

INTEGRITY AND INDEPENDENCE OF ANTI-CORRUPTION OFFICIALS IN CAMBODIA

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I. THE INTEGRITY OF ANTI-CORRUPTION OFFICIALS

Integrity can be considered as a strong moral principle that individuals and institutions need to comply with. Integrity is obtaining a sense of trust, professionalism and confidence from the public. In the early stages of the establishment of the Anti-corruption Unit (ACU), integrity of officials was on the top of the agenda to make sure that all officials maintain the highest standard of integrity and dignity. It was a good start for good officials.

A. Inspection and Supervision of Anti-Corruption Officials

In December 2014, the Disciplinary Council and Internal Control (DCIC) was established. The legal mandate of the DCIC is to issue internal rules and inspect and supervise anti-corruption officials.¹ Where there is any violation of work discipline and/or conflict of interest, or any complaint against anti-corruption officials, the DCIC will open an investigation.

The DCIC pronounces the following disciplinary sanctions²:

First degree:

- Oral censure;
- A written record of censure entered into the official's personnel file;
- Involuntary transfer of the official from the existing post/position following the disciplinary action and measures;
- Removal of the official's name from the list requesting promotion of rank and position.

Second degree:

- Severe reprimand which results in the permanent removal of the official's name from the existing list of rank/position promotion once that individual's name is already on the list or suspended or delayed promotion of rank or position of that official for a limited period of time, but this promotion sanction shall not be applied for longer than the period of two years in the promotion turn;
- Impose unpaid suspension on that officer for the period not longer than one year;
- Downgrade the official's rank/position one scale lower or more than one scale;
- Force the officer into early retirement or dismissal from office;
- Dismissal of the officer from the civil service;
- File the case in court.

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¹ Decision on the establishment of the Disciplinary Council and Internal Control (DCIC), art. 2,5.

² Internal Rules and Regulations for Anti-Corruption Officials, art. 12.

B. Asset Declaration and Liability Disclosure

The declaration of assets and liabilities is a historic work of Cambodia that was developed as a tool to prevent corruption. All ACU officials including contracted officials declare their assets and liabilities every two years. Failure to declare or wrongly declare the assets and liabilities is subject to a sentence from one month to one year in prison and a fine from one hundred thousand Riel (1,00,000) to two million Riel (2,000,000), and the official is forced to declare the assets and liabilities to the ACU. In case of refusal, double punishment shall be applied.

Where there is an increase in the official's assets and the official cannot provide reasonable explanation in comparison to his or her lawful income, such unexplained wealth is subject to confiscation. All of the confiscated assets will become state property. In addition, if the unexplained wealth is connected to any corruption offence, the property's owner shall be punished in accordance with the anti-corruption law.

C. Education and Training

Capacity-building and integrity are among the most important agenda items, and they are included in the national anti-corruption strategy phase 3 (2020-2025). There are 12 courses on integrity per year. The course aims to raise awareness about the importance of integrity and the risks of corruption. Each course has 40 to 60 participants randomly selected from all departments in the ACU. All anti-corruption officials have attended this course. Furthermore, there are nine specialized training courses, such as case management, firearms training and gun safety, mobile phone forensics etc., conducted each year to enhance capacity-building and professionalism.

D. Conflicts of Interest

1. Hospitality Management

Apart from official hospitality, which includes participation in workshops, conferences, and so forth representing the ACU or as a guest of honour nominated by the President of the ACU, "Hospitality" refers to an invitation for entertaining activity, the offering of accommodation, travel arrangements and other services provided related to health, education, dining out and so forth.

ACU officials cannot accept the payment of any health service fees on their behalf or any health insurance offered by any party, except offers from the government, family members and relatives. For close friends who wish to provide such support, the officer must seek permission and get approval from the President of the ACU and the Head of the DCIC.

"Dining Out" refers to having meals at any places such as at homes, restaurants etc. when offered by other parties. Dining out may be arranged among ACU officials without the presence of other parties or being arranged or paid for by other parties. Payment of the bill must be in one of two ways: shared bill (Russian style), or the higher-ranking official must pay the bill for the subordinate officials (ACU Style).

2. The Management of Gifts

According to the ACU, "Gift" refers to any assets or services given to ACU officials by a natural person or a legal entity which are not considered as an agreement, and it is not a traditional or customary gift such as gifts given at weddings or religious ceremonies.

All gifts which are worth 100,000 Khmer Riel or more should be rejected, except in the following cases:

1. Formal gift;
2. Gift from lottery programme or any form of competition;
3. In situations that the recipient finds it hard to reject or cannot reject the gift;
4. Permission was obtained from the President of the ACU.

When receiving or declining gift, ACU officials are required to immediately report to the President of the ACU and the Head of the DCIC. The Head of the DCIC shall make a decision as follows:

1. The recipient can keep the gift for the recipient's personal use;
2. Order the sale of the accepted gift to the recipient according to the market price in case there is a request made to buy the gift;
3. To keep the gift as the property of the ACU.

Where there is an offering of hospitality or gift, an anti-corruption official must seek permission from the President of the ACU and the Head of the DCIC via a means of telegram³ where the name of participants, the inviting party, the venue, time, the content and the purpose of the meeting shall be informed. The President of the ACU and the Head of the DCIC have to reply within 60 minutes upon receiving the request. After receiving such request, the Head of the DCIC shall copy that request into the telegram of the DCIC, and summarize the request and post it in the ACU's official telegram. In case of there is no reply, the request is considered to be approved.

3. On Case Assignment

Complaint officers and case officers must declare actual conflicts of interest, perceived conflicts of interest, and potential conflicts of interest once having been assigned to fulfil any missions or any working objectives.⁴

II. INDEPENDENCE OF THE ANTI-CORRUPTION UNIT

With a strong political will to combat corruption, the anti-corruption institution is independent in budgeting,⁵ structure⁶ and operations.⁷ On budgeting, an amendment of the anti-corruption law provided the anti-corruption institution with a special budget from the national budget. The operational budget is from 0.2 to 0.3 per cent of the national budget

³ A mobile application used for communication.

⁴ Internal Rules and Regulations, 14th point and 2012 ACU Standard Operating Procedures (SOP) of Investigation.

⁵ Law on the Amendment of the Anti-corruption Law, art.16 new.

⁶ Law on the Amendment of the Anti-corruption Law, art.10 new.

⁷ Anti-corruption Law, art. 11.

per annum.⁸ The budget is subject to review every three years. Where there is a need, the ACU can request supplementary allocations as necessary.

On operations, the ACU is mandated to investigate all kinds of corruption offences and to refer these cases to the court without any consultation with any ministry. The ACU is accountable to the National Council Against Corruption and the National Assembly. To fulfil its mandate effectively, the Law on the Amendment of the Anti-corruption Law (2011) also provided the president of the National Council Against Corruption the right to structure and nominate officials from the deputy director level to bottom line.

Anti-corruption Unit:

The mission statement of the ACU is to promote integrity and the fight against corruption by all means, in all sectors, and at all levels in Cambodia through education, prevention and deterrence, and law enforcement with participation from the public and international cooperation. Since the establishment of ACU, there has been a great change in the public mindset – that is, participation in the fight against corruption has increased year by year from every corner of society. As a result, there has been a significant increase in state revenue every year, which improved the efficiency of the delivery of public services. Furthermore, at the time of this report, 100 Memorandums of Understanding (MOUs) have been signed between the ACU and the private sector to demonstrate the commitment of those private companies to remain corruption free.

There are many challenges along the way. These challenges include:

1. Changing the mindset, concept and habits of a society takes time and participation.
2. Legal framework, procedure and mechanism: the implementation of the recommendations obtained from the UNCAC review process have not yet met the requirements for both witness and whistle-blower protection, asset recovery and mutual legal assistance.
3. Anti-corruption efforts require participation from all stakeholders to work together: that is, the participation from all stakeholders both from the public and private sectors.
4. Inter-agency coordination: despite positive and smooth progress, there is a need for greater participation and understanding in both the public and judicial institutions, especially on new priorities such as anti-money-laundering efforts, asset recovery and so on. The mobilization of the participation of other stakeholders will increase the speed and effectiveness of anti-corruption efforts.
5. Professional resources: skills such as financial document analysis, computer forensics and accounting are still limited, especially when dealing with complex and cross-border cases.
6. International Cooperation: although the ACU has had good experiences in collaborating with foreign counterparts, this work is still a challenge that

⁸ Sub-decree on the management and division of budget of the ACU.

requires building more knowledge, skills and expanding bilateral and multilateral relations as much as possible.