

# **CORRUPTION: THE CASE IN CAMBODIA**

*Vathanak Sina Neang\**

## **I. DEFINING CORRUPTION**

Corruption may be defined as the abuse of public position for personal gain or for the benefit of an individual or group to whom one owes allegiance. Corruption occurs when a public official accepts, solicits, or extorts a payment, or when private agents offer a payment to circumvent the law for competitive or personal interest (CSD, 2002:72). Corruption is a two-way process, involving members of both the public and private sector, or a “giver” and a “taker” who are engaged in illegal, illegitimate and unethical action.

## **II. FORMS OF CORRUPTION**

Corruption takes a variety of forms: bribery, nepotism, patronage, theft of state assets, evasion of taxes, diversion of revenue and electoral fraud. The theft of state assets by officials in charged of the stewardship, and manipulation or violation of electoral laws regarding campaign finance and voting is also considered as corruption.

Distinction should be made between “greased” corruption which is payment made to or sought by public official for performing their legal duties, or sought for illegal action. Distinctions are officials and “grand” corruption, which is practiced by senior officials obtaining large benefit for themselves.

Corruption should be “individual” or “collective” according to the number of people involved. Further, it should be classified as “systematic” and “non-systematic” according to the degree whether the corruption was planned and purposely organized. In Cambodia, usually promoting someone to a high government position is connected to his/her contribution in own party’s interest, so sometimes the corruption is seen to have a chain and cyclical character.

## **III. FACTORS AFFECTING CORRUPTION**

In general, it can be said that corruption flourishes where the institutions of government are weak, where a government’s policy and regulatory regime provide scope for, where oversight institutions (parliament, judiciary, civil society) are marginalized or corrupted themselves. It must be stressed that the causes of corruption are highly contextual, rooted in a country's political development, legal development, social history, bureaucratic traditions, economic conditions and policies. Therefore, efforts needed to combat corruption tend to vary from one country to another.

*(a) Political Factors:* Corruption levels are linked to the strength of civil society, freedom and independent of the press. Furthermore, for Cambodian context, due to the fact that the government is formed and influenced by political parties, so the objectives and political strategies play a dominant role in getting and spending their resources. Sometime, the corruption cycle seems to be appeared from time to time and becomes systematic.

---

\* Director, Legal Affairs Department, Ministry of Justice, Cambodia.

(b) *Legal and Ethical factors:* A major factor that linked to corruption is the quality of the country legal system, to the existence of effective anti-corruption laws and to the capacity to enforce laws. The corruption also takes place where the ethical value was neglected by the people, for instance, people who commit corruption neglect their dignity and follow their egoism.

(c) *Bureaucratic factors:* In setting with higher regulatory and bureaucratic interventions in the economy, the incidence of corruption tends to be higher. Where government imposes a large number of rules and regulations, there is greater opportunity for public officials to exploit or subvert them. As discretion increases and accountability declines, the potential for corruption grows.

(d) *Salary factors:* Where the wages of public servants are low or there exists a large disparity between public and private sector wages, public servant are more tempted to engage in corrupt practices.

(e) *Economic factors:* Corruption is more likely to proliferate where government creates monopolistic economic setting.

## IV. CONSEQUENCES OF CORRUPTION

The endemic corruption has severe consequences for the quality of governance and efforts to attain sustainable development. Corruption is a form of public theft. In stead of acting “grease”, corruption serves as a kind of “sand” in the gears of public policy decision-making.

### A. Political Consequences

Corruption is insidious, attacking the quality of governance and national stability by undermining the legitimacy of the political process. It fosters contempt for the public service and leads to cynicism about politics. It distorts decision-making, resulting in the wrong projects, prices and contractors, substandard delivery, and promoting of corruption at lower levels. Corruption in the election has also serious consequences. Because of the election campaigns are expensive, candidates and parties rely on funding from wealthy individuals or corporations.

### B. Economic Consequences

Corruption compromises the achievement of sustainable development objectives. Bribery results in additional business costs, a burden to small entrepreneurs, and the allocation of the country’s human capital and talent. The continuous attention demanded of business by corrupt officials also threatens economic productivity.

Corruption distorts the fair rules of competition. A majority of firms doing business in Cambodia identified unfair or informal competition as at least a moderate problem. Of a variety of potential practices of competitors evaluated that the competitors conspiring to make them in unfair and difficult situation in competitions, such as limit of their access to market and suppliers, competitors, some perceived that the government does not treat firms equally.

Corruption becomes focused on the highest bribe, thereby denying the public advantage of a competitive marketplace.

The poor bear the heaviest burden in such situation, reinforcing gaps between rich and poor. Corruption results in tax evasion and significant losses of revenue for the State. It slows direct foreign and domestic investment because it is perceived as a form of taxation. Corruption causes major misallocation of scarce resources. Instead of meeting basis needs such as food, health and education, resources are sometimes used to finance purely prestige projects with no economic value. In short, the corruption is at root of under-development and poverty.

### **C. Social Consequences**

The political and economic consequences have significant social impact. The corruption demoralizes the population and leads to a lack of confidence on the State Institutions. If it is allowed to expand, corruption erodes political legitimacy. Corruption also causes unequal distribution of public assets and funds to different social class. Very often the poor are the victim of the corruption. Unfortunately, many Cambodian (84%) treat bribery as the normal way of life in their country (CSD, 1998:38).

In brief, uncontrolled corruption also undermines the credibility of democratic institutions and works against good governance. It is the most visible consequences are poor public services, increased social polarization, disinvestments and exclusion.

Corruption on its most basic level is the diversion of public finance and material resources away from the public use for which they are intended. Corruption is simply the private benefit of a few powerful officials at the expense of the people. Money that should go to the treasury in order to provide for the people, through corruption is instead going into the pockets of the senior officials.

In a speech at the conference on Corruption and its impact on National Reconstruction and Reconciliation, Finance Minister estimated that the state as losing up to USD 100 million a year to corruption, primarily because of illegal logging, rubber exportation and fishing (CSD, 1995). Other sources are skeptical that the above assessment was quite low and put the cost at \$ 300 million (CSD, 2002:58).

Corrupt practices are responsible for a catalogue of environmental disasters, in particular the destruction of Cambodia's forests – natural resources which the country can, but ill afford to lose. In 1997, the International Monetary Fund canceled \$ 60 million in loans to Cambodia because of corruption in the timber industry. Taking its lead from the IMF, The World Bank declined to renew its budgetary support. Over three years, that support had amounted to roughly \$ 85 million (Reuters, 9/23/97).

After discovering that large quantity of rice reportedly worth more than a million dollars was stolen, the WFP alerted the government of the scandal. Many people, including its staffs and government officials involved in this fraud. The WFP has halted new Food for work activities until it can implement safeguards against corruption. Prime Minister Hun Sen agreed to reimburse the WFP for its losses (Cambodia Daily, 9/08/2004).

Recently, the World Bank's report revealed that the pervasive corruption, a suffocating bureaucracy and weak law enforcement are crippling the growth of private business, rendering them uncompetitive globally economy. Roughly, 80 percent of 800 firms surveyed in the report acknowledged that "the necessity of paying bribes," which eats up an averages of 5.2 percent of total sales revenue –more than double the amount paid by their counterparts in Bangladesh, Pakistan and China. The report is also mentioning "Trade facilitation practices in Cambodia stand out in having high official and unofficial costs, delays, uncertainty and discretion – a critical problem for a country that must rely on exports for growth. In addition to corruption fees, the report found, firms also pay in time wasted through bureaucratic delays. The complaints of businesses regarding overlapping and time-consuming governmental procedure need to be thoroughly examined, and when these complaints must be justified and corrected.

## **V. CORRUPTION CASE**

In order to start a business in Cambodia, business owner needs to have licenses from different governmental organizations and local authority. Every place where they ask for the services usually takes long time to process the request. The total cost of this process is carried out by an entrepreneur acting alone is about US\$ 1500, and the total time required is around 94 days. The cost which include unofficial fees is very high. Unfortunately, registered firms in urban areas paid three times more informal fees than unregistered firms. Formal registered firms spend more time dealing with public official.

Import and export processing, involving a multiplicity of steps, introduce substantial delays, uncertainty, and discretion into the process of trading goods. If they purchases machines, tools or raw materials from abroad, they need or don't need to pay tax according to the conditions that they export their products or not. To get their imported machines, raw materials from the port warehouses, business firms

need to fill and present many documents. The port authority, Customs official, and Camcontrol have to check the goods imported. In each request these government officials to verify the bills, the transaction is formed. Garment factories, responsible for more than 90 percent of the country's exports, typically hire brokers to clear goods from Camcontrol, trade preference and Customs. To bring a 40-foot container from the seaport of Sihanouk Ville to Phnom Penh, a factory has to pay around US\$800, half of which is hidden cost whereas in Vietnam it costs \$US 200, in China it cost \$US 350, in Indonesia it costs \$US 320, in Malaysia it costs \$US 300, in Sri Lanka it costs \$US 484, in Madagascar it costs \$US380 (Materials from the 6th private sector forum).

Trading firms reported that border police and veterinary and phyto-sanitary office also carry out their own inspections. So each step involves delays, formal costs and informal payments. Customs clearance by itself imposes substantial delays and great variation, and hence, unpredictability. On average, firms report that import take 6.5 days and great variation, exports take 4.5 days. However, this timing is variable. Clearance at the port of Sihanouk Ville involves, for Customs purpose only, twelve steps, which mainly consist in visiting, sometimes repeatedly, key officials. Importer must see during the clearance (i) Customs headquarters, (ii) twice the chief of Customs at Sihanouk ville, (iii) twice the chief of port Customs, and (iv) twice his deputy; two different positions are responsible for affixing stamps on the declarations. Each step may involve long waits and negotiations. All cargo that is neither sealed nor pre-inspected by SGS is submitted to a routine X-ray scan (with very limited rates of detection of irregularities), after which a decision is made whether or not to inspect the shipment. All goods taken out of the port can be re-examined at the gate (World Bank report, 2004: 18-19)

After the production, the garment factories additionally need to have Certificate of Origin from the trade preference department of Ministry of Commerce. Department needs to inspect goods before issuing the above certificate. During the inspections money regularly exchanges hands. It cost them from \$150 to \$170 and half of which is hidden costs. Then they have to transport container full of finished garment back to the seaport. The outbound cost is about 880 \$US, as they need to accommodate additional inspection (Materials from the 6th Government – private sector Forum).

Cambodian firms are subject to an unusually high number of inspections, averaging 16 per year.

Officials usually do not see something wrong with their practices. "It's not bribery, it's more like sympathy. Some small thing to sustain the life of the inspectors." But the cost of doing business in Cambodia is not similar for all. Companies with links to "senior officials" pay less for inspections. Paying at least 5.5 percent of business annual revenues in unofficial fees could be just too high for many (Phnom Penh Post, June 4-17, 2004).

## **VI. MEASURES TAKEN BY THE ROYAL GOVERNMENT OF CAMBODIA**

The Royal Government completed some other activities to cope with corruption:

In 1996, three customs officials were suspended for a document-forging scheme in which they undervalued imported vehicles so they pockets the difference in import duties, which amounted to hundreds of thousands of dollars. Later, Second Prime Minister Hun Sen warned 1,000 to 2,000 customs officials that they risked losing their jobs if they continued cheating the country out of badly of needed tax revenues (Associated Press, 10/17/1997).

In 1999, Prime Minister Hun Sen told a forum that Customs officials who demand bribes would be fired. He added, "*Mr. Customs has to stop disturbing investors. Customs is the king of corruption*" (Cambodia Daily, 3/27-28/04).

Recently, Prime Minister Hun Sen said in a strongly worded speech at CDC: "*If we don't ban corruption, we will lose investment and we will die*". The premier also announced several "concrete measures" to streamline the import-export documentation process in an effort to reduce corruption and make the garment industry more competitive. From 1 September 2004, the Customs and Excise Department and Camcontrol will conduct joint inspections. Also, the cost of registering a business at Commerce Ministry will drop from \$615 to \$177 and the time spent on paperwork will be cut from 30 days to 10 days

(Cambodia Daily, 8/21-22/2004).

- Facing the invasive corruption, the government agreed that it must do more to improve the investment climate by tackling the high cost of business, bureaucratic red tape and corruption. During pre-CG meeting, Prime Minister Hun Sen responded to the donors' concerns, declaring "*war*" on corruption, legal and judicial reform and public administration reform. He announced that he would force his ministers to answer questions from the National Assembly once a week. He threatened to *bring to court any official who do not change their corrupt activities* (Cambodia Daily, 9/11-12/2004).
- At the National Conference on Strengthening Good Governance Poverty Alleviation and Development on 14 December 2004, Prime Minister said that the tax revenue amounts to mere 7.5 percent of the government's budget compared to 8.6 percent in Laos. He announced that in an effort to generate greater tax revenue and impose stricter rule in the bureau he would remove the Finance Ministry's tax department director from his post. In addition, the premier announced to offer incentives to those who apprehend smugglers (Cambodia Daily, 15/12/2004).
- Addressing at the National Health Congress on 03 March 2005, Prime Minister announced an emergency campaign by using "*iron fist*" of judicial reform, vowing to re-arrest hundreds of armed robbers who bribes their way out of jail and to arrest of corrupt judges and prosecutors (Cambodia Daily, 04/03/2005).

Report on corruption in Cambodia Page 6 of □ The Commerce Minister Cham Prasidh, 14 March 2005, vowed to resign at the end of the year if by that time corruption still plagues the taxation and regulation of the garment industry. He added, "*in order to help the garment sector to survive, we must cut all the under-the-table costs,*" "*How can I still be a commerce minister if the garment industry dissolves?*" Last month on February, Prime Minister Hun Sen laid out a 12-step plan aimed primarily at ending corruption affecting export industries. The plan focused on simplifying customs procedures and eliminating opportunities for bribe-taking (Cambodia Daily, 14/03/2005).

Speech at the close of the Ministry of Interior's annual conference on 17 March 2005, Prime Minister Hun Sen warned that police, military, court, and government officials will be punished if they are caught conspiring with those who run the sex trade. He said, "Regardless if you are wearing star ranks, even moon, you will be remove". (Cambodia Daily, 18/03/05)

Besides warning, blaming and promising made by the Prime Minister, the government has achieved many concrete measures such as:

- Establishment of National Assembly-Senate Relations and Inspection
- Set up the National Auditing Authority, an independent public institution shall report directly to the National Assembly, Senate and the Royal Government for information purpose.
- Establishment of "Priority Mission Group" (PMG) with technical assistant of ADB
- Acceleration of legal and judicial reform program
- Completion of the Governance Action Plan (GAP): the eight priority areas such as the Legal and Judicial Reform, Administrative Reform, Decentralization and Local Governance, Public Finance Reform, Anti-Corruption, Gender equity, Demobilization and Reform of the Armed Force, and the Reform of Natural Resources Management.
- The government subsequently drafted its own legislation concerning anti-corruption
- Set up regular forum between investors and government officials

The government launched the Rectangular Strategy acknowledging good governance and fighting corruption are quite important.

## VII. ACTION TAKEN BY STAKEHOLDERS TO FIGHT CORRUPTION

### A. The National Assembly and Senate

The National Assembly had adopted Law on Audit and Civil Servant Statute Law.

### B. Political Parties

In Cambodia, during the 1998 and the 2003 election campaign, anti-corruption measures were featured in every major party's political platform.

### C. International Organizations and Donor Countries

They asked the Government to submit the Anti-corruption draft law to the National Assembly by June 2003, and urged the Government to endorse the Anti-corruption Action Plan for the Asia and Pacific, which already been adopted by seventeen other Asian and Pacific government in Tokyo in 2001.

#### 1. Civil Society

Many non-profit organizations play a crucial role in combating corruption. Among them, Center for Social Development (CSD) actively organizes conferences, seminars, publishes and distributes journals and brochures educated how to deter corruption.

#### 2. Citizenship

From time to time the people complaint about the local authority, police or soldiers who ask the bribe when the people transport their farm product to the markets.

#### 3. The Press

The press from time to time publish stories on corrupt cases.

## VIII. CONDITIONS FOR A SUCCESSFUL ANTI-CORRUPTION CAMPAIGN

Now it is recognized that in order to fight corruption successfully, there are seven crucial factors, as follows:

#### (i) *Will*

It must have strong a political will to deal with this problem.

#### (ii) *Law*

It must be a strict law defining clear offenses, showing the value of community, power for effective investigation, and rules of evidence for a fair prosecution for those who accused of corruption.

#### (iii) *Strategy*

To fight corruption it must have a clear, full and consistent strategy which consists of three significant components:

- Effective law enforcement,
- Deterring corruption by elimination of loopholes which may cause both grand and greased corruption,
- Deterring corruption by educating and encouraging the public people to contribute and fight corruption.

#### (iv) *Facilitating Activities*

In order to make the above components effective, it must have the facilitating activities.

#### (v) *Resources*

Leaders have to recognize that to fight corruption successfully it depends upon both human and

financial resources.

*(vi) Public Support*

The authorities are not able to fight corruption without contribution of people, so all the communities should join from the start.

*(vii) Patience*

Everyone should be aware that to gain success in fighting corruption it takes times and may cause hurt. Furthermore, when the measures are taken, they shall be under a continuous supervision. As a result, the commitment needs a long period of times and resources for anti-corruption in which permanent expenditure of annual national budget is required.