

A STUDY ON THE IMPACTS OF CORRUPTION ON MSME SECTOR IN CAMBODIA

By

DY Chhunsong

THESIS

Submitted to
KDI School of Public Policy and Management
in partial fulfillment of the requirements
for the degree of

MASTER OF PUBLIC POLICY

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Professor RHEE, Ki-Eun

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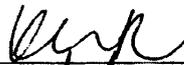
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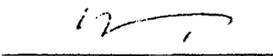
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Approval as of November 18, 2011

ABSTRACT

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DY Chhunsong

Micro, Small, and Medium Enterprise (MSME) has been an important sector that enhanced economic development in Cambodia in the last decade. MSME encompasses nearly 96% of total firms and 40-50% of the labor force in Cambodia. However, corruption has been found to be a major obstacle in the development of MSME. It is reported that MSME lost 330 million US Dollars, which is equal to about 6% of Cambodian GDP in 2005, due to corruption. This research investigates the causes and possible remedies for corruption that are specific for Cambodia. Based on many national and international reports and surveys, I find that slow adaptation of anti-corruption law, inertia of Cambodian people to corruption, and the lack of accountability of public employees are the main causes of corruption. Therefore, I propose the following remedies for the Royal Government of Cambodia to combat corruption: i) Create better anti-corruption tools such as anti-corruption court, anti-corruption plan, corruption media, and accounting and auditing standard; ii) Enhance public support and participation to raise the awareness and facilitate reporting complaints of corruption; iii) Improve its internal laws and regulations. I also discuss possible implementation methods.

ACKNOWLEDGEMENT

This thesis would have neither come into being nor been successfully completed if there had been a single absence of the following people. First and foremost, I would like to extensively acknowledge the much appreciated contributions from my major advisor—Prof. RHEE Ki-Eun, and my second advisor—Prof. Park Hun-Joo. I highly and wholeheartedly appreciate their comprehensive inputs, constructive criticisms, invaluable ideas, comments, time and efforts, all of which provided meaningful and beautiful drawings to the fruitful outcome of this report. I wish to express my profound thanks to Ms. NY Sokhom, KDI Alumnus 2009, for her assistance and comments in planning this report since the very early stage. I also would like to express my gratitude to Mr. POCH Kongchheng, KDI Alumnus 2010, and Mr. Kea Sothy, IFL Lecturer, for their help and support to provide useful data and edit this report. Lastly, I would like to offer special thanks to the faculty members, staffs and other students of the KDI School of Public Policy and Management who have helped and eased the writing process of my thesis.

TABLE OF CONTENTS

Chapter 1: Introduction	1
1. Background	1
2. Statement of Problem	2
3. Definition of MSME and Informal Charge	3
3.1 Definition of MSME	3
3.2 Definition of Informal Charge	4
4. Research Methods	6
5. Scope of the Study	7
Chapter 2: Corruption: Theory and Evidence	8
1. Perceptions of Corruption	8
2. Causes of Corruption	8
3. Impacts of Corruption	10
4. Stages in Fighting against Corruption	11
5. Methods to Combat Corruption	12
5.1 Demand Side	12
5.2 Supply Side	13
6. Related Case Study	14
Chapter 3: Corruption in Cambodia	17
1. Background of Cambodia	17
1.1 Economic Overview	17

1.2 Market System	18
1.3 MSME Overview	18
1.4 Government Accountability	18
2. Corruption in MSME Sector in Cambodia	19
2.1 Predictability of Unofficial Fee	20
2.2 Reasons to Pay Informal Charge	21
2.3 Reasons to Demand Unofficial Fee	21
2.4 Other Causes of Corruption	22
2.5 Impacts of Corruption	22
3. Actions Taken by the Government	23
3.1 UNTAC Law	23
3.2 Taxation Law	24
3.3 Administrative Proceedings	25
3.3.1 Civil Servants	26
3.3.2 Judges and Prosecutors	26
3.3.3 Police	27
3.3.4 Military Personnel	28
3.3.5 Provincial, District and Commune Officials	28
3.3.6 The National Audit Authority and Ministerial Audit Departments	30
3.3.7 Parliament	31
3.3.8 The Ministry of National Assembly and Senate Relations & Inspections..	31
3.3.9 The Anti-Corruption Unit	32

3.3.10 Lawyers	32
3.3.11 One Window Service Office	33
4. Individual and Collective Response to Corruption	33
4.1 Individual Response to Corruption	33
4.2 Collective Response to Corruption	34
Chapter 4: Summary, Analysis and Recommendations	35
Chapter 5: Conclusion	46
Appendices	49
References	52

LIST OF TABLES

1. Definition of MSME	5
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LIST OF Graphs

1. Cambodia's Real GDP Growth	21
2. Corruption by Sector	23
3. Predictability of Unofficial Fee	25

List of Abbreviation and Acronym

Abbreviation

ACU	Anti-Corruption Unit
ADB	Asian Development Bank
AWGs	Accountability Working Groups
CDRI	Cambodian Development Resource Institute
CIA	Central Intelligence Agency
CIPE	Center for International Private Enterprise
CPI	Corruption Perception Index
EIC	Economic Institute of Cambodia
GDP	Gross Domestic Product
ICAC	Independent Commission Against Corruption
IFC	International Finance Corporation
IFC-MPDF	International Finance Corporation's Mekong Private Sector Development Faculty
MEF	Ministry of Economic and Finance
MIME	Ministry of Industry, Mines, and Energy
MoI	Ministry of Interior
MoJ	Ministry of Justice
MSME	Micro, Small and Medium Enterprise
NA	National Assembly

NAA	National Audit Authority
NAWG	National Accountability Working Group
OWSO	One Window Service Office
RGC	Royal Government of Cambodia
SCM	Supreme Council of Magistracy
SME	Small and Medium Enterprise
TAF	The Asia Foundation
TI	Transparency International
USD	United States Dollar
WB	World Bank

Acronyms

AusAID	Australian Agency for International Development
MONASRI	The Ministry of National Assembly and Senate Relations
UNTAC	United Nations Transitional Authority in Cambodia
SAI	Social Accountability International

Chapter I: Introduction

1. Background

Decades of civil wars in 1970 to 1990s have made Cambodia one of the poor nations in the world. Cambodia has tried to reconstruct and develop itself from scratch. Focus has been put on many spheres, ranging from politic, administration and economic. With the efforts from the government, the supports from diplomatic countries, and the participation of the citizens, Cambodia has experienced growth in many aspects, especially in economy. According to the Ministry of Economy and Finance (MEF), Cambodia's GDP growth had been improving dramatically since 2000 and reached its high at 13.3% in 2005 (MEF, 2010).

In that respect, Micro, Small and Medium Enterprise (MSME) sector has been one of those important drivers that helped enhance the economic development in Cambodia. About 40,000 MSMEs, which makes up to 98% of total firms, has been established and is operating in Cambodia (ADB, 2003). Most of them have operated informally and shared up to 45% of the total employment. In recognition of the importance of MSME as a cornerstone in the development process of the nation, Cambodian government created a department for MSME affairs in the Ministry of Industry, Mines, and Energy (MIME) in order to enhance the on-going development of this sector. Simultaneously, in 2004, the Royal Government of Cambodia (RGC) formed the SME Sub-Committee and the Sub-Committee Secretariat to formulate and develop the SME Development Framework. Two years later, the SME Development Framework was launched with the aim to remove three main identified barriers on MSMEs, which are “i) weak regulatory and legal framework, ii) limited MSME access to finance, and iii) lack of MSME support activities” (ADB, 2006).

As the framework was released for implementation in 2006, the “International Finance Corporation’s Mekong Private Sector Development Faculty (IFC-MPDF), The Asia Foundation (TAF), and the Australian Agency for International Development (AusAID)” jointly conducted a survey to measure the economic governance and regulatory policy of Cambodia. The research was based on a set of ten variables such as i) entry cost, ii) property right, iii) transparency, iv) time cost of regulatory compliance, v) informal charge, vi) participation, vii) crime prevention, viii) tax administration and burden, ix) proactivity of provincial authority, and x) dispute resolution (IFC-MPDF, TAF and AusAID, 2006). Three years later, the same study was conducted again by IFC and TAF in order to figure out if the business environment in Cambodia has improved after the implementation of the framework (IFC and TAF, 2009). The former was perceived as the pre-survey while the latter was seen as the post-survey to measure the effectiveness of the implementation of the framework.

The two surveys showed that four elements out of ten have improved remarkably and another four have progressed slowly. In contrast, two of them, “**Informal Charge and Dispute Resolution**”, have been worse (IFC and TAF, 2009). This report will focus on **Informal Charge** because Informal Charge is reported to be a major obstacle to the development of MSMEs in Cambodia and I strongly believe that Dispute Resolution will be better if Informal Charge is alleviated or dismissed.

2. Statement of the Problem

‘**Informal Charge,**’ also known as ‘**Corruption,**’ can be seen everywhere both in developed and developing countries. Yet, the level is different from one nation to another. According to the “Global Corruption Report 2009: Corruption and the Private Sector,” 3 nations such as Denmark, New Zealand and Sweden, stand on top of the list as least corrupt nations. Somalia stays at the

bottom as the most corrupt country out of 180. Likewise, Cambodia is also one of the most corrupt countries ranking at 166th (TI, 2009).

Corruption imposes a lot of cost to Cambodian society. According to the survey on “Governance and Corruption Diagnostic: Evidence from Citizen, Enterprise and Public Officials,” on average Cambodian households and MSMEs informally and illegally paid about 2.2% of their income and 3.6% of their gross revenue to public officials. MSMEs declared only 53% of their revenue for tax duty and that would lower government income and affect the majority of Cambodian citizens (WB, 2000). Moreover, the 2006 and 2009 surveys from joint international agencies and organizations have proved that ‘Corruption’ has been worse and has been found to be an obstacle to the development of MSMEs.

This research intends to investigate what the Royal Government of Cambodia can do to alleviate ‘Corruption’ so as to speed up the MSME development process, which could in turn develop the nation’s economy in a faster speed. In achieving this objective, the following questions have been set forth:

- a. Why has corruption in MSME sector in Cambodia been getting worse?
- b. What has the RGC done to alleviate corruption?
- c. What can the RGC do to improve corruption?

3. Definition of MSME and Informal Charge

3.1 Definition of MSME

Cambodia did not have an official definition of MSME until 2005 when the SME Sub-Committee classified an enterprise with fewer than 100 employees as a MSME based on the size of employment method. The committee also categorized an enterprise with the total asset of less than 500,000 USD as a MSME based on the total asset method. Cambodian ministries

and other government agencies have used either one of the two or both of them in classifying enterprises depending on specific situations. The size of employment method is more popular than the total asset method because it is straightforward. For example, if a company has 10 employees then it is defined as a micro. However, this method faces some problems in categorizing a firm when family workers and part-time staffs involve. Likewise, the total asset method also incurs some issues since the cut-off point needs to be revised over time to allow inflation. Yet, not all MSMEs uniformly revalue their capital and that inconsistencies exist. Table I summarizes the categorization of firms (SME Sub-Committee, 2005).

Table I: Definition of MSME

Size	Number of employee	Total asset in USD (excluding land)
Micro	< 10	< 50,000
Small	10-50	50,000-250,000
Medium	51-100	250,001-500,000
Large	> 100	> 500,000

Source: Sub-Committee on Small and Medium Enterprise of RGC, 2005

3.2 Definition of Informal Charge

Informal Charge refers to the fact that business owners are demanded to pay more than what they are supposed to such as “bribe or kickback” in order to obtain government contract or deal with any legal procedure or document. It can be classified into the following three types: i) micro-corruption, ii) macro-corruption, and iii) unpredicted level of corruption. First, **micro-corruption** incurs when business owners need to forcefully and illegally pay bribes such as “cigarette or beer” as tips to government officials in exchange for ‘smoother’ legal service which include administrative document, inspection service and tax declaration. Second, **macro-corruption** refers to the situation in which high ranking officials demand

business owners to pay a huge amount of money (far more than what they are supposed to). In the bidding process for any public procurement contract, for example, the amount of money demanded is calculated in percentage of the total amount of the contract and could reach hundreds of thousands of dollars. Last, **unpredicted level of corruption** arises when business owners cannot predict the amount of money they need to pay as bribe when dealing with legal or public affairs (IFC and TAF, 2009).

Informal Charge is also known as “**Informal Payment**” in Maureen Lewis’s paper on “Informal Payments and Financing of Health Care in Developing and Transition Countries.” In his paper, Maureen Lewis determined the payments that are made unofficially in cash or any other means to individuals or institutional service providers in order to receive public service as ‘Informal Payment.’ It can be in the forms of under-table-envelope to the officials or contribution to the institution (Maureen Lewis, 2010).

The “Harvard School of Public Health and the International Health System Group” also stated about ‘Informal Payment’ in their report on “Formal and Informal Households Spending on Health.” They described Informal Payment as the payment that people or those who are entitled for public service in addition to their legal payment (Paolo Belli, 2002).

In conclusion, ‘Informal Charge’ refers to the fact that business owners or the citizens need to pay more than what they are supposed to when they involve in legal procedure, document or service. Is it corruption? To answer this, the definition of corruption should also be defined.

Corruption is any action that is intentionally done to give advantages to others with inconsistency to their official duty or rights. “It includes bribery, but is more comprehensive, because an act may be corruptly done, even if the advantage to be derived from it is not

offered by another” (Letric Law Library, 2010). In the same way, it is also defined as the “abuse of entrusted power for private gains” (TI, 2009).

Talking from the perspective of those who decide to ‘pay bribe’ or informal charge, people pay bribe because they want to have an unfair advantage over others. For example, they want to pay lower tax, to win a contract, or to avoid penalty. From a more positive point of view, people may pay informal charge because they want to receive faster and less complication of administrative process, or to have their business (legally) successfully in operations.

With these definitions, “Informal Charge” stated in the Provincial Business Environment Scorecard in Cambodia can also be considered as Informal Payment, Unofficial Fee or Payment, Bribe or Corruption. Thus, throughout this report the aforementioned terms will be employed accordingly and interchangeably.

4. Research Methods

Since it is impossible to obtain primary data due to time constraint and information concerning corruption is scarcely given, this research only employs desk review. Desk review is conducted to collect information about factors of corruption, current actions toward corruption, and challenges in alleviating corruption from various national and international institutions, newspapers, magazines, policy papers, reports, books and documents. The information is then used to analyze using the Walt and Gilson Analytical Framework. The Walt and Gilson framework contains four variables as such **policy content**, **policy context**, **policy actor** and **policy process** (Walt and Gilson, 1994).

Policy content: Refers to what a given policy actually describes. In this retrospect, the policy content of this research should be “Reducing Corruption in MSME Sector.”

Policy context: Concerns the factors that may influence policy development, implication, and implementation such as citizen's education, nation's economy, traditions and cultures, politics and public administration.

Policy actor: Is about those involved in the issue who can be individuals or groups. Some good examples of policy actors in this policy content are citizens and civil society, Anti-Corruption Unit, Anti-Corruption Committee, relevant government agencies and ministries, the Prime Minister, national assembly and the senate.

Policy process: Refers to the stages in developing policy which includes problem identification and analysis, policy planning and development, policy implementation, and policy monitoring and evaluation.

However, this research will not focus on the first variable, 'policy content', since it is obvious that this study is to find out a policy implication(s) to reduce corruption in MSME sector. Therefore, this report will mostly focus on the last three variables.

5. Scope of the Study

This research will focus on important variables of corruption in MSME sector such as factors of corruption, existing actions and policies toward corruption, and policy development and implementation. In summary, this research will mainly focus on areas as the following:

- Situation of corruption in Cambodia
- Factors that have worsened corruption in Cambodian MSME sector
- Actions taken by the Royal Government of Cambodia in order to combat corruption, especially in MSME sector

Chapter II: Corruption (Theory and Evidence)

The objective of this chapter is to provide important information and knowledge of corruption which includes “perceptions of corruption, causes of corruption, impacts of corruption, solutions toward corruption alleviation, and a successfully relevant case study of corruption.” Literature review is included in this chapter.

1. Perceptions of Corruption

Corruption is actually the same as a tax or any other expense if the amount of bribe is not too high and is predictable. That is to say if the amount of unofficial fee is known and predictable then firms could just put it into their business plan as a tax or any other expenditure. This would be another alternative option for firms to invest besides a non-corrupt-environment. However, since corruption is about secrecy it is always more complicated than taxation (Malesky and Samphantharak, 2008). It usually comes with a view that nothing can be done to cope with it (Jo Scheuer and Gary Lewis, 2009).

2. Causes of Corruption

There could be many reasons, hidden or apparent, why corruption could occur. However, the “Combating Corruption: A Private Sector Approach” of the “Center for International Private Enterprise (CIPE),” highlights the following factors such as unclear and unstable laws and regulations, lack of law enforcement, lack of transparency and accountability, lack of competition, and low public sector wage” (CIPE, 2008). I would like to explore each factor in more details below.

Unclear and unstable laws and regulations: When laws and regulations are not certain, businessmen do not know their rights and obligations and they cannot effectively adapt to the laws or protect themselves from any illegal demand.

Lack of law enforcement: Law does not impose any sanction on those power holders who violate their public duties. For example, when an officer takes bribe and/or commits any unjust or unlawful administrative act and the judge could be paid to stand on his side.

Lack of transparency and accountability: Public officials do not explain what they are doing, or what is going on in the government to the public.

Lack of competition: Monopolized firms have more power and better incentives to influence government decisions toward their interests rather than the public's interests.

Low public sector wage: When government officials feel that they could earn less than what they need for their daily life, they would possibly commit corruption.

Lack of effective anti-corruption-mechanisms is another cause of corruption. It is obvious that when there is no any tool to detect, corruption would possibly occur (EIC, 2006). Another source, "The Causes of Corruption: A Cross-National Study" by Daniel Treisman, demonstrates that corruption can be caused by some other factors such as history and culture, political institutions, and public policies (Daniel Treisman, 2000). I again explain the four factors below.

History and Culture: Corruption could be seen in every corner of life. In some countries, corruption is not merely a convention, tradition or social deviation. It is actually a way of life. This would have resulted from a distrust culture since one might fear being cheated and that he would commit corruption so as to assure that he would not be cheated over. Eventually, the demand for corrupt service keeps increasing which makes it less risky for public officials to supply corrupt service. As a result, corruption gets worse.

Political Institution: Political system and state structure closely link with the supply of corrupt services. According to the journal on “The Causes of Corruption,” democracy puts more costs to corruption. That means when a society is free to speak and express then corruption would be reduced. Similarly, when too many public officials are attached to a public office and when they are attached to their positions for too long, corruption would exist. Thus, appropriate number and frequent rotation of public officials should be considered. However, the government has to be careful since this might make public officials irresponsible for their positions and discourage them to initiate and undertake some meaningful projects that could enhance the development of the nation.

Public Policies: Policies set by the government determine the extent of corruption. For instance, countries with more foreign trades would experience less corruption. In contrast, countries that have too much complicated regulations would be more vulnerable to corruption.

3. Impacts of Corruption

Corruption gives more burdens to both business and society though a small group of people might be shortly benefited. According to the “Combating Corruption: A Private Sector Approach,” business and society have to bear the following costs (CIPE, 2008).

Resource misallocation: Resources that could actually contribute to enhance the development are devoted to corruption. Firms waste their time and money just to build relationship with public officials and to pay bribe.

Lower investment: When corruption exists, investors are reluctant to invest since they might feel that law enforcement is not strong in that country. This would lower investment and would also lower economic development and growth.

Unresponsive policies and poor administration: Law makers and bureaucrats in a corrupt system use their power and authority to benefit a small group of people not the citizens as a whole and delay their service just to demand bribe.

Lower employment: Corruption pushes business into informal sector because it imposes more difficulties and burdens in starting up and doing business. This could be another obstacle for business to grow and would result in lower employment.

Exacerbated poverty: The poor experience lower potential income due to fewer private sector opportunities and would lose the opportunities to obtain government services which include public healthcare and education.

Reduction in competition, efficiency and innovation: Corruption motivates monopolistic business since it favors some companies in competing with others. Thus, it imposes high barriers for new potential entries. As a result, customers would end up with higher price, lower quality and limited choices of products.

4. Stages in Fighting against Corruption

To deal with corruption, five general stages are introduced by the CIPE in its report on “Combating Corruption: A Private Sector Approach” (CIPE, 2008).

- i. Break the taboo against discussing corruption:** Get rid of some fundamental roots that sustain corruption such as norms, traditions and cultures by explaining the negative effects of corruption on business performance and society. To achieve this, raising public awareness of corruption is deemed necessary.
- ii. Demonstrate how corruption occurs:** Show what the causes of corruption are, where it starts, and how it occurs.

- iii. Mobilize key constituencies and build anti-corruption coalitions:** Develop a good communication system where the privates and publics can address the real needs of business sector and guarantee the effectiveness of policies against corruption.
- iv. Prepare action plan with specific anti-corruption policies:** Effectively guide public attention with possible solutions toward the fight against corruption.
- v. Implement anti-corruption policies:** MSMEs should initiate the fight against corruption by developing uncorrupt relationship with government officials and controlling their own operations. To speed up the process of combating corruption, the government should also be encouraged and motivated to effectively implement and enforce corruption laws, regulations and policies.

5. Methods to Combat Corruption

CIPE focuses on both the demand and supply sides in order to effectively and efficiently combat corruption. The following indicates ways to deal with corruption in both the demand and supply sides (CIPE, 2008).

5.1 Demand Side

- i) Amending laws and regulations:** Reduce and alleviate conflicting commercial laws so as to minimize and alleviate obstacles in doing business. To be more effective, the court must be given enough authority and independency to deal with any corrupt transaction. Business associations and think tanks can help to develop and list down barriers of rules and regulations on MSMEs to be improved.
- ii) Develop procurement code:** Procurement process must be made in a transparent manner. It should be announced, opened and monitored publicly.

- iii) **Promote the integration of informal sector into formal sector:** When it is too hard to comply with laws and regulations, informal business starts to develop, especially for MSMEs. Therefore, the government has to reduce barriers on starting up a formal business by, for instance, easing the registration process. Some required regulations for MSMEs should be eliminated.
- iv) **Simplify tax codes:** When tax policy is unclear and complex, tax officials find it less risky to overuse their power. Therefore, tax policy should be simplified to reduce corruption opportunities.
- v) **Introduce civil service reform:** Competitive salary for public officials should be considered, performance appraisal should be made, and the authority of state officials should be clearly given to avoid overusing.
- vi) **Managing conflict of interests:** Government officials are allowed to have an additional position or receive an extra payment from a private firm in many countries. This could open door for corruption opportunity. So, the government may demand to disclose such a relationship between government officials and business companies. Those officials must not be allowed to move to any position or make any public decision that could benefit the company they have served.

5.2 Supply Side

- i. **Promote accountability and transparency of business sector:** Government officials would find it impossible to demand additional payment when firms are made transparent and their decisions are held accountable for their actions.

- ii. Standardize accounting and auditing standards:** Both the accounting and auditing standards can help business companies to enhance their transparency and accountability. For that reason, setting up accounting and auditing standards could help eliminate corruption possibility.
- iii. Engage civil society:** Participation of civil society such as “think tanks, business associations, and other non-government organizations” in the reform process can help improve the awareness of the citizens about the impacts of corruption and enhance public support and participation in the fight against corruption.
- iv. Expand access to information:** If entrepreneurs could better access to information and be well educated about laws and regulations, they would be able to comply effectively and say “no” to any unofficial demand.
- v. Promote independent media:** Freedom of information should be improved in the framework of laws so that media can utilize their monitoring role on corruption.
- vi. Adopt voluntary standard:** “The Business Principles for Countering Bribery” created by the “Transparency International (TI) and Social Accountability International (SAI)” with the support of CIPE should be voluntarily adopted since this standard help enhance proper implementation and coordinate the response of private sector toward corruption.

6. Related Case Study

Combating Corruption-The Hong Kong Experience

In between 1950s and 1960s, corruption was found in every sector in Hong Kong and became a major obstacle to the nation’s economic development. Until the Independent Commission Against Corruption (ICAC) was created in 1974, the fight against corruption has been better, especially when the ICAC adopted a strategy called “Integrated Three-

Pronged Attack.” According to the Corruption Perception Index (CPI) 2009 by the TI, Hong Kong ranks 12 out of 180 countries and scores 8.2 out of 10 (Jean Au Yeung, 2000).

Functions of the Three-Pronged Attack

- **The Operation Department:** It investigates corruption cases based on complaints and reports from various sources.
- **The Corruption Prevention Department:** Is to examine organizations’ internal operations and propose corruption-resistant measures.
- **The Community Relation Department:** Its mission is to advocate for public support in fighting against corruption through education.

Factors of Success

- **Government Determination:** The top leadership of Hong Kong strongly believes that fighting against corruption is a must if Hong Kong is to develop in a faster speed. Thus, ICAC is adequately supported to operate its activities.
- **Strong Legislation:** With strong and sound legal framework, ICAC has enough authority to fulfill its job. For instance, ICAC is able to check bank accounts and private documents. It can arrest any suspects for 48 hours if deemed necessary. It is also allowed to build up the awareness of the citizens about corruption.
- **Public Support:** ICAC has introduced many community based programs to enhance support and participation. It has developed several programs for specific targets such as youth, businessmen, and professional and technical personnel in order to build the awareness of the public about corruption and motivate firms to adopt corporate cord of conducts and corruption prevention measures.

- **System of Checks and Balances:** ICAC is also monitored by a system of checks and balances to ensure its accountability and transparency. It might be questioned by legislators concerning its expenses and performance and is evaluated by four advisory committees. One senior committee is responsible for ICAC's overall policy. The other three are responsible for the aforementioned three departments.
- **International Co-Operation:** It is very important for ICAC to build coalitions with other countries to exchange legal and investigative assistance so as to fight against corruption more effectively and efficiently.

Chapter III: Corruption in Cambodia

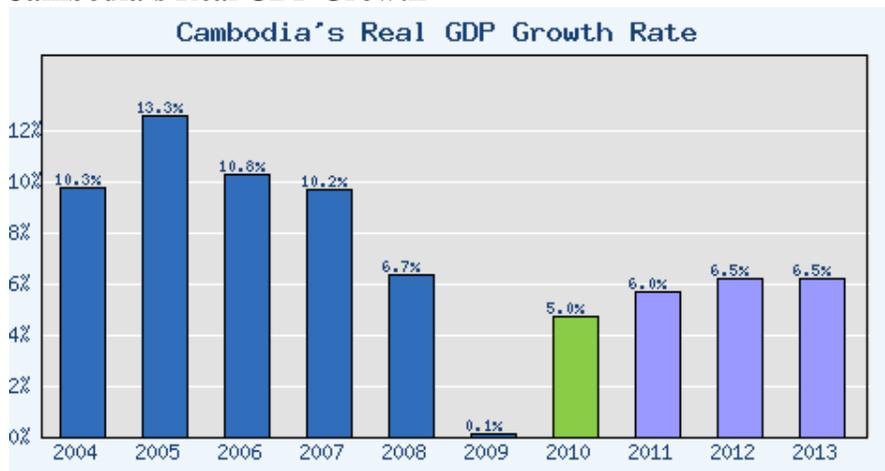
1. Background of Cambodia

Cambodia has three neighboring countries, Thailand, Laos, and Vietnam and is located in Southeastern Asia bordering on the Gulf of Thailand. It has a surface area of 181,035 km² with approximately 14.5 millions of population (CIA, 2010). About more than 80% of citizens live in rural areas and depend largely on agriculture, which is an important sector that accounts over 70% of the total employment in rural areas throughout the country (SME Sub-Committee, 2005).

1.1 Economic Overview

The Ministry of Economy and Finance (MEF) of Cambodia reports that the real GDP growth was improving during 2004 to 2008. In 2005, the growth reached its high at 13.3% before it dropped to its lowest at 0.1% in 2009. The drop in GDP in 2009 was mainly caused by the decline of the other sectors. For instance, the industry sector dropped by (-9.5) percent. It was also claimed that the financial crisis in 2008 was the real cause. However, it is estimated that the growth rate of Cambodia will go up in 2011 and 2012 at 6% and 6.5% respectively.

Graph I: Cambodia's Real GDP Growth



Source: Ministry of Economy and Finance of Cambodia, 2010

1.2 Market System

During the 1980s, Cambodia was a socio-economic nation and mainly based on agriculture. Rice, rubber, timber, fishery and other agricultural products were the mains for exporting and securing the nation's economy. Until 1991, Cambodia transformed itself from a centralized economy to a free market (CDRI, 2001).

1.3 MSME Overview

About 64,000 firms in Cambodia are MSMEs. 69% of which has only one employee, the owner itself, 90.4% has less than four employees and 96% has fewer than ten employees. That means 96% of firms in Cambodia are micros if Cambodia is to define those companies based on the number of employee basis set by the SME Sub Committee of Cambodia. It was also reported that MSME has increased nearly 27% for the last two years and contributed to employment growth, poverty reduction, and rural development (IFC and TAF, 2009). It has employed about 40-50 percent of the total labor force (Kunmakara and Sothoeuth, 2009).

1.4 Government Accountability

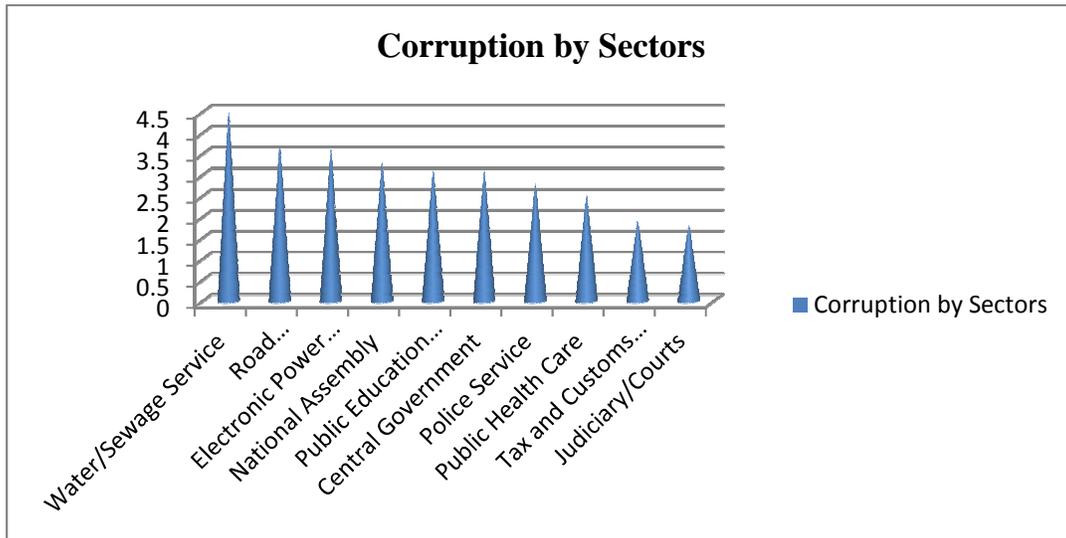
According to the "2008 Open Budget Report" by the "National Budget Project of the NGO Forum," Cambodia scores 11 out of 100 in the open budget survey and is included to a group of 25 countries that provide scant information to the public. This is because Cambodian legislature has never held any hearing on national budget at the National Assembly and the public has never been given an opportunity to participate in the development of the national budget. Though a year-end report is yearly produced in order to compare what has proposed with what has implemented, it is claimed that not enough explanations are given (National Budget Project of the NGO Forum on Cambodia, 2009).

2. Corruption in MSME Sector in Cambodia

As previously mentioned, Cambodia is one of the most corrupt nations ranking at 166th out of 180. Most of Cambodians, especially those who are well educated, think they have to start taking actions against corruption. However, it seems to be impossible for them because taking actions alone is risky. They need to form a group, preferably a large group, so that they would feel more secure (Indochina Research, 2007).

Corruption could be found in every sector. According to the “Corruption Assessment in the Private Sector” conducted by the Economic Institute of Cambodia in 2006, corruption is mostly seen in judiciary, tax and customs, public health care, and police (EIC, 2006).

Graph II: Corruption by Sectors (0 = the most dishonest; 7 = the most honest)



Source: EIC, CAPS Survey, April 2006

It turns out that women are more vulnerable to corruption than men because they traditionally take charge of household finances in their families. For instance, it is women who, in Cambodian culture, go to the market to buy food, take kids to health clinic or school, or drop by the

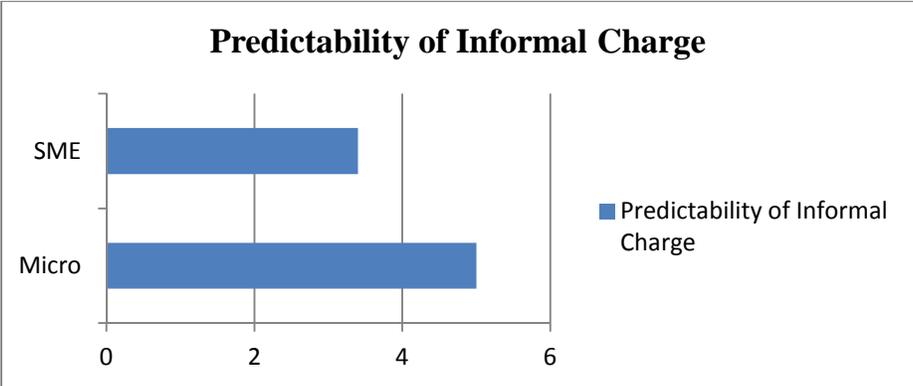
government office for any official document. They lack awareness of laws and regulations which as a result they have to encounter informal payment so as to obtain public service (EIC, 2006).

As for the rural families, they rarely visit district, provincial or central government or even the court although they have often experienced corruption with local government. They simply do not trust in these government structures and feel that formal reporting of corruption is useless and risky. As evidence, only 1% of corruption cases were reported in 2001. On the other hand, 100% of car theft and more than 50% of robbery cases were reported (Pact Cambodia, 2007).

2.1 Predictability of Unofficial Fee

The amount of bribes demanded could be different among MSMEs. According to the survey on the “Assessment of Corruption in Cambodia’s Private Sector,” micro firms could better predict the amount of informal charge than small and medium enterprises because paying unofficial fee is a part of their daily activities. On the contrary, SMEs could hardly predict the amount of informal charge because of the complexity and differences of their business. Thus, they are demanded informal payment on a case by case basis (EIC, 2006).

Graph III: Predictability of Unofficial Fee (0 = Never Know, 7 = Always Know)



Source: EIC, CAPS Survey, April 2006

Unfortunately, it would be difficult for all MSMEs to predict the amount of bribe if provincial leadership keeps being replaced inappropriately. According to the “Predictable Corruption and Firm Investment: Evidence from a Natural Experiment and Survey of Cambodian Entrepreneurs,” governors need to pay for their positions and maintain it by offering a portion of their revenues upward to the central governance. Thus, they have to put pressures on lower level officials in their respective province to earn them money as possible so as to keep them in power. MSMEs need to learn and refigure out whom to bribe and how much to pay in exchange for public service when a new governor is appointed. Clearly, MSMEs have been struggling since the 29 governors in 18 of Cambodia’s 24 provinces had politically been replaced in between 2003 to 2008. Public officials have tried to demand more bribes in exchange for their services. MSMEs have tried to refigure whom to bribe and how much to offer so as to get their job done (Malesky and Samphantharak, 2008).

2.2 Reasons to Pay Informal Charge

MSMEs agree to pay bribe because they want to maintain good relationship with public officials and get their job done. It is obvious that MSMEs need to maintain good relationship with public officials because most of them are informal and paying bribe is a part of their daily activities. Some of them pay unofficial fees because they want to have a better and quicker service. Many others pay unofficial fee because other people also pay and they do not even know if it is unofficial (EIC, 2006).

2.3 Reasons to Demand Unofficial Fee

Lack of information of public service fees may lead to confusion for citizens and provides an environment conducive to the payment of bribes. According to the survey on “Local Public

Services: Performance and Unofficial Fees” by the Economic Institute of Cambodia, people’s awareness of official fees is only a necessary. It is not a sufficient mean to avoid the demand of bribes because many factors can cause corruption. Some of them are perceived to be more serious such as “a lack of an independent and effective judiciary, a lack of effective anti corruption mechanisms, low public wages, and cultures of corruption” (EIC, 2006).

2.4 Other Causes of Corruption

Most of business transactions in Cambodia are unable to be checked because only 1% of working capital is passing through banking system. This could favor the supply of corrupt services. Setting up a new business company in Cambodia is another obstacle. Entrepreneurs have to go through 9 steps and take 85 days, which is 45 days longer than in the other countries in the same region. They need to pay 150% of per capita income while it is only 32% in the other countries (Anti-Corruption Resource Centre, 2009). Last but not least, MSMEs have no idea of how many times they will be inspected by relevant government agencies per year because inspection policies are not clear and informed. Public officials have always overused their authority to demand bribe (EIC, 2006).

2.5 Impacts of Corruption

According to the study on “Overview of Corruption in Cambodia” by the “Anti-Corruption Resource Centre,” MSMEs paid about 330 million USD in bribe to government officials in 2005. This amount was about 50 percent and 6 percent of the total government budget revenue and GDP respectively. The government lost 440 million USD (Anti-Corruption Resource Centre, 2009). Households lost approximately 66 million USD to all public

services (EIC, 2006). It is also claimed that foreign investment fell from 800 million USD in 1998 to about 251 million USD in 2003 due to corruption (Ek Madra, 2005).

3. Actions Taken by the Government

Having realized the impacts of corruption on business and economic development, the RGC placed Anti-Corruption as one of her four core missions to enhance good governance so as to alleviate poverty in her Rectangular Strategy in 2004. In that sense, the Anti-Corruption Law, which had been in a draft since 1994 and rechecked in 2006, was in a dire need to be passed (Pact Cambodia, 2007). However, the law was able to be passed only until March 2010 with controversies from various stakeholders as such the opposition party and civil society because they claimed that the law was passed without their involvements (ABC Radio Australia, 2010). Besides the Anti-Corruption Law, there are other existing anti-corruption tools created to combat corruption which include the “United Nations Transitional Authority in Cambodia (UNTAC) Law, Taxation Law and other Administrative Proceedings” (Pact Cambodia, 2007).

3.1 UNTAC Law

UNTAC Law contains four articles that prohibit several types of corruption as such corruption, embezzlement by public officials, forgery of public documents and bribery. Corruption and embezzlement by public officials are considered as crime and the rests are classified as misdemeanor (Pact Cambodia, 2007).

i. Corruption (Art. 38 of UNTAC Law)

Any government official, who acting in his duties, solicits, attempts to solicit, receives or attempts to receive a benefit in exchange for another benefit is considered as committing

crime and is supposed to imprison of between three to seven years. The term ‘benefit’ could be in the form of money, property, a service, an employment, a document, a favor or anything that has value or confers a benefit.

ii. Bribery (Art. 58 of UNTAC Law)

Anyone who corrupts or attempts to corrupt a public official while he is acting in his position by promising some benefits in return for some other benefits is considered as misdemeanor. Anyone who commits bribery is intended to imprison for up to three years.

iii. Embezzlement by Public Officials (Art. 37 of UNTAC Law)

Embezzlement exists when a government official, who is acting in his position, sells, rents, misappropriates, or uses a public function for personal gains or to profit a third party. Embezzlement is different to corruption because of two features. Firstly, embezzlement needs only one actor. In contrast, corruption needs two actors, the taker and the receiver. Secondly, embezzlement is about misappropriating some benefits by his official position and corruption refers to the trade of benefits by public employees.

iv. Forgery of Public Documents (Art. 49 of UNTAC Law)

Article 49 of UNTAC Law referred forgery of public documents to when any public official, who is in charge of his official duties, falsely signs a document, alters a deed, writing or signature, or falsely enters something into a public registry or other public deed after its closing or execution, or anyone who intentionally makes use of that forgery. Anyone who commits forgery is subject to imprison between five to fifteen years.

3.2 Taxation Law

Asides from the aforesaid four articles of UNTAC Law, there is another provision of Law on Taxation that makes it a crime for tax officials to withhold tax income for his own purpose or

inappropriately collect tax. As mentioned in article 139 of Law on Taxation, a tax official who is assigned to implement “tax provision” and who has committed the following acts:

- withholding an amount of tax money for his own interests or for any other purposes not stated in the tax provision
- submitting inaccurate reports of the amount of tax money collected or received
- taking his duty as a tax official to gain money or other benefits from tax payers
- collecting or attempting to collect tax without authorization

should be punished of a fine for five million to ten million Riels or sent to jail for up to one year or both.

Though the aforementioned provisions were adopted to punish corrupt acts, there have been very few corruption prosecutions. There was no a single corruption prosecution since the adaptation of UNTAC Law in between 1992 up to 1999. Until 1999, the situation has been better since some corruption cases by lower ranking officials have been prosecuted even if it is hard to prosecute higher ranking officials as they can use connection to protect themselves and public discussion about corruption is perceived to be very risky.

3.3 Administrative Proceedings

In addition to the aforesaid legal tools, the Royal Government of Cambodia also invented many administrative proceedings. The proceedings were normally created within government ministries or departments to sanction all types of public employees which include civil servant, police, military personnel, prosecutor, and judge (Pact Cambodia, 2007).

3.3.1 Civil Servants

Although some punishments were introduced to penalize any public civil servant who commits corruption, there is no any legal criminal prosecution under the Law on Civil Servants. Only until 1999 when article 51 of this law was amended, a charged civil servant could possibly be prosecuted without permission from the concerned minister or the Council of Ministers for high ranking officials. However, prosecutor still needs to inform the concerned ministry within 72 hours. If the charged case happens during the implementation of a public function then the concerned ministry has to defend the accused official. This would alert him in advance and provide him an opportunity to flee from justice. It is also reported that information on civil service disciplinary procedures is not clearly stated and not known by the public. Complaints toward public civil servant are to be resolved by the “Secretariat of State of the Civil Service.” Unfortunately, information about this government institution is not found at all.

3.3.2 Judges and Prosecutors

The judiciary is an independent branch of the government. Judges and prosecutors are not controlled or dismissed by the Ministry of Justice (MoJ). The “Supreme Council of Magistracy” (SCM) is solely empowered to appoint new or rule over existing judges. However, only seven of its nine members would meet up as a subset of the council when it is to deal with any case against a judge or a prosecutor. The Chief of the Supreme Court would chair the subset if the case is against a judge. The Prosecutor General of the Supreme Court would chair if the case is against a prosecutor. The King and the Minister of the MoJ are excluded from the subset.

Though the subset of the council is formed to deal with any corruption case by a judge or prosecutor, procedures and regulations during the hearing are not disclosed. The result from the subset will be sent to the Supreme Council for approval and appeal will not be allowed toward Supreme Council's decision because there is no any legal method for the public to complain the SCM. However, complaints are suggested to send to the MoJ.

It is also reported that the SCM was inactive until when the Prime Minister announced an iron fist operations to improve judiciary in 2005. A number of judges were restricted, a judge and a prosecutor were fired, at least one judge was removed to another court, many other judges were suspended, and some were sent to the MoJ. Hence, information on what kind of mistakes they had made were not released. The judges, who were disciplined, except those who were fired, were silently reinstated within a year later. The effectiveness of the SCM is doubtful as the SCM does not have clear procedures in its operations and lacks of transparency. Sadly, no any other choice could be suggested since the SCM is the only organization that is given power to rule over judges and prosecutors.

3.3.3 Police

Police officers are supposed to respect the laws and regulations or they will be penalized. The level of penalty is decided based on the level of their offenses and is disclosed in more details than any other administrative procedures in Cambodia. Before an accused police officer is penalized he must be sent through a Disciplinary Council Proceeding as stated in the Law on Civil Servants. Hence, he still cannot be prosecuted for being corrupted since such a process is not stated in the proceeding on police. The charged police official can be prosecuted if the prosecutor informs the Ministry of Interior (MoI) within 72 hours.

3.3.4 Military Personnel

Military officers are not allowed to commit corruption and if any of them commits corruption he is supposed to be liable under the military law in addition to the sanctions under the general criminal law. Unfortunately, information on the administrative proceeding on military personnel is not well disclosed. It is not clear if the public can complain or know where to complain military officials. The military commanding officer is suggested to receive complaints and forward through the channel of commanding.

3.3.5 Provincial, District and Commune Officials

Provincial governments are obligated to enforce policy and laws of the Royal Government of Cambodia. Each province has one governor, many deputy governors and several units. Unfortunately, not even a single unit of the provincial government is really equipped with the assignments to address corruption, except the Inspection Unit. It is entitled to monitor and supervise the other employees in provincial and district offices. The provincial government is also empowered to order police to investigate crimes and offenses. All of these create a system that could be employed to combat corruption. However, it is claimed that the system is not properly used in coping corruption.

District and the Ombudsman Offices

With the aim to improve accountability and good governance at district levels, a pilot project was initiated to test several new structures. One of the structures was the ombudsmen office created to receive and investigate corruption complaints since the head of the ombudsmen office is authorized to inquire information from district officials.

If any district official does not collaborate, the head of the ombudsmen office can report to a relevant district governor for assistance. The report of the investigation is supposed to be publicized. Nonetheless, the two initiative offices, in Battambang and Siem Reap province, have received very few complaints. For the first year of operations, the two offices had received only ten corruption complaints and each of the complaints was supposed to decide at provincial level. None of them related to the ombudsmen or district offices. Therefore, no actions were taken.

Communes and the Accountability Working Groups

To make it even more transparent, another government body, the “National Accountability Working Group (NAWG),” is created and tasked to receive and investigate complaints on the misuse of commune funds. The Commune Accountability Working Groups, under the supervision of the NAWG, are placed at each provincial office and equipped with members of the provincial office, commune councils, and civil society. The working groups are supposed to impose and punish any commune official who misuses of funds.

Up to June 2005, the Accountability Working Groups (AWGs) are available at every province throughout the nation and have received fifty nine complaints about the misuse of commune funds. Eleven of the complaints were totally resolved. Some district officials and contracts with vendors were dismissed and terminated. Warning letters on proper procedures of expenditure were sent to commune council counselors. Moreover, AWGs have also received corruption complaints that are not related to commune funds. Hence,

they have not taken any action for the reason that they have not been empowered to deal with any corruption case that does not relate to commune funds.

3.3.6 The National Audit Authority and Ministerial Audit Departments

In 2000, the National Audit Authority (NAA) was established in order to check and audit transactions, operations, and financial reports of all government institutions. The NAA has a role to prevent and address corruption because the NAA is given power to question and demand for information from the other ministries, get into the facilities of any agency being checked, and access to the agency's documents. Anyone intends to obstruct an audit or provides false information is subject to be penalized. When an unusual transaction or practice is found the head of the NAA has to inform the National Assembly, Senate, Council of Ministers, Ministry of Justice and the affected ministry and publish a report on the audited case. Hence, it is not sure if audit reports are accessible since powerful state bodies are not audited while less influential bodies could spend years to respond to NAA's questions. It is perceived that the NAA was intentionally established to accuse public corruption.

Similarly, an internal audit department is created in each ministry as an independent function to check and monitor the effectiveness and efficiency of internal controls. However, it is doubtful of how independent the internal audit departments are since they need to report to their own respective ministry and they were publicly criticized by the Prime Minister for extorting money from the other departments by warning to report any corruption case to the upper levels.

3.3.7 Parliament

The National Assembly (NA) and the Senate have some roles in fighting against corruption although they are not given formal authorities. For an example, the Commission No.4 of the NA and the Commission on Interior, National Defense and Anti-Corruption of the Senate were actually formed to deal with corruption issues. Yet, the two commissions do not have staffs, budgets or specialists to deal with corruption even if they usually receive corruption complaints. The only way for parliamentarians to combat corruption is to question public employees about any complaint in a public hearing. They can also write letters to concerned ministries or departments to demand for information, propose an investigation, or suggest resolutions. Unfortunately, public officials will come and answer the questions if they are demanded by the chair of the commissions. The commissions' demands and requests are rarely responded. There is no way to check whether or not the government is dealing with the complaints suggested by the commissions.

3.3.8 The Ministry of National Assembly and Senate Relations and Inspections (MONASRI)

MONASRI was established to maintain relationship between the executive and legislative powers and monitor the implementation of the government in the fight against corruption. MONASRI is powerful in combating corruption as it is allowed to question any suspect official, explore and gather information, and suspend anyone who does not collaborate with MONASRI's investigation. Unfortunately, MONASRI undertakes its assignments only if demanded by the RGC and reports straightforwardly to the Prime

Minister. Without the approval from the government and the Prime Minister, MONASRI cannot publish its reports and send any charged cases to the court.

3.3.9 The Anti-Corruption Unit (ACU)

ACU was formed in 2006 to replace the Entity against Corruption Activity Unit. ACU has taken the roles of the previous unit in collecting data and information about corruption, developing activity plan for the government to cope with corruption, and applying the government's anti-corruption measures. ACU is also given power to receive and investigate corruption complaints and cooperate with judicial police to provide information to charge anyone who commits corruption. Hence, ACU is not given any new investigative powers. For instance, it does not have power to subpoena or order government officials for testifying and has to work in collaboration with some powerful authorities to deal with corruption. It is doubtful if ACU can effectively implement its roles when competent agencies refuse to collaborate. Even worse, information on the administration of ACU as such the organizational structure and working procedures is not publicly available. Still, ACU is a better unit to combat corruption since it could possibly turn a corruption case to a crime.

3.3.10 Lawyers

Lawyers are not government officials and would not possibly commit corruption. However, lawyers are governed by laws and required to meet certain ethical standards. This would prevent corruption among lawyers. The members of the public, the General Prosecutor of the Appeals Court, or the Bar Council are empowered to accuse any lawyer

who violates Code of Ethics. If a lawyer is found guilty or violates the Code of Ethics he must be penalized.

3.3.11 One Window Service Office (OWSO)

As a part of the government's efforts to promote decentralization in Cambodia, the OWSO was introduced in 2005 in two provinces, Siem Reap and Battambang, to provide about 30 different services which include registration of motorbikes and license for small shops. It is more transparent than any other government body as it publicly lists down the fees and duration of its services. However, OWSO has its own limitations. First and foremost, not every service is available at OWSO. For instance, the required health and fire safety certificates for a 50-seat restaurant cannot be issued by the OWSO. Firms need to obtain those certificates from provincial departments before coming to OWSO for registration. Second, too many and incompetent employees are delegated to work for OWSO. As evidence, only about 20 to 30 of clients employ WOSO services while the number of OWSO staffs is 18. That means an OWSO employee serves at most two clients per day. Last but not least, OWSO lacks of materials, equipments and vehicles to effectively offer its services (MoI, 2008).

4. Individual and Collective Response to Corruption

4.1 Individual Response to Corruption

Cambodian people do not like corruption and know that corruption negatively affects their living conditions. However, they cannot do anything about it. Instead, they choose to cope with it. Coping with corruption could be made in many ways. Firstly, they may make it by

just avoiding all public services that the government offers. As an example, they might not apply for birth certificates for their children or register their residence with local authorities. They would exchange food among them rather than going to the market in which they might have to pay bribe along the way. Secondly, they may do it by creating personal networks that could help to reduce the impacts of corruption. This becomes a big burden for the poor than the rich since the poor normally have smaller social network (Pact Cambodia, 2007).

4.2 Collective Response to Corruption

Collective response normally occurs when large numbers of families, which might exceed hundreds, are affected by a corrupt act. Actually, collective response would not have existed if village chiefs or commune councils had not ignored local people's complaints on any corruption case or involved in corruption. However, it has sometimes been an opposite. Village chiefs and commune councils have normally involved in corruption. This gives local people an opportunity to respond collectively for an intervention on their behalf from some higher ranking officials such as provincial governors or the Prime Minister. That means power plays an important role than laws or regulations in Cambodia. Once collective response occurs, formal resolution process will be excluded (Pact Cambodia, 2007).

Chapter IV: Summary, Analysis, and Recommendations

With the efforts of the government and the citizens, especially the promotion of the development of MSMEs, Cambodia was able to experience remarkable economic development for the last decade. As mentioned in chapter 3 of this report, the real GDP growth of Cambodia kept increasing since early 2000 until it reached its peak at 13.3% in 2005 before declining to its lowest at 0.1% in 2009. The decline was caused by the drop of industry sector and the financial crisis in 2008. Hence, it is doubtful if both of them were the only causes that worsened Cambodian economy since Cambodia lost more than 15 percent of her GDP to corruption in 2005. MSME sector lost about 330 million USD which is equal to about 6%. It is also reported that corruption has been worse and may lead to a larger loss.

MSME sector has significantly helped improving Cambodian economy for the last decade and contributed to enhance employment opportunities, reduce poverty, and better the development process. It has employed about 40-50 percent of the total labor force in Cambodia. Sadly, MSME sector cannot move at its maximum speed due to corruption. According to the two surveys in 2006 and 2009 jointly conducted by many international organizations to measure the business environment in Cambodia as illustrated in chapter 1, corruption has been a major obstacle for the development of MSMEs. Most of MSMEs have operated informally. This has become a barrier to the nation's economic development since 96% of firms in Cambodia are MSMEs.

Corruption is pervasive and widespread in Cambodia. It becomes a part of the citizens' daily life and could be seen in every sector which includes judiciary, tax and custom, public health care, police, public education, national assembly, electronic power agency, road department, and water authority. However, corruption is mostly found in judiciary, police, public health care, and tax

and custom. Surprisingly, water authority is found to be the most honest with the least corruption. It is not known why water authority is the least corrupt institution. Maybe, it is because water authority is less powerful, has a good anti-corruption mechanism, or water is not yet a scarce resource in Cambodia.

With the existence of corruption, Cambodia lost 836 million USD, which is equal to about 15% of Cambodian GDP, in 2005. The government lost 440 million, MSME sector lost around 330 million and the households lost 66 million. That loss was just the outset. Actually, it could be more than this. For instance, the loss of the government, firms and households to corruption could in fact be used to spend in other factors so as to enhance public service, improve and expand their business, and better their living standard. Nonetheless, they could not because of corruption. Instead, businessmen and households used that money just to build relationship with public officials for business purpose and pay bribe. Cambodian people, especially those who are poor, ended up with lower employment opportunities and limited choices of products at a higher price.

MSMEs found it difficult to predict the amount of informal payment, especially when the 29 provincial governors in 18 of Cambodia's 24 provinces had politically been replaced of between 2003 and 2008, because they needed to refigure out whom to bribe and how much to offer. The 29 governors paid for their positions. So, they needed to earn back their investments through corruption. Consequently, corruption has been worse and would put more burdens on MSMEs to invest and expand their business in addition to Cambodian's time consuming and expensive process in starting up a new business.

Corruption could be caused by both the private and public sectors. For MSMEs, they pay bribe because they want to maintain good relationship with public officials for business purpose and

get their job done. They also think it is a traditional or polite way to receive public service. Unfortunately, some of them pay unofficial fee because others also pay and they do not even know if it is unofficial. This is obvious that when MSMEs and the citizens get accustomed to corruption, they would feel unease by not giving bribe to public officials when receiving public service. When they are not clearly informed about the laws and regulations, they would find it tough to adapt to the laws or protect themselves from any illegal demand. For the public, corruption, with low morale and salary, has been a traditional source of income. That means when public officials feel that they could not earn enough for their daily needs they would not care about morality and feel hesitate to commit corruption. It would also be impossible for public officials to commit corruption if this poor nation has an effective civil society to monitor and report corruption case, effective anti-corruption mechanisms to detect corruption, good and fair law enforcement, an independent and effective judiciary to fairly prosecute corruption crime, clear inspection as well as other policies, the use of banking systems among its people, and information of public service fees for the citizens.

The majority of Cambodians, especially those who are well educated, think they should start taking actions against corruption. However, they would prefer to make it in a large group of people since reporting of and combating corruption is perceived to be risky. Obviously, only about 1% of corruption cases were reported in 2001. In contrast, all car theft and more than half of robbery cases were informed. It is also claimed that if not enough people are available to fight against any corruption case, individuals would choose to cope with it by avoiding all public services that the government offers or building up personal networks. It turns out that women and rural families are more vulnerable to corruption because most of them, if not all, lack of awareness of laws and regulations and do not trust government authorities.

To alleviate and combat corruption, a lot of tools were invented. Hence, most of them have found to be in a dire need for improvement. The Anti-Corruption Law adopted in 2010 after having been in a draft since 1994 and rechecking in 2006 was claimed to be controversy. It was actually passed without the involvement of the opposition party, civil society and citizens. To be more accountable, supportive, and effective, the law should be amended with participation from all related parties. Doing this could help to build the awareness of the public and enhance their participation in alleviating corruption. Some other provisions which include article 37, 38, 49, and 58 of the UNTAC Law and article 139 of the Taxation Law could also be used to cope with corruption. Unfortunately, there was no any single prosecution related to corruption since 1992 to 1999 and only few cases by lower ranking officials have been prosecuted after 1999. This does not mean corruption have not existed. Instead, this might actually mean those provisions have not been well enforced.

In addition to the abovementioned laws and provisions, many Administrative Proceedings had been invented within government ministries and departments in order to combat corruption. The proceedings were purposely invented to sanction all types of public personnel which include civil servant, military personnel, police officer, prosecutor, and judge. Yet, those proceedings also need to be improved. I would like to analyze each proceeding below.

The proceeding on civil servants was created to penalize any public official, except judges and other employees in the legislative branch, who uses their authority for private gains. An accused official can be prosecuted if the prosecutor informs relevant ministry within 72 hours. However, the government has to defend the accused officer if the case happens during the implementation of a public duty and information on discipline procedures is not shared. This would alert the accused official and would give him an opportunity to flee from justice.

The Supreme Council of Magistracy (SCM) was created to rule, investigate and penalize any judge or prosecutor who violates the laws or commits corruption. Unfortunately, the SCM had been very inactive until when the ‘iron fist operation’ was introduced by the Prime Minister in early 2005 to improve judiciary sector the SCM has been more active. Some judges were restricted, a judge and a prosecutor were fired, and some were sent to the Ministry of Justice. Hence, information about their mistakes was not released. The judges and prosecutors who were disciplined excluding those who were fired were silently reinstated less than just a year later.

The provincial governments are equipped with several units to enforce government policies and laws. They are given some roles and functions to combat corruption. However, they have not properly used their authorities. The ombudsmen office was created in two provinces to receive and investigate corruption complaints. Yet, the two offices have been ineffective and have received only ten complaints in total for the first two years. None of the complaints is about the administration of the office itself. Another body, the National Accountability Working Group, is also tasked to receive and investigate complaints about the misuse of commune funds. Unfortunately, it does not care about any corruption case that does not relate to the use of commune funds though it sometimes receives those corruption complaints.

The National Audit Authority (NAA) was established to check and audit the transactions, operations and financial reports of government agencies. Nonetheless, it is not sure if audit reports are available since powerful ministries are not audited while less powerful authorities may take years to respond to NAA. It has been claimed that NAA was established just to accuse public corruption. Similarly, the internal audit department within each government ministry and body is not independent since they need to report to their respective ministries rather than the

NAA and were criticized by the Prime Minister for extorting money from the other departments within the same ministry.

The Commission No.4 of the National Assembly (NA) and the Commission on Interior, National Defense and Anti-Corruption of the Senate were created to deal with corruption. These commissions do not have human resources and budget to implement their assignments although they have often received corruption complaints. A suspected official comes and answers the questions only if he is called by the chair of the commissions and there is no any possibility that the commissions can realize if government ministries are working on their suggestions.

The Ministry of National Assembly and Senate Relations and Inspections (MONASRI) was created with some roles to combat corruption. It is powerful because it is allowed to question any suspect official, explore and gather information, and suspend anyone who does not collaborate with its investigation. In contrast, the MONASRI undertakes its tasks and publishes its report only if requested by the Prime Minister.

The Anti-Corruption Unit (ACU) was created in 2006 in order to gather information about corruption, develop activity plan for the government to combat corruption, apply government's anti-corruption measures, receive and investigate corruption complaints, and cooperate with judicial police to charge any suspect. Unfortunately, the ACU is not given power to order government officials for testifying and has to work in collaboration with powerful authorities to deal with corruption though it could turn a corruption case into a crime. The information about its administration and investigation procedures is not publicly available.

Last but not least, the One Window Service Office was established to provide 30 different public services which include registration of motorbikes and license for small shops. It is accountable and transparent because it publicly lists down the fees and duration of its services. Hence, the

OWSO has its own limitations. It is equipped with too many and incompetent employees and lacks of resources.

Although many tools were invented to combat corruption as aforesaid, most of them have been ineffective. Power has played more important role than those tools. Especially, when a large group of people collectively demonstrate for an intervention from higher ranking officials such as the provincial governors or the Prime Minister legal procedures will be excluded. In contrast, when not enough people are gathered an individual may not make any complaint or choose to fight against any corruption case since they feel that reporting of and complaining about corruption is risky. They may choose to face it by avoiding all public services or build personal networks.

Therefore, the Royal Government of Cambodia should take initiatives and actions to adopt a policy(s) to 1) enhance public support and participation, 2) improve its internal laws and regulations, 3) boost up its collaboration with both local and international community, and 4) create better anti-corruption tools if the government wants to overcome its aforesaid weaknesses so as to be more effective in alleviating corruption.

To enhance public support and participation, the top leadership of the government, first and foremost, should try to show its strong determination in the fight against corruption. The government ought to illustrate its full supports to the Anti-Corruption Unit and other government authorities in implementing their assignments against corruption. However, the Anti-Corruption Unit and those institutions need to be controlled and checked by an independent agency or committee so as to ensure their accountability, effectiveness, and transparency. They must be demanded to effectively enforce the laws and regulations although collective response exists and pay more attentions on some of the most corrupt sectors such as judiciary, tax and custom, public

health care, police, and other public asset controlling authorities. Moreover, the government may need to encourage MSMEs and the citizens to start combating corruption by enhancing its democracy and assuring that reporting and complaining of corruption is safe. That means the citizens and MSMEs have to be given full rights and freedom to complain about any political and social issues, especially corruption, and they have to be protected by doing so. Secondly, the government has to make available of public information which include the activity and budget plan of the government, fees and duration of public services, laws and regulations, public policies, administrative proceedings against corruption, activity and financial reports, and legal procedures against corruption in order to build trust among its citizens and MSMEs and better protect them from any informal demand. The government needs to make sure that information on tax, inspection and other important policies are clearly shared. Thirdly, the government should increase public official's salary and morality. That is to say the government needs to offer competitive salary to its employees to fulfill their daily needs and build up their morality and ethics in implementing their assignments. Hence, their performance should be appraised if the government wants to assure their efficiency, accountability, and transparency. Last but not least, the government should raise the awareness of the people about corruption through any means which include community based programs and try to mobilize the use of banking system among its citizens, especially among public employees. That means the government may need to explain and demonstrate the negative impacts of its traditions and cultures on corruption, what corruption is, where it starts, how it occurs, what the causes are, where to complain, and how to curb with it to its people, especially women, MSMEs and those who are living in the remote areas because most of them, if not all, are unaware of laws and regulations.

To improve its internal laws and regulations, the government may need to focus on the improvement of some laws and policies which include the Anti-Corruption Law and the Commercial Law as well as tax, inspection, and job rotation policies. The Anti-Corruption Law, as mentioned earlier in this report, has been argued to be incomplete because it was passed without the involvement of the other stakeholders and is perceived to serve the interests of ruling party members. Therefore, the law must be amended with the involvement of the other actors as such the opposition party, civil society and citizens in order to build trust among its employees and the citizens as a whole. By doing this, the government could also be more effective in enhancing public support and participation in combating corruption. Indifferently, the Commercial Law also needs to be improved since starting up a new business in Cambodia is too time consuming and expensive comparing to the other countries in the same region and has been found to be another cause of corruption. The government may have to make some changes of its Commercial Law so as to assure that registering a new business is faster, less complicated and expensive which would help to enhance the development of business and reduce corruption in MSME sector. Furthermore, some policies which include tax, inspection and job rotation policies also need to be improved since they are reported to be unclear and complex. Public officials have always overused their public authorities for private gains and been inappropriately rotated. Very few of Cambodian citizens are aware of the laws and regulations. As a result, Cambodian citizens, especially MSMEs in Cambodia, have been suffered by informal demands. Therefore, the government has to do all what it takes to improve, clarify and simplify those ineffective, unclear and complex policies in order to enhance the awareness of the people so as to better protect them from corruption. To achieve this, scholars, think tanks, and business associations should be invited to help and consult during the amendment process.

To make the fight against corruption even more effective and efficient, the government should boost up its collaboration with both local and international community. The government needs to support and encourage the development of a strong, independent, and effective civil society to fight against corruption. The government may also need to collaborate with some other international NGOs to obtain information and supports in alleviating corruption in Cambodia. In that sense, the government should create a communication system or mechanism where the government, civil society and international NGOs can enhance their communication concerning the fight against corruption and address the real needs of commercial sector.

The creation and improvement of anti-corruption tools cannot be excluded if the government wants to enhance the combat against corruption. That means the government should encourage and support the Anti-Corruption Unit and other anti-corruption bodies to develop an effective anti-corruption plan so as to be more effective in coping with corruption. The government may also need to create an independent anti-corruption court to fairly enforce laws and regulations which could in turn build trust among its employees and the citizens. In addition, an independent media against corruption should be promoted and enhanced so that it could effectively play its roles in investigating and reporting of the situation of corruption, the effectiveness of the government in fighting against corruption, and the participation of the people toward alleviating corruption. The government should also try to promote the use and application of accounting and audit standard as well as other tools adopted by the international community so that government operations and business transactions can possibly be checked. This would make it possible to check and assure the accountability and transparency of the government and MSMEs.

Besides the aforesaid tools, the government should also improve its administrative proceedings. First, the government may need to encourage and enhance the effectiveness, accountability,

transparency and independency of prosecutors and judges in fulfilling their missions and assignments. However, they have to be controlled and checked. Thus, the government needs to assure that the Supreme Council of Magistracy is active, accountable, and transparent in ruling, controlling and governing over judges and prosecutors. Second, the National Accountability Working Groups should be demanded to collaborate with the Anti-Corruption Unit and National Audit Authority to combat corruption since all of them have similar missions and roles. The National Audit Authority and the Anti-Corruption Unit need be given more power to deal with powerful ministries and those internal audit departments to conduct auditing, gather information and order government officials for testifying. Third, some other agencies such as the Commission No. 4 of the National Assembly, the Commission on Interior, National Defense and Anti-Corruption of the Senate, and the One Window Service Office have to be equipped with competent human resources as well as other resources that could help to better implement their assignments. The government needs to assure that those offices are not equipped with too many employees.

Chapter V: Conclusion

Cambodia has been trying to develop itself from empty hand after decades of wars and has been able to experience dramatic economic development for the last decade. MSME has been one of those significant drivers of the development process. However, corruption, a major obstacle of business and economic development in Cambodia, is reported to be getting worse due to the unusual replacement of 29 provincial governors in 18 of Cambodian's 24 provinces from 2003 to 2008, the slow adoption of Anti-Corruption Law, and the impacts of power on legal procedures. As mentioned earlier in this research, provincial governors paid for their positions and that they would do their best to earn back their investment through corruption. The Anti-Corruption Law, which had been in a draft since 1994, could be passed only until March 2010 though it was rechecked again in early 2006. When collective response against corruption is conducted for an intervention from high ranking officials such as the provincial governors or the Prime Minister, legal procedures would be excluded.

Corruption is caused by both the public and private sector. It exists in the private sector because MSMEs want to maintain good relationship with public officials for business purpose and get their job done. Some of them pay bribe because others also pay and they do not even know if it is unofficial. For the publics, corruption occurs because public officials have low salary and lack of morality, controls and accountability. Cambodia does not have an effective civil society to monitor and report corruption case, effective anti-corruption mechanisms to detect corruption, good and fair law enforcement, an independent and effective judiciary to fairly prosecute corruption crimes, clear public policies, the use of banking systems among its employees and the citizens, and information of public service fees and duration. Corruption can be seen in many

sectors which include judiciary, tax and custom, public health care, police, public education, national assembly, electronic power agency, road department, and water/sewage sector. Hence, corruption is mostly found in judiciary, police, public health care, and tax and custom authority. It is less likely found in water authority.

With the existence of corruption, Cambodia lost about 15% of its GDP in 2005. MSMEs lost about 330 million USD. That loss was just the outset. Actually, it could be more than this since the government, MSMEs and households could actually use the money to enhance public service, improve and expand their business, and better their living standard. In contrast, that money was just taken away through informal payment. This would lower business expansion and development opportunities and would also lower employment. As a result, the citizens, especially the poor, would be struggling and end up with being even poorer.

Cambodian citizens, especially those who are well educated, think they should start taking actions to combat corruption. However, they find it impossible because taking actions against corruption alone is perceived to be risky. They would prefer to cope with it by avoiding all public services, building personal networks or taking actions in a large group of people. In addition, power seems to play more important roles than laws and regulations. That is to say when a large group people take an action against any corruption case an intervention from higher ranking officials such as the provincial governors or the Prime Minister might exist. Thereafter, formal resolutions or legal procedures would be excluded.

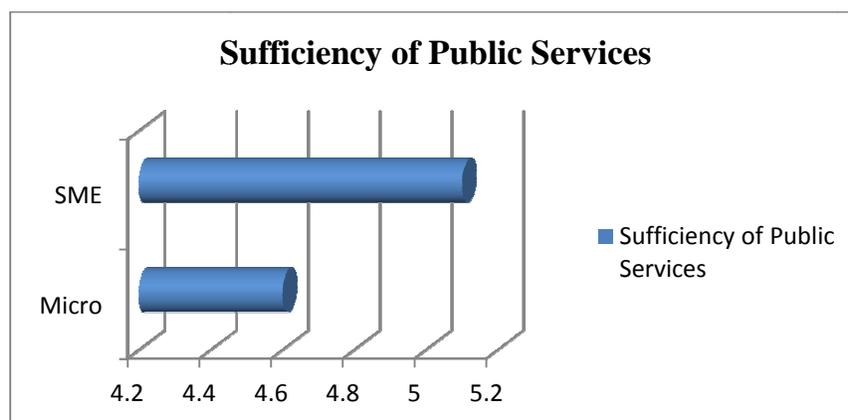
To deal with corruption, the government invented many tools as such the Anti-Corruption Law, UNTAC Law, Taxation Law, and Law on Civil Servants. In addition, the government also created many administrative proceedings within government ministries and departments to sanction all types of public employees who commit corruption. However, those tools need to be

improved because most of them are ineffective. For instance, though many laws were adopted there had no any criminal prosecution against corruption from 1992 to 1999. Until after 1999, few corruption prosecutions were found among lower ranking officials. That does not mean corruption does not exist among higher ranking officials. Actually, it means laws and regulations are not well enforced among higher ranking officials. Similarly, some of the administrative proceedings are not transparent, accountable, and effective. Information of each discipline procedures is not clearly stated and shared to the public. Prosecutors and judges are not given full authority to fulfill their jobs. Some anti-corruption authorities are very inactive and do not enforce the laws. They take actions only when demanded by the Prime Minister. Even worse, some of them are given insufficient power with limited resources while some others are given too much authority.

Therefore, the government should adopt a policy(s) to 1) enhance public support and participation in the fight against corruption, 2) improve its internal laws and regulations, 3) boost up its collaboration with both local and international community to cope with corruption, and 4) create better anti-corruption mechanisms to monitor, detect and prosecute corruption if Cambodia is to be more effective in combating corruption so as to enhance MSME and economic development.

APPENDICES

1. Sufficiency of Public Service after Paying Unofficial Fees



Source: EIC, CAPS Survey, April 2006

2. Occurrence of Informal Charge

	Public officials come to the firms	Firms get in contact with public officials	Through middlemen
Micro-Enterprises	90%	22%	7%
SMEs	82%	29%	41%

Source: EIC, CAPS Survey, April 2006

3. Reasons for MSMEs to Pay Informal Charge

	Maintain good relations	Avoid extortion by public officials	Get public service done	Express thanks for public service delivery	Compensate officials for their unpaid time
Micro-Enterprises	77%	42%	29%	20%	11%
SMEs	54%	32%	56%	44%	33%

Source: EIC, CAPS Survey, April 2006

4. Reasons to Demand for Unofficial Fee: (0 = not the reason; 7 = likely the reason)

	Micro	SME	Large
Lack of moral (Ethic)	4.7	4.9	4.9
Lack of effective civil society	4.7	5.0	4.9
Lack of democracy	4.9	5.0	4.8
Too many and complex government regulations	5.0	5.0	5.3
Lack of controls and accountability of public officials	5.2	5.1	5.1
Culture of corruption	5.4	5.6	5.5
Poor law enforcement	5.4	5.4	5.6
Low salary of public officials	5.4	5.7	5.8
Lack of effective anti-mechanisms	5.4	5.5	6.0
Lack of an independent and effective judiciary	5.6	5.5	5.2

Source: EIC, CAPS Survey, April 2006

5. Proportion of Firms Being Inspected by Different Authorities

	Tax Authorities	Police	Local Authorities	Fire and Building Safety	Environment	Standard Inspection	Labor and Social Security
Micro-Enterprises	93%	37%	29%	28%	15%	3%	2%
SMEs	95%	50%	55%	58%	52%	20%	31%
Large Enterprises	100%	60%	62%	84%	58%	16%	82%

Source: EIC, CAPS Survey, April 2006

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