

2nd JOINT STATEMENT OF
The Coalition of Cambodian Civil Society Organizations

Phnom Penh, March 11, 2010

Although *the Coalition of Cambodian Civil Society Organizations* (hereafter “the Coalition”), comprised of more than 200 local NGOs and Associations, only received a copy of the current Draft of the Anti-Corruption Law “hereafter “the Draft” at the last minute, the Coalition have made a concerted effort to provide several key comments on the Draft in its previous joint statement issued on March 09, 2010 on the eve of the National Assembly Session convened to debate the Law. The joint and several efforts of the Coalition are aimed at ensuring that the proposed law is good and that it is able to adequately serve Cambodian society and the people well into the new decade through various radio talk shows, press conferences, and the submission of a letter attached to our previous joint statement, requested that the parliamentary debate and adoption of the Draft law be deferred until a later date to allow for more time and scope for public input into the discussion now before the National Assembly.

We are disappointed that our previous recommendation to the National Assembly for the deferment of the discussion and adoption of this important law was not successful. Therefore, due to the urgency of the situation and the limited remaining time-frame, we urge the Royal Government of Cambodia and the National Assembly to consider the following recommendations:

- 1. Public involvement.** The current Draft of the law was only released on March 4, 2010 and coincided with the weekend of International Women’s Day celebration leaving insufficient time for any significant public involvement and comment. Consequently, we believe that there has been inadequate public consultation with respect to the new Draft. Further, we note that the proposed National Council for Anti-Corruption, which is referred to in the Draft, is not fully independent and notably excludes non-government representatives from its composition. There are also no provisions that require either the National Council or the Anti-Corruption Unit, to produce a public report on their findings and activities, which may result in a loss of public confidence in these institutions that should be accountable to the people.
- 2. Witness and whistleblower protection.** These provisions are extremely vague which may cause any potential person who brings forth complaints of corruption and/or serves as a witness to be put in a potentially life-threatening situation. More express protective measures must be included as the current provisions are too limited to offer any real protection to potential witnesses or complainants.
- 3. Independence of the Anti-Corruption Unit (ACU).** This provision does not guard against the removal of the chairperson and we all know that anti-corruption will be highly politically sensitive issue, so that his or her work must be free of political influences. Similarly, the chairperson of the ACU must have only one role which is to chair the ACU exclusively in order to gain the confidence and

trust of the public. He or she must be completely independent and above the politics.

4. **Oversight.** Who will oversee the ACU to ensure that this body is accountable for its roles? The National Council for Anti-Corruption should audit any complaints received which the ACU decides not to investigate, and should audit investigation reports on cases not resulting in prosecution; however, it should not interfere with ongoing investigations.
5. **An independent budget.** It should be clearly stated in the law which organ should control the budget. It should be also clear that yearly budget provided reaches a minimum amount and guarantees should be provided that the budget is not reduced from year-to-year to ensure that the National Council and the ACU have adequate operating funds.
6. **Asset declarations.** To ensure that the ACU has capacity to actually carry out its function, asset declarations should focus on the most senior government officials, and not on all levels of government and NGO leaders. To be truly meaningful, the asset declaration provisions should also be extended to include spouses and children of high-ranking officials. The law should also include a “catch all” clause to include any assets under the subject’s control.
7. **Gift.** In the current draft, “gift” is not properly defined. Also, the term “tradition” should not be a barrier preventing action against any corrupt person. While it is customary to give gifts in Cambodia, the law should clearly define the permissible level or amount of such a gift. Cambodia should look at other comparable laws such as that of Hong Kong, which provides for a maximum amount of a gift (\$100), which ensures that the giver and receiver are not engaged in corruption.
8. **Petty corruption.** We could not excuse any corruption act of livelihood. We all know that our teachers, police, health care workers and other public servants are under-paid. Must they now have an official excuse for their behavior?
9. **Illicit enrichment.** Why does the law allow people to hide their corruption? In this draft, all that a corrupt person needs to do is to declare their ill-gotten assets on their declaration form. Instead, the offence of illicit enrichment should facilitate prosecution of corrupt offenders when it is difficult to find actual evidence of their corruption, and the fact that they have unexplained wealth should raise a rebuttable presumption that it has been derived from corrupt sources.
10. **Broader reform of public administration and procurement processes to mainstream anti-corruption.** Why have these provisions been dropped from the current draft law? The earlier draft provided for a sweeping framework to encourage transparency and mainstream anti-corruption throughout our government. Where have these core principles disappear to?

With these above-mentioned concerns and recommendations, the civil society organizations hope that the Royal Government of Cambodia will implement this law effectively in order to harmonize the livelihood of the people for the benefits of the whole society with the further promotion of good governance, respect of human rights, democracy and social justice. We also believe that if the law is passed in its current state, it will require further amendment in the immediate future when the Government faces huge challenges in enforcing the law or finds that it is ineffective in taking actions against corrupt persons, who are the biggest obstacles to the country's development.

We hope that our position provides constructive criticism and that we are properly fulfilling our role as Civil Society in a democratic nation. We also truly believe that our work will continue to contribute to the building of democratic Cambodian society for all.

This second joint statement is endorsed by many local NGOs and Associations represented by: the Coalition of Integrity and Social Accountability (CISA), the Cambodian Defenders' Project (CDP), the Cambodian Human Rights and Development Association (ADHOC), the Cambodian Leagues for Promotion and Defense of Human Rights (LICADHO), NGO-CEDAW, the Cambodian Human Rights Action Committee (CHRAC), the NGO Forum on Cambodia, the Committee for Free and Fair Elections in Cambodia (COMFREL), SILAKA, the Advocacy and Policy Institute (API), and the Cambodian Center for Human Rights (CCHR).

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