

Fact Sheet: Fundamental Freedoms Series: Freedom of Expression and Academic Freedom



Fundamental Freedoms: Freedom of Expression and Academic Freedom

Snapshot: Freedom of expression and academic freedom are both protected under provisions of domestic and international law. The recent decision by the Royal University of Law and Economics (“RULE”) in Phnom Penh to issue a list of prohibited thesis topics to students seriously impinges upon both the right to academic freedom and the right to freedom of expression, and is the latest in a series of restrictions on freedom of expression in the Kingdom of Cambodia (“Cambodia”).

Introduction

In light of the recent announcement by the Research Department at RULE, namely a list of prohibited thesis topics for the current academic year (the “Banned List”), the Cambodian Center for Human Rights (“CCHR”) examines the right to freedom of expression in the context of academic freedom. Freedom of expression is a fundamental human right which allows everybody the freedom to hold opinions and to seek, receive and impart information and ideas through any medium. Academic freedom is encompassed within the broader concept of freedom of education, which also includes the right to receive an education. However, this fact sheet will examine academic freedom in terms of how it relates to an individual’s freedom to study a subject matter of his/her choice and be able to express his/her academic opinions and views relating to the subject matter in question without limitations or restrictions being imposed. CCHR is a leading, non-aligned, independent non-governmental organization working to promote and protect democracy and human rights – primarily civil and political rights – throughout Cambodia.

Freedom of expression and academic freedom – domestic and international law

The rights to both freedom of expression and academic freedom are promoted and protected under Cambodian law. Article 41 of the Constitution of the Kingdom of Cambodia (the “Constitution”) provides that Khmer citizens shall have the right to “*freedom of expression, press, publication and assembly*”, while Article 35 states that all Khmer citizens shall have the right to “*participate actively in the political, economic, social and cultural life of the nation*”. Academic freedom is guaranteed under Article 66 of the Constitution. Furthermore, Article 18 of the Law on Education (the “Education Law”) stipulates that higher education institutions shall educate students in order to promote the full development of the human personality and promote research in order to facilitate the development of Cambodia. In addition, Article 35 of the Education Law affords students the right to “*free expression of their academic views*” and the right to “*freedom of study*”.

In addition to the aforementioned provisions, Article 31 of the Constitution states that Cambodia shall recognize and respect the Universal Declaration of Human Rights (the “UDHR”) and the covenants and conventions related to human rights, thereby incorporating the UDHR and the International Covenant on Civil and Political Rights (the “ICCPR”) into domestic law. Article 19 of both the UDHR and ICCPR, the latter of which Cambodia acceded to and ratified in 1992, provide for the universal right to freedom of expression. Furthermore, Article 26(2) of the UDHR protects the right to academic or educational freedom.

Freedom of expression in Cambodia – setting the scene

The situation of freedom of expression in Cambodia is dire. The Royal Government of Cambodia (the “RGC”) tightly controls all forms of media, including television and print media, and has been extremely quick to crack down on those whom it deems to have expressed views that are critical of

it and its affiliates. Previous crackdowns have seen: criminal prosecutions brought against journalists, human rights activists and opposition parliamentarians; the closure of newspapers and other media outlets; and the threats of disbarment against lawyers. Through abuse of the legislative framework and a partisan judiciary, the RGC has been able to suppress dissenting voices and severely limit freedom of expression in Cambodia.

Freedom of expression – academic freedom and the Banned List

Against this bleak freedom of expression backdrop, the Banned List both restricts academic freedom and serves to further limit freedom of expression in Cambodia. Despite comments made by the Director of Research at RULE suggesting that these topics were prohibited due to concerns over plagiarism by students, a closer inspection of the Banned List suggests that there may well be a political motive behind such a ban. The Banned List contains politically sensitive topics such as “land conflict resolution” and “labor dispute resolution”, which are both areas in which the conduct of the RGC has been subjected to severe criticism. Furthermore, as regards academic censorship, there is a precedent: on 14 July 2010, *The Phnom Penh Post* reported that the Ministry of Information withdrew two textbooks from bookshops across the country following a letter from the Education Minister saying that they contained “*unsuitable political content*”.

A move to prohibit thesis topics addressing sensitive issues raises concerns that the ban is a strategic move to restrict members of the academic community from voicing criticisms ahead of the upcoming Commune and National Assembly elections. In addition, a number of topics on the Banned List relate to Cambodia’s nascent stock exchange, which can be construed as a move to prevent the publication of critical views that could hurt investor confidence ahead of a series of initial public offerings slated to take place in 2012. However, regardless of whether the banning of such thesis topics is politically motivated or due to concerns over plagiarism, it should not detract from the simple fact that such a ban restricts both academic freedom and freedom of expression.

Conclusion

The issuance of a prohibited list of thesis topics by RULE severely restricts academic freedom and only serves to compound an already bleak freedom of expression landscape in Cambodia. Such a ban is contrary to provisions of both domestic and international law relating to both freedom of expression and academic freedom.

CCHR contends that universities have a duty both to create a model of a functioning society, and to nurture an academic community that operates without restriction as to its curriculum and is able to freely contribute to political, economic and cultural debate, as a pre-requisite to the future development of the nation, both social and economic. CCHR urges both RULE and the RGC (as the regulator of the education sector) to take the necessary steps to foster such a community, and to ensure that provisions contained in both domestic and international law relating to academic freedom and freedom of expression, as detailed above, are respected and enforced.

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