

## TERMS OF REFERENCE FOR A CONSULTANCY

### STUDY ON BUSINESS AND HUMAN RIGHTS IN CAMBODIA, STAR KAMPUCHEA (SK)

#### I. INTRODUCTION

Adverse impacts on the enjoyment of human rights resulting from activities of business enterprises, including business-related human rights abuses, continue to be a key challenge across the world. At the international level, in 2008, the United Nations endorsed the ‘Protect, Respect, and Remedy Framework’ for business and human rights. This framework unequivocally recognizes that States have the *duty* under international human rights law to *protect* everyone within their territory and/or jurisdiction from human rights abuses committed by business enterprises. The UN Framework also addresses the human rights responsibilities of businesses. Business enterprises have the *responsibility to respect* human rights wherever they operate and whatever their size or industry. In other words, companies must know—and show—that they respect human rights in all their operations. The UN Framework also recognizes the fundamental right of individuals and communities to access effective remedy when their rights have been adversely impacted by business activities (ANGOC, 2020). Also, a new normative clarity on the roles and responsibilities of States and business enterprises has emerged with the endorsement by the United Nations Human Rights Council of a set of Guiding Principles on Business and Human Rights (GPBHR) in June 2011, developed by the Special Representative of the Secretary-General on transnational corporations and other business enterprises, replaced by a Working Group (OHCHR, n.d.). The Guiding Principles are a set of 31 principles to define and guide how States and businesses can protect and promote a respect for human rights in daily business operations (CCHR, 2016). The UN Framework also recognizes the fundamental right of individuals and communities to access effective remedy when their rights have been adversely impacted by business activities. When a business enterprise abuses human rights, States must ensure that the people affected can access an effective remedy through the court system or other legitimate non-judicial process. Companies, for their part, are expected to establish or participate in effective grievance mechanisms for any individuals or communities adversely impacted by their operations (ANGOC, 2020).

In Cambodia, investment by national and international businesses is a key driver of the nation’s development, and the impacts on the population and society need not be adverse. The Guiding Principles on Business and Human Rights provide a roadmap for States and businesses, as well as civil society, donors and development partners, to better manage this new wave of development (CCHR, 2016). However, Cambodia is suffering with the growing tension between agribusiness activities and communities. The government, through the Economic Land Concessions (ELCs) policy, has given million hectares of land to large-scale agribusiness investments resulted in a booming land conflict between peasants, indigenous peoples and companies. Land expropriation, land grabbing, resettlement and

forced eviction remain a problem. Cambodia is party to many international human rights instruments, but in terms of implementation, the country is still struggling with many inconsistencies and violations. Government initiatives to establish independent human rights commission has stopped following the deterioration of democratic space in the country. Regarding business and human rights, the Cambodian government has little concern and awareness. But, local NGOS, even with its limited space, has been taking several initial steps to introduce the framework to the country (ANGOC, 2019).

The BHR framework demands that corporations demonstrate universal respect for human rights in all operations. The UN Guiding Principles on Business and Human Rights outlines how states and business can protect and promote human rights through three central pillars: 1) the state duty to protect against human rights abuses, 2) the corporate responsibility to respect human rights, and 3) access to remedy, which requires states and businesses to provide access for victims of business-related human rights abuses to effective judicial and non-judicial remedies (Sek Sophorn, 2018).

To engage NHRIs, state human rights institutions, government, and private sector on UNGP BHR, SK commits to effectively engaging stakeholders using the basic principles of business and human rights, whether through monitoring, protection, technical cooperation, capacity building of relevant local actors, and strengthening the accountability of states and business enterprises.

## **II. OVERALL GOAL AND SPECIFIC OBJECTIVES OF THE CONSULTANCY**

### **II.1 Overall goal:**

To effectively engage stakeholders using the basic principles of business and human rights, whether through monitoring, protection, technical cooperation, capacity building of relevant local actors, and strengthening the accountability of states and business enterprises.

### **II.2 Specific objectives:**

1. To conduct a study on the national framework and obligation of Cambodia regarding the establishment of NHRIs and enforcement of UNGP BHR
2. Conduct a multi-stakeholder dialogue to promote understanding of BHR to government, CSOs, OHCHR, and other stakeholders
3. To provide recommendation for next steps for the establishment of NHRI and enforcement of UNGP BHR

## **III. SCOPE OF WORK**

“The Study on Business and Human Rights in Cambodia” will be conducted by a local consultant/team commissioned by SK under financial support of ANGOC. This study builds

on the study on the Business and Human Rights Principles – Cambodia, conducted by a consultant in 2018, with the financial support from KPA, aiming at engaging NHRIs state human rights institutions, government, and private sector on UNGP BHR. Hence, the study will focus on the progress of the UNGP BHR practices related to land rights, opportunities for CSO interventions on BHR related to land rights, status of the establishment of National Human Rights Institution (NHRI) in Cambodia, and the efforts of CSOs in Cambodia advocating for the establishment of NHRI in Cambodia. Last but not least, the study will provide recommendations to CSOs on improving practices on UNGP BHR and the establishment of NHI.

The study report will be a part of the Asian Country BHR and UNGP BHR Report, which will be consolidated by ANGOC, under the framework of Commitment Based Initiative (CBI9 &10). The study will be used as an advocacy material to promote business and human rights in Cambodia.

The consultant/team will conduct the study through desk review by using materials from available documents that has been produced by government, CSOs, private sector, human rights bodies or other relevant materials such as concerned national laws and international convention. In addition, the consultant/team will conduct field interviews with key concerned CSOs, Cambodian Human Right Commission (CHRC), the Human Right Commissions of the Senate and the National Assembly. The consultant is requested to develop a report with at least 20 pages, excluding the annexes and list of reference. After the report is finalized, the consultant will conduct a multi-stakeholder dialogue to promote understanding of BHR to government, CSOs, OHCHR and other stakeholders as well as to validate the report.

#### **IV. METHODOLOGY AND KEY ACTIVITIES**

##### **IV.1 Desk review**

The consultant/team will conduct a quick desk review of the relevant literature and documents useful to complete the overall goal and objectives of the study. This will include reviewing documents related to BHR such as research and report of CSOs, CHRC, UNOHCR and documentation of best practices, etc. The desk review will also cover relevant literature related to other countries (UN convention, UNGPBHR, BHR reports of other countries).

##### **IV.2 Key Informant Interview (KIs) and Focus Group Discussions (FGDs)**

At least 20 people from human rights NGOs, CHRC, members of HRC of the National Assembly, UNOHCR Office will have to be interviewed by the consultant/team of consultants.

##### **IV.3 Raising Awareness and Validation Report Workshop on BHR &UNPG BHR**

A Raising-Awareness and Validation Report Workshop will be conducted by the consultant/team to promote understanding of BHR to government, CSOs, OHCHR and other stakeholders as well as to validate the report. Feedback will be provided by the participants

to the consultant for the finalization of the report and suggestions for the next steps to promote BHR. The timeframe and format of this workshop will be consulted among the consultant/team and SK.

## **V. KEY DELIVERABLES**

The following deliverables are expected to be developed:

- A *study report* with 8 pages, excluding annexes, will be written by the consultant/team. The format of report is attached to this ToR.
  - The draft of the study will be shared with the participants of the validation workshop
  - CSO recommendations, strategy and next step activities on NHRI establishment and BHR promotion will be collected
  - Summary reports of CSO meetings/consultations, attendance sheets, photographs
  - The draft of the study will be finalized by the consultant/team and Star Kampuchea
- At least 20 people from human rights NGOs, CHRC, members of HRCs of the National Assembly and Senate, UNOHCR Office will be interviewed by the consultant/team
- A Raising-Awareness and Report Validation Workshop with the attendance of at least 20 CSOs, government agencies, government human rights institutions, and to the extent possible, private sector to share the results of the study report, and promote understanding of NHRI establishment and BHR with CSOs, government, stakeholders will be conducted
- A workshop report of the workshop will be developed and submitted to SK.

## **VI. ROLES AND RESPONSIBILITIES**

<b>Date</b>	<b>Activities</b>
6-10/2020 (2 days)	Conduct desk review
20-24/07/2020 (4 days)	Draft a study report
26-29/07/2020 (4 days)	Conduct individual and FDG interviews
14/08/2020	Submit a draft report to SK
2/9/2020 (1 day)	Conduct a multi-stakeholder dialogue to promote understanding of BHR to government, CSOs, OHCHR and other stakeholders
15/09/2020	Submit the workshop report to SK
23-26/09/2020 (1 day)	Finalize the draft study report and submit to SK
7/10/2020 (1 day)	Consultant submits the draft report study to ANGOC
20/10/2020 (1 day)	Receive feedback from ANGOC
30/10/2020 (1 day)	Finalize draft based on recommendations from ANGOC and

	submit to SK and ANGOC
Total	15 days

## **VII. TIME FRAME AND TERM OF PAYMENT**

The budget for consultant fee is US\$1,500 and 600\$ for VAT 15% as well as for individual and FGD interview. The specific condition term of payment will be elaborated in the contract. This consultancy is expected to require 15 days of work maximum, from the beginning of June to end of October 2020. For the workshop, SK will bear responsibilities for the venue fee, travel and accommodation to the participants.

## **VIII. CONSULTANT'S QUALIFICATIONS**

- Bachelor or Master Degree in social science, public administration, laws or other related filed
- At least five year in extensive, relevant professional experiences in the areas of B&HR, UNGPBHR, related UN conventions and national laws.
- At least five years' experience in conducting research and developing publications.
- Experience in organizing multi-stake holder dialogues and training courses
- Strong understanding of human rights, land rights, the roles of Cambodia Human Rights Commission (CHRC), Human Rights Commission of the National Assembly, Human Rights Commission of Senate, and other NGOs working on human rights and Business.
- Excellent writing English