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Cambodian Center for Human Rights

Report

Workshop as Part of the

'WORKING TOGETHER ON BUSINESS AND HUMAN RIGHTS IN CAMBODIA'

Series

April 09, 2010

Bai Tong Restaurant—Phnom Penh, Cambodia

Supported by:



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Report

Workshop:

“Understanding Business and Human Rights Together”

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Introduction

On April 09 2010, the Cambodian Center for Human Rights (CCHR) Cambodian Business and Human Rights Project hosted a workshop entitled ‘Understanding Business and Human Rights Together’ (the Workshop). The Workshop was attended by employees, company workers and university students and aimed to help participants understand their rights and duties more clearly. The Workshop attempted to introduce Cambodian employees to business and human rights, and to improve their understanding of human rights through presentations from CCHR, guest speakers and dialogue.

The following report explains the central messages of the Workshop and summarises the experiences and debates that emerged during discussions. This report is designed to be a follow-up to the Workshop, and will hopefully help order the thoughts of participants.

Expectations of the Participants.

After the workshop participants expected to be able to -

- Show an improved understanding of what human rights are and the ways in which they are relevant to their working lives.
- Assess the actions of businesses in human rights terms, and understand what constitutes a human rights abuse.
- Understand the mechanisms for redressing human rights abuses.
- Work with their employers to improve human rights standards.
- Know who to appeal to when human rights abuse is discovered.

The Workshop was divided into 2 sessions:

Mr Kong Som Onn, Director of Programs (CCHR), opened the workshop with a welcome and introduction:

- How business can respect human rights.
- How employees can demand that their human rights are respected.
- How to encouraging businesses to promote human rights in the workplace.
- Finding ways to help employees and employers to respect each other.
- Sharing ideas from guest speakers and participants.

Mr Chak Sophy, Project Coordinator (CCHR) presented briefly on the Cambodian Business and Human Rights Project. He said that the Cambodian Business and Human Rights Project is the first of its kind in Cambodia, and that the Project is timely because Cambodia is seeing an increasing number of human rights abuses in the business community with little or no Government monitoring. He drew participants' attention to www.sithi.org where information on human rights instruments, mechanism and resources can be shared publicly. To outline the overall objective of the Project, Mr Chak Sophy stated that he dreamed that all Cambodian businesses made Corporate Social Responsibility (CSR) and human rights policies part of a their internal law thereby ensuring that they act in a certain way. He explained that implementing CSR and human rights policies must comply with the UN three-pillar frameworks: the state duty to protect human rights, the corporate responsibility to respect human right and adequate recourse to effective remedies. He highlighted the business case for human rights: improved reputation and increased productivity.

Session 1: Discussion on Human Rights Respecting in Business in Cambodia

- **Mr. Moeun Tola** - Program Coordinator - Community Legal Education Center presented on *Business and Decent Working Conditions in Cambodia*. Decent working conditions refer to equality of opportunity for everyone to get suitable jobs according to their ability, and at all times in conditions that guarantee freedom, equality, security and human dignity. He examined articles from international human rights instruments such as the UN Universal Declaration of Human Rights, the UN International Covenant on Economic, Social and Cultural Rights, various ILO Conventions, the Cambodian Constitution and the Cambodian Labor Law to explain decent working conditions to participants. Mr. Kong Som Onn asked Mr. Tola to clarify the term 'peaceful demonstration'. Mr. Tola replied that peaceful demonstration is gathering to demand something without violence, and for the holistic benefit of both the employers and employees. He said that workers have the right to do so and any improvement in working conditions will also help the business's profits. He continued to explain more about lockouts. A lockout is the act of shutting down of all or one part of the workplace by an employer in response to labor unrest. In the case of a lockout, an inspector must monitor the business to ensure workers' rights are respected, as a lockout without prior notice is not legitimate.

Mr. Alonzo Susan - American Center for International Labor Solidarity (ACIL) presented on *The Role of Trade Unions in Protecting Workers' Rights*. Trade unions are the fundamental organizations for protecting the interests of workers. Trade unions are in theory an external partner, but are in practice internal in that they are made up of workers, serve workers and are derived from workers. The workers' interests that trade unions seek to protect are respect, security and a share of the profits (through wages and benefits). In society, as tax payers, workers spend on food, the cost of living, housing, health care, public education, culture and so on, and therefore they help society. He stressed that Government has an obligation to do something for the workers such as enforcing a more effective labor law, providing a better living standard, and improving

education and health services. He said that some articles of the Labor Law do not match the situation of Cambodia's society and so ought to be amended. Mr. Alonzo continued that trade unions have the right to negotiation with the company. They can raise issues about worker's rights. Trade unions do not only negotiate but they also lobby, in particular with the Government to make sure that the Labor Law and worker's rights are respected as part of a democratic society. Trade unions have the duty to monitor whether businesses have respected human. Mr. Alonzo also said that trade unions can be a two-side weapon to improve the human rights performance of both the Government and businesses. Their complaints and advocacy will help encourage to the Government to improve monitoring and the legal framework, and help businesses improve the working conditions of employees. Mr. Alonzo's presentation demonstrated the importance of trade unionism and illustrated that the trade union is the gathering force for non-violent protest.

Mr. Yim Serey Vathanak - National Program Coordinator of ILO WEP – International Labor Organization presented on *Labor Rights in Cambodia*. The ILO was created in 1919 and became the UN agency to implement the labor rights and the three-parties approach (employee, employer and governments). According to ILO regulations, any company which has at least 8 employees must have internal laws and regulations. When there is the conflict, the representatives of the workers will make a complaint and enter into negotiations with their employers. If these negotiations fail, a labor inspector has 20 days to resolve the conflict. If this is still not successful, workers can strike. He also said that when the company generates greater profits, the workers ought to remunerated accordingly, that is, share in this profit somehow. He concluded that we must work together to make our lives better.

Questions & Answers:

1- Why do some NGOs or companies add “encourage women to apply” in their job announcement, if they support equality of opportunity irrespective of gender?

Mr. Yim Sereyvathanak: there are a lot of reasons to promote gender equality. If you look at the history of the difficulty faced by women in asking for equal rights, you can see why they need to be positively encouraged to apply. For this reason women are encouraged to apply, although this does not necessarily mean that men will not get the job

Mr. Kong Sam Onn: Positive discrimination. If, and only if, a woman has the same ability to work as a man, the woman will be chosen. If the man is better qualified, he will get the job.

2- Why does the law say unless you have 8 employees you don't have to have your own regulations?

Mr. Yim Sereyvathanak: This is the limit set by law, although businesses with less employees still have the right to create internal regulations if they wish.

3- How do businesses share benefits with workers in the U.S.A? How about in Cambodia?

Mr. Alonzo Suson: Workers always know when their company is doing well because they will get more orders, they will see improvements in the workplace, the office of C.E.O will get bigger and so on. They then talk to the employers through their unions in order to increase their wages and share more in the benefits of success.

In some cases the company begins to lose money, for example during economic depressions. Ford and GM workers agreed to a reduction in benefits when their companies faced financial difficulties. The level of your profit is directly related to labor costs and the benefits that go to labor, so the workers themselves must sometimes be flexible for the good of the company. The problem is that when the company earns a lot, they tend to forget to share the benefit with the workers. Hence trade unions.

- 4- Should foreigners with the same qualification as local staff get the same salary as local staff or higher?

Mr. Mueng Tola: Candidates are judged by the standard of their qualifications not the level their education has reached because the same degrees from different countries and institutions have different values. Also, the cost of living is higher for foreigners. There have been some complaints regarding this matter to the Arbitration Council, but they were rejected.

Session 2: A business perspective on Human Rights and Corporate Social Responsibility:

- **Mr. Preap Kol AngkorOne.com**

AngkorOne.com has a lot of fans because the company has a culture of helping society and sharing profits, for example, by constructing libraries, providing wells and distributing crash helmets. AngkorOne.com has just issued VIP Card for charity program. AngkorOne respects the human rights of its staff by having a guideline book for resolving any conflicts.

- **Ideas on the Labor Law (1997) from ILO – WEP**

The Labor Law has 19 chapters and 396 articles. Important elements include: there must be a representative of workers elected by workers in the company or factory; the Law recognizes this representative, and only Government inspectors can approve of his resignation; if a company wants to fire someone, it has to give a notice period of 45 or 55 days to that employee (depending on length of employment); if employers violates the working contract by firing employees before the contract ends, forcing workers to work overtime, or not giving overtime wages according to the deal with the employees, for example, the workers have the right to strike. Strikes pause production and ruin the company's reputation.

Questions & Answers:

- 1- Before starting a business, what should investors do in order to avoid violating human rights?

Mr. Preap Kol: risk assessment research should be conducted. They must study the law and regulations of the country they want to start their business in so that their regulations will be relevant to the context of that country and its law. Those regulations must be seriously adopted. The causes of the human rights violation are as following:

- Greed
- Corruption/bribery
- Nepotism

- 2- Why there are still many conflicts between employers and employees despite a good Labor Law?

Mr. Yim Sereyvathanak:

- Employees must understand the economic situation of the country, company profit status, and their wage standard. Their demands must be realistic.
- Government officers are often corrupt. So the employers have to give money to them which means the amount of profit which can be shared with workers is reduced.
- Employers simply do not respect the law.

- 3- Why do most employers, especially Chinese employers, break Cambodian laws? Why is implementation so ineffective?

Mr. Yim Sereyvathanak: The employers do not study local culture and punishment and fines are not sufficient. Also, some trade unions are corrupt and do not genuinely operate for workers.

Mr. Preap Kol: Foreign employers are exploitative and the justice system in Cambodia is insufficiently strong.

Mr. Meung Tola: Government inspectors must conduct inspections once a month. The problem is that they don't do it and if they do, it is not effective. Those inspectors do not do their duty well.

Summary and closing remarks:

Mr. Kong Sam Onn closed the workshop by thanking to all participants and guest speakers. He said he hoped the workshop had improved the knowledge of all participants.

Organizers:

Mr. Kong Sam Onn: Director of Programs, CCHR

Mr. Chak Sophy: Project Coordinator, CCHR

Ms. Khun Keomony: Project Officer, CCHR

Mr. Leang Phannara: Intern, CCHR

Mr. Bijan Hoshi: Intern, CCHR

THE EVENT PHOTO

