

-Humanitarian Law RULES!-

Center for the Study of Humanitarian Law
Newsletter

The Legal Aid in Cambodia

Everyone has the rights to defend themselves through the judicial system.¹ This includes having lawyer to represent them in legal depute or defend them in criminal accusation.

The problem is that, how can we ensure that everyone can afford to have lawyer to represent/defend them since Cambodia is being a developing country with many people have been living in poverty. One suitable solution to respond to the above problem is providing legal aid to those who could not afford to have lawyer to defend them in the judicial proceeding. Legal aid is a free public service for people who has legal dispute and do not have sufficient means to pay for it. It is a mechanism that ensures the poor are able to access to justice.

Under Art. 14 of the International Covenant on Civil and Political Rights, all persons are entitled to have legal assistant assigned to him/her when the interest of justice required, and if the accused could not afford to pay the legal aid himself/herself. According to Art. 300 of the Cambodian Code of Criminal Procedure, the accused person may be assisted by a lawyer chosen by him/her, and they may also request to have a lawyer appointed to them. Thus, Cambodia has to comply with these provisions by ensuring that all accused persons are fairly treated before the court. Unfortunately, the lack of legal aid remains one of the main challenges to access to justice in Cambodia. It is due to the shortage of pro-bono lawyers, especially the lack of lawyers working in the provinces, and the limited budget for the legal aid service.

The legal aid in Cambodia is mainly provided by NGOs funded by foreign donors and the legal aid department of the Bar Association of the Kingdom of Cambodia (BAKC).² Recently, the Ministry of Justice has been organizing the consultative process to draft the legal aid policy, supported by the European Community, with the participation from the BAKC, OHCHR in Cambodia, development partners, academic institutions, and the Civil Society Organizations working on legal aid. The objective of drafting this policy is to make sure that the poor can access to justice by receiving the effective and fast legal service. It is also a process to achieve the legal and judicial reform. The legal aid policy has yet to be finalized; however, the new mechanism is created to place lawyers for providing legal aid over 25 city/provinces with an increasing budget for lawyer who provide legal assistant to the poor from 160,000 riels to 400,000 riels per case.³

¹ Cambodia Constitution, Art. 38, 1993

² <http://cambodia.ohchr.org/en/rule-of-law/legal-aid-support>

³ <https://www.youtube.com/watch?v=kHEXVs-0cR8&feature=youtu.be>

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