Background:

This workshop reflected the ongoing contribution of CDI to various good governance activities in Cambodia. CDI conducted a national workshop in September 1999 to commence the process of drafting Cambodia’s National Anti-Corruption Action Plan. In 2000 CDI conducted a workshop on Human Rights treaty bodies reporting. In 2001 CDI organised a study tour by Parliamentarians and Officials from the Cambodian Parliament to Australia. In both 2001 and 2002 CDI arranged discussions between the Australian and Cambodian Senates.

For its part, IDP organised a workshop in 2003 on case studies of successful good governance in Cambodia. The 2004 workshop was therefore consistent with the above activities in that it continued the focus of discussions on democratisation of institutions and specifically the mechanisms that can influence behaviour to achieve better governance. This workshop was funded by CDI and organised by IDP.

The 2004 workshop brought together 40 representatives from Government, the NGO community, the private sector, donors, multilateral agencies, bilateral projects and also several international consultants working in advisory positions to the Royal Government of Cambodia. There were six presentations on mechanisms which can influence behaviour, and one update on a survey being undertaken in Cambodia at the time of the workshop, related to Transparency International’s Corruption Perceptions Index and potential future inclusion of Cambodia in that index.

The Presentations:

Presentation #1: Code of Conduct  
Presented by: Mr. Dominic Cardy, Program Manager  
National Democratic Institute (NDI)

In the lead-up to the 1993 and 1998 elections in Cambodia, there was considerable animosity between the political parties, and by international standards a low level of debate about issues and a high level of intimidation and violence. Prior to the 2003 elections, NDI identified a constructive role for itself to assist the parties to work towards greater public dialogue about issues and more respect for election laws, in particular regarding intimidation and violence. All the major political parties signed
up to the Code of Conduct spearheaded by NDI. Although it is hard to measure the impact of the code on behaviour in the pre-election period, there were quantifiably fewer recorded incidents of harassment and intimidation in that election than in previous ones and some level of trust between all the parties that signed on.

This Code of Conduct did not create an additional law; it supported existing laws in Cambodia. The Code was taken from an existing code in another country, so it was not particularly innovative. Significantly however, the process of accepting this code involved active participation and negotiation by all political parties in Cambodia. The code needed to be adapted for Cambodia. Through this participatory process, the parties became the owners of the document. The process of negotiation needed the assistance of an independent third party. NDI in this case was regarded by the political parties as being unbiased and as acting in good faith. The code involved a very public signing on ceremony.

Importantly, this Code was only accepted because each party could see the benefits for itself in signing the code. Each signatory had something to gain. Criticism of the management of elections can easily be blamed on the governing party, so there was a strong incentive for the governing party to sign up and demonstrate its good faith. For the parties in opposition the Code was viewed as a means to constrain the actions of the ruling party. This was of clear benefit to them.

Key to the success of this Code was the role of the general public. The public was made aware of the document in a variety of ways; copies were distributed throughout the country and TV and radio advertisements explained the code in an easily accessible way. A hotline was also established, enabling anybody to call in with complaints. There was also diplomatic monitoring of adherence to the Code.

According to Mr. Cardy, the use of a code of conduct in electoral campaigns is particularly useful in Cambodia where there are strong divisions and lack of trust between political parties and between political parties and civil society.

The ensuing discussion took this point further, where several participants questioned the applicability of such a code in other circumstances e.g. as a potential mechanism to support anticipated anti-corruption legislation. Mr. Cardy agreed that a critical ingredient of successful behaviour change involves getting the key players to 'sign on' to change. In countries undergoing democratisation it is easy for political parties to play the blame game. But since democracy works through political parties, unless the reform process engages the parties and the politicians themselves, it is unlikely that there will be any improvement. Another participant was pessimistic that senior politicians would agree to sign on to a code of conduct related to corruption, unless there was clear benefit to those politicians in doing so.

In reaction to other pessimistic comments on patronage, the culture of corruption and lack of democracy in Cambodia, Mr. Cardy expressed optimism and pointed out that a hundred years ago less than 50% of the population in Western democracies had the right to vote. He stated that corruption is also a common problem in the West today and that in Cambodia there is an openness to discuss problems, which he regarded as very positive. Mr. Cardy indicated that the parties are showing increasing interest in implementing internal democratic processes and concluded that if there are
democratic procedures in place within parties and organizations, building democracy at the national level will also be easier.

**Presentation #2: The Labour Arbitration Council**  
**Presented by:** Mr. Daniel Adler, Program Development Advisor  
**Cambodia Legal Education Center (CLEC)**

Cambodia has a history of problematic relations between workers and employers. Employers sometimes do not respect the labour law. Examples include paying insufficient wages, anti-union discrimination and unfair dismissals. Workers resort to strike action before exhausting other methods of dispute resolution. Disputes have escalated far too quickly in Cambodia, even to the point of violence. There has been a mutual lack of trust between the parties. As a consequence of this situation, the Arbitration Council was formed in 2003 to provide a more constructive means of collective dispute resolution.

Mr. Adler described the Council as not only a mechanism for providing access to justice, but as a means of bringing about changed behaviour in dispute resolution. The council is independent, a point Mr. Adler stressed as crucial to gain the trust of the opposing parties. It is participatory, with arbitrators enjoying the confidence of all stakeholders. The Council publicizes reasoned decisions containing a full analysis of the law. This ensures a degree of accountability and credibility.

To demonstrate the success of the Council in modifying behaviour, Mr. Adler pointed to the rapidly increasing caseload of the Council. He stated that the parties increasingly choose arbitration as a means of solving disputes. Almost 50% of the cases brought to the Council have resulted in a settlement between the parties. In the garment industry there has been a 46% drop in the number of strikes.

As the decisions of the Council cannot be enforced by law, it cannot rely on power for functioning. It is dependent on the trust and support of its stakeholders. Still, the many successful cases of the Council show that sometimes when developing institutions of justice, credibility is more important than power. Both workers and employers perceive that they are gaining access to justice through the system of arbitration and they are confident that the Council is operating in the context of existing laws. This feeling of access to justice among the workers makes them less likely to resort to strikes in dispute situations.

The Council has built credibility by its reputation of being neutral and unbiased. This means that non-compliance with its awards has become less of an option. Multi-national companies, for example, want to preserve their good reputation in the global economy.

Discussion of this topic focused partly on the non-binding nature of the Council’s decisions. One question related to potential corruption developing in the Council, since corruption was viewed as rife within the judiciary generally. Mr. Adler pointed out that the non-binding nature of the Council’s decisions also has some advantages. For example, it means that the Council has less authority to attract bribes, since in theory it has less power. Hence it is likely to remain more independent and objective in its decision-making. He reiterated that the key elements to the success of the
Council have been consensus and commitment and the fact that the stakeholders have ongoing relationships i.e. employers and employees will continue to need each other. He concluded by stating that the Council can be seen as a model of independence, accountability and credibility.

Presentation #3: Fighting Domestic Violence; Changing Men and Women
Presented by: Ms. Hor Phally, Executive Director
Project Against Domestic Violence (PADV)

Domestic violence in Cambodia has long been interpreted as a private family matter, not to be discussed in public. Research shows, however, that this problem affects 25% of women in Cambodia and it is causing significant detrimental effects on families and social development in general. It is now an issue being discussed and worked with on a broad basis in Cambodia as a result of work done by PADV.

PADV informs and educates local authorities like the police about how to handle domestic violence and its victims. PADV is also raising public awareness about the topic through TV and radio advertisements, storybooks for children and publication of educational materials. PADV is lobbying policymakers and is conducting studies that show the impact of domestic violence on Cambodian society.

PADV also works with the perpetrators of violence, i.e. men. The pilot program “Men Stop Violence” has a three level approach: it works with peer groups; conducts group discussions, and; it works with stakeholders. The peer groups are comprised for example of violent youth gangs that have built up a reputation within society of being troublemakers. The closed groups discussions for men discuss anger management and the impact of violence on society and on women. Women can meet others in similar situations and they are given advice on how to support the changes their men have made. They receive support on how to get out of abusive relationships. Stakeholder groups of other community members, that too often refuse to get involved in cases of domestic violence, are educated on how to react when such situations arise.

Studies show the program has achieved changes in the behaviour of the men that have been involved in the group discussions, showing change from physical to emotional violence for example. There has also been a reduction in violence among youth gangs.

Incentives for the changes are in large part related to peer pressure and to the eagerness of the participants in the program to demonstrate the positive changes they have made. This shows that community expectations are a big influence on behaviour. Perpetrators of violence have also indicated that religious and cultural factors have been incentives for change. These factors are particularly important in sustaining the changed behaviour.

Discussion of this topic focused mainly on why the law against domestic violence has still not been passed by the National Assembly. According to Ms. Hor, the law was first drafted in 1996. Various participants mentioned that there is a belief in parts of the community that aspects of the law run contrary to Khmer culture. Some people say that criminalizing marital rape, for example, is tantamount to imposing Western
values on Cambodia. Gender and power came up repeatedly in discussion, with various observations being made about the different ways that men and women are involved in and affected by domestic violence. It was stated that men tend to run away from domestic conflict, whereas women tend to go to the authorities.

The role of the law in general was also discussed. One participant said that the law should only judge the acts that have been committed. Another participant noted that the law can and should change to reflect changing values, and cited the case of the changing laws in the United States. Another participant claimed that the current draft law is not satisfactory to everybody, so should be re-drafted. One expatriate participant made the point strongly that domestic violence is not cultural; it is a question of international standards of humanity.

Presentation #4: The Impact of International Norms; The UN Convention Against Corruption
Presented by: Mr. Roland Rich, Director Centre for Democratic Institutions (CDI)

Do nations look at themselves in relation to other countries and do they compare themselves? How does Cambodia fit into this picture of international comparison? Mr. Rich pointed out that although the phenomenon of nations comparing themselves to each other is quite a recent one, such comparisons are increasingly being used in different contexts. This development parallels the rise of the global community. Cambodia is now mentioned on various international comparators. It can be seen, for example, to rank low within the medium range of countries internationally on the Human Development Index (HDI). It ranks as “not free” on the Freedom House index for civil and political liberties.

Commercial rating agencies use country credit ratings to determine the cost of private money. The media and advocacy organizations use international comparators to prove certain points and exert influence on governments. Donors are starting to use the indices from such comparators as part of their conditionality for aid. One comparator relates to comparing countries by how much they participate in the ratification of international treaties.

Treaties can be regarded as reflecting consensus-based global standards on different issues, so there is a degree of moral pressure on countries to sign up to such treaties. The UN has developed a number of normative treaties e.g. in human rights, the environment, disarmament etc. Corruption has entered this field of normative regulation in the last 10 years. The UN Convention against Corruption was only brought into existence in 2003, but already over 100 countries have signed the treaty. Cambodia is now considering this treaty for possible signing in the near future.

There was lively discussion about whether such international treaties have any impact in Cambodia. One participant cited the Human Rights convention as an example of an international treaty that had been ratified by Cambodia but which has had no impact on the country. Another participant reacted by claiming that both external and domestic pressure is required. Yet another point was that it depends on the quantity and quality of the pressure being applied. Most of the participants articulated that the law by itself is not enough; that the way the law is implemented is equally as
important. There was also some discussion of culture vs. international standards, in particular as it relates to gift giving. As in earlier discussions, some participants emphasized that international standards are not really subject to local variation; corruption is corruption (whether for example it is grand corruption or petty corruption). Mr. Rich illustrated this point by describing ‘the sunshine test’ as it relates to gifts; if a gift can be given transparently – where it is not secretive – then it is a gift, not a bribe. Ultimately, Mr. Rich claimed, Cambodia will be judged internationally on how it tackles corruption.

Presentation #5: The Anti-Corruption Legislation – What difference will a law make?
Presented by: Mrs. Chea Vannath, Executive Director
Center for Social Development (CSD)

Three elements are vital in making the rule of law work in Cambodia: strong institutions; people who adopt democratic principles in their own life, and; leaders with a high moral standard, who can lead the country through the hardship connected to reform.

Leaders need to mobilize a critical mass that pushes for reform. A first step the government could take in curbing corruption in Cambodia would be to raise the salary of civil servants. All parties have said that they will raise salaries and everybody agrees that improved salaries will help to reduce corruption. So a good leader could take this issue to gain success. But the leader would then need to talk to the people and gain their trust and take other steps such as to increase taxes in order to pay for the increased salaries. This would be supported if the people trusted the leader. Having people with a high degree of integrity in the administration is also important. The role of civil society is vital to ensure the success of these reforms. It is therefore important to establish proper procedures and mechanisms to facilitate the partnership between government and civil society.

There is a risk of a boomerang effect when you undertake big reforms. The force to resist change can be greater than the reform for change. However, this cannot be used as an excuse for the status quo, since the risk for public upheaval is there if corruption is not addressed with adequate measures. Pressure from the international community has a vital role to play, since 50% of the national budget comes from donor countries. Donors, however, need to be more coherent, coordinated and explicit in their expectations of change on the part of the government. Complacency and conflicting messages on their part will not help Cambodia in its efforts to fight corruption.

When it comes to the general public, there needs to be a clear understanding of what corruption means. Nepotism, loyalty and gratitude can to a certain extent be regarded as virtues in an Asian context where an important value is looking after the family. For people to know where the line is to be drawn there needs to be adequate legislation and policy-backing from the highest level. There is a need to demonstrate in simple ways to the public how corrupt behaviour negatively affects the daily lives of the people. There is a clear connection between poverty, poor education, failing health systems and corrupt practices. Educational programs in schools on values and ethics, based on traditional Buddhist and other traditional values, are also important in this effort to get people to adopt moral standards.
A functioning rule of law in Cambodia also needs strengthened existing institutions and a clearer division of powers between the legislative, executive and the judiciary. In order for civil servants to become the servants of the people, political party leaders must have less influence on the nomination of government officials. The role of the media as a watchdog investigating and reporting on incidents of corruption is of utmost importance. However, for the media to be able to do this job, there needs to be a Freedom of Information Act establishing transparent procedures and open access to government documents.

Discussion of this issue focused on how to make an anti-corruption law work in practice. In fact, there has been draft anti-corruption legislation for around a decade in Cambodia, but the law has still not been passed. One participant pointed to Singapore as a model, and urged greater involvement of that country in Cambodia's efforts to fight corruption. One participant claimed that there should be more emphasis on literacy in Cambodia's development, so that people could come to understand the law better. Ms Chea responded to this point by saying that CSD is working on a curriculum for Grades 1-12 in the school system about transparency. Several participants lamented the weak judicial system in Cambodia. Others commented on the overlap and lack of separation of powers between the executive, the legislature and the judiciary. One Cambodian participant claimed that anti-corruption measures do not work if there is just one group with all the power, and that this combination of corrupt people must be broken. All agreed that these three arms of the state need strengthening.

**Presentation #6: The HIV/AIDS Infection Rate is Going Down; How was it done?**

**Presented by:** Dr Ty Chettra, National Director  
**The Policy Project**

It was only a few years ago that Cambodia was widely recognized as facing one of the most serious HIV/AIDS threats in Asia. The infection rate was high and growing. However, by a concerted effort, commencing with strong political commitment, Cambodia has managed to turn the corner in the battle against HIV infection rates. Aiming for behavioural change was central to the Cambodian effort. Prevalence among adults living with HIV has been reduced from 3.3% in 1997 to 2.6% in 2002. This is a major achievement, although the rate is still higher than in neighbouring countries.

Dr. Ty explained that HIV/AIDS has been viewed as more than a health issue; it is a social development issue. The strategy to combat HIV/AIDS has been holistic and multi-sectoral involving participation by all stakeholders, including the people infected and affected by the disease. Importantly, there has been substantial resource support at both the national and international level. This mobilization of resources has been facilitated by political commitment that has placed HIV/AIDS at the top of the agenda across a whole raft of development programs. A reflection of this political commitment was the speed with which the HIV/AIDS law was drafted and passed by the National Assembly. The whole process was completed in around 18 months. Amongst other things, relevant policies have focused on reducing and removing discrimination and stigmatization associated with the disease. An effort has been
made to change not only individual behaviour, but also family, community and society attitudes and behaviour.

A key approach to fighting the disease was targeted intervention, for example working with sex workers in brothels to achieve 100% condom use. In this approach, all stakeholders such as local authorities, police and the brothel owners were directly involved. Privacy and respect for human rights was always a consideration, so responsibility for condom use was placed on brothel owners. The monitoring process involved the local authorities dealing with the brothel owners and the brothel owners taking responsibility for actions within the brothels.

The campaign also involved much education about normative sexual behaviour to protect oneself from HIV/AIDS. As normative sexual behaviour is closely linked to religious belief and practice, faith-based interventions were also used. Appealing to religious principles also proved effective in reducing discrimination and in providing greater care for people living with HIV/AIDS.

The National AIDS Authority (NAA) was established in 1999 to deal with the issue in a holistic way and to coordinate actions related to the disease. The NAA put HIV/AIDS on the agenda in discussion of other social development issues. For example, the NAA managed to get strategies to fight HIV/AIDS included in the National Poverty Reduction Strategy of Cambodia.

There was much discussion on technical aspects of the fight against HIV/AIDS. One participant raised the issue of gang rape and how this could be dealt with to prevent the spread of the disease. A lively debate followed, with many acknowledging that gang rape is a serious problem in Cambodia and reflects issues of power. The leaders of gangs are often the sons of men in influential positions, and these gang leaders give their patronage to the other members of the gang in return for protection. The subject of human rights and privacy was raised in relation to investigations of such incidents. This brought strong reaction from others who claimed that rape is recognized internationally as a crime, so there is no cultural variation that is acceptable. One participant asked why 100% condom use could not be applied to contexts other than brothels. Dr Ty again raised the issue of human rights and the need to respect privacy when dealing with sexual acts between consenting adults.

Update: CPI Groundwork Currently Underway in Cambodia
Presented by: Ms. Christine Nissen, Research Coordinator
Center for Social Development (CSD)

Ms. Nissen is currently conducting a survey on the attitudes of the general public towards corruption in Cambodia and the impact of corruption on their daily lives. She is interviewing poor people, especially women, in rural areas, asking about the impact of corruption of their households. Ms. Nissen explained that in order for a country to be included in Transparency International’s Corruption Perceptions Index (CPI), there needs to be at least three different types of surveys. This survey will possibly be one of three such surveys to form the basis of Cambodia’s ranking on the CPI. The CPI is of considerable interest to private corporations – especially when considering whether to invest in a country. Unfortunately, since there is little foreign
investment as yet in Cambodia, there have been few corporate donors to pay for such surveys. Nevertheless, it is anticipated that sufficient survey work will have been undertaken to allow Cambodia to be ranked on the CPI within the next 2-3 years.

**Workshop Conclusions:**

This workshop was conducted in the context of Cambodia increasingly engaging with the international community and facing the challenges of catching up with its neighbours after years of internal problems. All the presentations in the workshop reflected the dynamic of a changing international environment as well as the challenges Cambodia is facing to adapt and make itself competitive in this environment. There has been much internal debate about government policies and laws, and yet the national changes required for Cambodia to progress require a critical mass of people to change their behaviour. Almost every presentation reflected the problem that laws by themselves are not working in Cambodia. Behavioural change is a vast field, and this workshop approached it by critically examining a few strategic areas where some key mechanisms have resulted in change. All such changes were related to supporting the legal framework, and many of the mechanisms have the potential to be used in other contexts.

There was clearly an overlap in the ‘sub-mechanisms’ used by the various projects to bring about behavioural change. All involved the following features: ownership by the parties whose behaviour was being asked to change; trust in the system that facilitates the change i.e. parties gravitate towards a working system of rules in which they have some confidence and thus adapt their behaviour accordingly; discussing the reality i.e. not hiding from reality for those with the problems but coming together face-to-face and talking about the behaviour problems as a first step towards modifying the behaviour; self-interest; i.e. people will respond to what they perceive is in their self-interest and education can greatly broaden their view of what behaviour is in their self-interest, and; combined international and domestic pressure for change, for example where international norms motivate domestic agents to instigate processes of behavioural change. Finally the workshop reflected concern about corruption and a conviction that corruption is an area of behaviour that requires change throughout society as both the actors in active and passive corruption need to be motivated to change existing patterns of behaviour.