

**Fact Sheet:** Institutions Series: National Human Rights Bodies in Cambodia



**Institutions:** The National Assembly Commission on Human Rights (“NACHR”), the Senate Commission on Human Rights (“SCHR”) and the Cambodian Human Rights Committee (“CHRC”), together the “National Human Rights Bodies”.

**Snapshot:** The National Human Rights Bodies, while representing a potentially important means of promoting and protecting human rights in the Kingdom of Cambodia (“Cambodia”), have failed to demonstrate that they are sufficiently autonomous to hold the Royal Government of Cambodia (the “RGC”) to account when it comes to its human rights record.

### Introduction

This fact sheet outlines the work of the National Human Rights Bodies - the NACHR, SCHR and the CHRC - before calling for an independent National Human Rights Institution (“NHRI”) to be created. This fact sheet is written by the Cambodian Center for Human Rights (“CCHR”), a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

### National Assembly Commission on Human Rights

The lower chamber of Cambodia’s bicameral parliament, the National Assembly, is broken down into nine separate commissions, each of which has specific, specialist roles. The NACHR is one such commission. Its purpose is to act as a mechanism by which citizens can voice their concerns and complaints with regard to human rights violations. It consists of seven members, all of whom are members of the National Assembly. The Cambodian People’s Party (the “CPP”) makes up the majority of the members of the NACHR. As representatives of the people, the NACHR is entrusted with the duties to protect human rights and address requests and complaints of the citizens whose rights have been violated by the state or organs of the state. It is also intended to be an advisory body to the RGC on relevant laws, and has an education and awareness-raising mandate. In 2011 Professor Surya Subedi, the United Nations (“UN”) Special Rapporteur on the Situation of Human Rights in Cambodia (the “Special Rapporteur”), reported that between 2006 and 2010 the NACHR received a total of 1,158 complaints from members of the public, mostly relating to land disputes, and that the NACHR had written to the relevant government departments in a “good number” of cases. The total number of responses from the government departments received was around 250. The NACHR was also reported by the Special Rapporteur to have examined various draft laws concerning the protection and promotion of human rights.

### Senate Commission on Human Rights

The upper chamber of Cambodia’s bicameral parliament, the Senate, has a commission structure similar to that of the National Assembly that includes the SCHR. The SCHR consists of five Senators, with CPP-affiliated senators holding a majority of the seats. Pursuant to the 2006 Decision on the Role, Duty and Competence of the Commission on Human Rights, Reception of Complaints and Investigation (the “2006 Decision”), the SCHR’s stated role is to promote and protect every citizen’s rights to live in dignity and equality, as well as to follow up and monitor the implementation of human rights in Cambodia. Its duties are to receive complaints from individuals, make initiatives on drafting proposals to implement provisions on human rights as stipulated in the Constitution of Cambodia and other international legal instruments, and investigate complaints made by the public. The SCHR has been regarded by the Special Rapporteur as being slightly more effective than the NACHR, being more proactive and occasionally engaging in “fact finding” missions under its own

initiative. The Special Rapporteur reports that in recent years the SCHR has received 300 complaints, and has received responses from government departments in approximately 100 of these cases.

### **Cambodian Human Rights Committee**

Established in 1998, the CHRC was assigned by the RGC to promote human rights and the rule of law in Cambodia. The CHRC's role is to investigate and remedy complaints relating to human rights, collect information relating to the implementation of human rights, organize training and disseminate information on human rights. It is also responsible for preparing human rights reports for the UN.

### **Effectiveness of the National Human Rights Bodies in Cambodia**

While the presence of National Human Rights Bodies in Cambodia is important, it is fundamental that they are more than simply symbolic institutions and that they are in fact effective in promoting and protecting human rights. The make-up of these bodies however raises questions as to their independence and autonomy in holding the RGC to account when it comes to its human rights obligations. Given that both the NACHR and the SCHR are commissions within the National Assembly and Senate respectively they are solely comprised of members of the legislature, and are elected by members of the corresponding chamber, leaving them susceptible to government influence. The ruling party will therefore always have control of both the NACHR and the SCHR. The CHRC is also regarded to be heavily under the control of the executive. Being vulnerable to potential government influence, these bodies are not in a position to discharge their duties effectively. In addition, while the SCHR has a mandate proscribed by the 2006 Decision, the role of the NACHR and CHRC is less clearly defined. There are no clear rules or guidelines to govern how they should function; as a result, it is impossible to assess whether they are fulfilling their roles. The National Human Rights Bodies lack procedural clarity and accessibility and none have a clear procedure for members of the public to follow when filing a complaint. Furthermore, the general lack of information available about these bodies is indicative of the lack of transparency of their work.

### **Conclusion and Recommendations**

In September 2006, Prime Minister Hun Sen committed his government to the creation of an NHRI based on the Paris Principles – a set of principles which have been adopted by the UN and which relate to the status and functioning of national institutions for the promotion and protection of human rights. However, there has been little development in this regard and a lack of political will. In light of the issues of perceived lack of independence of the existing National Human Rights Bodies, the RGC must find the political will and work towards establishing an NHRI that is not only independent but also has a fair and transparent system for selecting membership based on the principle of pluralism so that membership represents all sections of Cambodian society. Such an institution must in particular have a broad mandate covering the protection and promotion of human rights, with clear powers and sufficient resources for dealing with human rights abuses and discharging its duties effectively. The establishment of an independent NHRI in line with the Paris Principles must occur in order to meet the needs of Cambodians as far as their human rights are concerned.

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