

# -Humanitarian Law RULES!

Center for the Study of Humanitarian Law  
Newsletter

March 2018

## The Presence of the Constitutional Law on the Amendment Art 34, Art 42, Art 49, Art 53 and Art 118 (New) of the Constitution of Cambodia and the Law on the Amendment Criminal Code

On 27<sup>th</sup> Feb 2018, the Constitutional Law on the Amendment Art 34, Art 42, Art 49, Art 53 and Art 118 (New) of the Constitution of Cambodia and the Law on the Amendment Criminal Code are entered into force. Interestingly, these amendment laws have brought along both support and criticism while they were passed in to effect.

The Amendment Law on Constitution changed Art 34 (new) from deduction the right to vote into taking away the right to vote and add on Art 42 and Art 49 the obligation to prioritize the national interest first. In addition, Art 53 were added the provision of opposing the interference from foreign countries on internal affair of Cambodia. Furthermore, Art 118 (new one) also eliminated the secretary of state from the Royal Government members. Apparently, at the same time, the amendment on the Criminal Code Art. 438 (Duplicate) which ban the insulting on the King and follow by the imprisonment up to five (5) years and a fine up to ten millions riels for the violation is also applicable.

The president of the Cambodia Human Rights Committee, Mr Keo Ramy explained that the recent changes is only for the purpose of keeping peace and stability of the country and to comply with the rule of law as a democratic country. Mr Chin Malin, Justice Ministry's spokesman also explained that the amendments were made for the need of the current situation reflexion in Cambodia. However, the United Nation Special Rapporteur on Human Rights, Mrs Rona Smith raised concerns that the Amendment Constitution is restricts the right to participate in politics specially when the law allows to take away the right to vote from citizen, it is going to obstruct the progress of democracy in Cambodia. She further said that "the legislative body should carefully analyse the draft law and organize the public consultant in order to ensure the compliance with International Human Rights Standard".<sup>1</sup>

Noticeably, Art. 19 ICCPR guarantees the right to hold opinion without any interference for everyone. In addition, every person entitled to freedom of expression. However, the right to freedom of expression consist of limitation such as not to abuse the right or reputation of other and to protect national security, public order, public health or morals. Art 41 of Cambodian Constitution also guarantees freedom of expression with following by the responsibilities as stated in ICCPR. This mean that we cannot over use our rights to effect other person's rights since everyone entitles to equal rights and obligation. Therefore, whether the criminal penalty of 5 years for insulting the King meet the minimum standard of legal limitations on freedom of expression and what behaviours or expression constitutes a legal threshold for "insulting".

<sup>1</sup> *UN Envoy Voices concern to government* [Online], The Phnom Penh Post, [Accessed 28 March 2018], Available at: <https://www.phnompenhpost.com/national/un-envoy-voices-concern-government>

## LIBRARY HOURS

March 2018

Mon to Fri: 8.45am –  
5.30pm

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