <input type="checkbox"/> Home-maker	k. <input type="checkbox"/> Retired	l. <input type="checkbox"/> Unemployed
m. <input type="checkbox"/> Unable to work (please specify) _____	n. <input type="checkbox"/> Other (please specify) _____	

### 3. Land Dispute

3.1	When did you first become a peaceful protester?	Since.....		
3.2	Who is the other party involved in the land dispute with this community?	a. <input type="checkbox"/> Private Company	b. <input type="checkbox"/> Government	c. <input type="checkbox"/> Community member
3.3	What is the current situation?			
3.4	Did you receive problem solving assistance from government?			
3.5	Where did you find support from? What was the problem?			
3.6	If you sought any support from partner NGOs, how did they help you?			
3.7	Were communities allowed to assemble freely to protect your land?			
3.8	What are situations that you have faced in the land dispute so far?			
3.9	What do you think about the right to freedom of assembly's law in Cambodia? Does it threaten or help peaceful protesters?			
3.10	Do you have any request or comment to promote the right to freedom of peaceful assembly in Cambodian laws? And the government authorities?			

### 4. Impacts of Living Condition

4.1	After you became as a peaceful protester, have you faced any problem affecting your living conditions?	
4.2	Do these problems affect your income?	
4.3	Do you have enough time to take care of your children or family?	

## 5. Future Plan

5.1	What are this community's plans for resolving the land dispute?	
5.2	What are this community's plans for peaceful assembly in the future?	
5.3	Other plans? ( <i>please comment</i> )	

## Appendix 3: Questionnaire for NGOs and Union Organizations

Questionnaire Code: /\_\_\_/\_\_\_/

### Topic: Enforcement of Right to Freedom of Peaceful Assembly in Cambodia

#### Objectives:

- To examine the general situations and causes of restrictions to the right to freedom of peaceful assembly in Cambodia.
- To check and analyze the scope of enforcement of the right to freedom of peaceful assembly under national and international laws.
- To provide some recommendations to improve the exercise of the right to freedom of peaceful assembly in Cambodia.

Name of Interviewer: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

### 1. Demographic Information

1.1	Name of respondent	
1.2	Respondent's contact number	
1.3	Gender	a. <input type="checkbox"/> Male      b. <input type="checkbox"/> Female
1.4	Position	
1.5	NGO Name	

### 2. Circumstance of Right to Freedom of Peaceful Assembly in Cambodia

2.1	Can you describe about the general situation of the right to freedom of peaceful assembly in Cambodia?	
2.2	How has this situation been evolving until now?	
2.3	How are NGOs affected?	
2.4	What assistance do you provide to those who want to peacefully assemble?	
2.5	Do you think peaceful protest can harm	

	public order?	
2.6	How can you help peaceful protesters to properly exercise their right to freedom of peaceful assembly?	
2.7	How is the relationship between your NGO and the government been after your NGO was involved in promoting the right to freedom of peaceful assembly	
2.8	Did you experience any direct violence against peaceful protesters when they organized activities in public space?	
2.9	What is the legal framework to protect their rights, especially the right to freedom of peaceful assembly?	
2.10	What is your opinion or comment on the right to freedom of peaceful assembly?	

#### Appendix 4: Questionnaire for Political Party

Questionnaire Code: /\_\_\_/\_\_\_/

<p><b>Topic: Enforcement of Right to Freedom of Peaceful Assembly in Cambodia</b></p> <p><b><u>Objectives:</u></b></p> <ul style="list-style-type: none"> <li>• To examine the general situations and causes of restrictions to the right to freedom of peaceful assembly in Cambodia.</li> <li>• To check and analyze the scope of enforcement of the right to freedom of peaceful assembly under national and international laws.</li> <li>• To provide some recommendations to improve the exercise of the right to freedom of peaceful assembly in Cambodia.</li> </ul>
---

Name of Interviewer: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

#### 1. Demographic Information

1.1	Name of respondent		
1.2	Respondent's contact number		
1.3	Gender	a. <input type="checkbox"/> Male	b. <input type="checkbox"/> Female
1.4	Position		
1.5	Name of Institution		

## 2. Circumstance of Right to Freedom of Peaceful Assembly in Cambodia

2.1	Can you describe about general situation on the right to freedom of peaceful assembly in Cambodia?	
2.2	What is the significance of right to peaceful assembly to Cambodia as a democratic society?	
2.3	For your personal opinion, to what extend called public disorder?	
2.4	What are challenges of right to freedom of peaceful assembly to your political party?	
2.5	Do you think peaceful protest can harm public order?	
2.6	What is legal frameworks to protect their rights, especially the right to freedom of peaceful assembly?	
2.7	What is your opinion or comment on the right to freedom of peaceful assembly?	
2.8	Case study: notification letter to MPP	

## Appendix 5: Questionnaire for the Representative of Office of the High Commissioner for Human Rights in Cambodia

Questionnaire Code: /\_\_\_\_/\_\_\_\_/

### Topic: Enforcement of Right to Freedom of Peaceful Assembly in Cambodia

#### Objectives:

- To examine the general situations and causes of restrictions to the right to freedom of peaceful assembly in Cambodia.
- To check and analyze the scope of enforcement of the right to freedom of peaceful assembly under national and international laws.
- To provide some recommendations to improve the exercise of the right to freedom of peaceful assembly in Cambodia.

Name of Interviewer: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

### 1. Demographic Information

1.1	Name of respondent	
1.2	Respondent's contact number	
1.3	Gender	a. <input type="checkbox"/> Male      b. <input type="checkbox"/> Female

1.4	Position	
1.5	Name of Institution	

## **2. Circumstance of Right to Freedom of Peaceful Assembly in Cambodia**

2.1	Can you describe about the general situation of the right to freedom of peaceful assembly in Cambodia?	
2.2	What is the significance of right to peaceful assembly to Cambodia as a democratic society	
2.3	For your personal opinion, to what extend called public disorder? Justification?	
2.4	What are key challenges of right to freedom of peaceful assembly in Cambodia?	
2.5	Do you think peaceful protest can harm public order?	
2.6	What is legal frameworks to protect their rights, especially the right to freedom of peaceful assembly?	
2.7	What is your opinion or comment on the right to freedom of peaceful assembly?	