

SPEECH

Remarks by Erin Soto, USAID Mission Director, Second National Workshop on Peaceful Assembly

Hotel Le Royal, Phnom Penh
October 27, 2006

Your Excellency Nuth Saan, Secretary of State, Ministry of Interior
Your Excellency Seing Lapresse, Under Secretary of State, Ministry of Interior
Your Excellency Sau Phan, Deputy Director, National Police
Executive Director, CLEC, Mr. Yeng Virak
Distinguished Guest, Ladies and Gentlemen

I would like to begin by acknowledging the staff and leaders of the Ministry of the Interior for their continued hard work in producing this draft law; particularly the extent to which they have reached out to civil society, and considered the comments that have been put forward by various stakeholders.

My compliments go to the Community Legal Education Center for its ongoing work in facilitating this dialog between government and civil society on this important topic. Being the facilitator, continually working to maintain productive communications between different parties on complicated issues is never easy work.

Thanks also to the many non-governmental organizations and unions that have worked hard throughout this entire process, engaging with the government on this issue, and that have prepared to participate in a substantive, professional dialogue here today. There is no substitute for such government-civil society dialog. It is the only way to ensure that laws and policies are enacted and implemented in a manner that serves the interests of both the government and its people.

There is no denying Cambodia's difficult track record on Peaceful Assembly issues. Applications for demonstrations are routinely denied, and demonstrations that have occurred in the past have been marred by problems. This draft law presents an important opportunity to move beyond the past. It's an opportunity for the government to begin a new phase in its democratic development in which peaceful assemblies routinely occur without harassment, and in which citizens publicly exercise their views in a peaceful and responsible manner.

Many changes in the draft law have been noted since the last workshop. One significant change is the shift from an “approval” system to a “notification” system for assemblies. In other words, demonstration organizers need not seek approval before engaging in a peaceful assembly. Instead, they need only inform the government of their intentions. This is an important fundamental shift in the law, and clearly indicates the government’s willingness to tolerate and even encourage peaceful gatherings of citizens.

I also note that former drafts had included a requirement that organizers submit detailed information about language about banners, signs and flags that will be used in a demonstration. Such a provision led to concerns of potential censorship, and I am encouraged to see that those provisions have been removed.

I understand that the government and civil society are still struggling with a few key concepts and I assume you will work on them today. For example, there is still the issue of clarifying those instances in which the government must have the right to intervene and prohibit a peaceful assembly. The legal words used to define this are to protect things like “public order,” “public safety” and “security”. I understand that in your negotiations there have been attempts to define what is or is not a threat to public safety or order. For example, the law currently says that creating a traffic jam is not a violation of public order; on the other hand, demonstrations cannot be held on certain holidays, presumably because to do so would constitute a threat to safety and order. While it is good to clarify certain examples, I also caution you that to try to clarify every kind of threat to safety or order may raise the chance that you include too many things, or forget to include others. Remember that Cambodia is not alone in trying to sort out these sorts of issues. In fact, there is a whole body of international practice on this point. The UN Covenant on Civil and Political Rights even uses the same language. It may be easier to refer to and commit to acting consistently with that international practice. In that way civil society and government can both simply look to the international stage to see that the interpretation of such words as “public order” and “public safety” is done in a manner consistent with other countries using the same approach.

While the government will no longer be in the business of approving demonstrations, it is still important that the authorities and demonstration organizers talk to each other before a demonstration actually occurs; not to determine approval or disapproval of a proposed demonstration, but to discuss logistics -- things like the route the demonstration will take, confirming the timing, etc. Such communication can go a long way towards ensuring that a demonstration occurs without any injuries or problems. Civil society and the government have communicated well in the course of developing this law. I urge you all to continue this tradition in the planning of actual demonstrations.

These are only a few points that I would like to raise. I know that participants today have many other things to discuss as well. You have a lot of work ahead of you today, and I wish you every success in creating a law of the highest possible quality that all Cambodians can be proud of.

Finally, I want to return to the issue of implementation. Both government and civil society have spent almost two years in formulating this law. During that time, you've talked together about difficult questions in the law, and quite admirably resolved a number of key questions. I urge both the government and civil society to continue this engagement. The inclusive process through which this law is being created properly raises expectations that it will be implemented in a similarly even-handed and transparent manner. By continuing to work together in good faith when peaceful demonstrations are planned and implemented, government and civil society can build on the goodwill developed during this drafting process to ensure that all Cambodian citizens enjoy one of their most fundamental rights – the right to peaceful assembly.

Thank you.