

Protecting Human Rights in Southeast Asia: A Case study from Cambodia

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August 30 , 2017

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Strengthening Human Rights And Peace Research and Education
in ASEAN/Southeast Asia

Contents

- Overview of Human Right Protection in Southeast Asia
- The Role of External mechanism in protection of human rights, a Case study of World Bank Group Mechanism, Compliance Advisor Ombudsman, CAO in Cambodia
- Practice in Class- [Group Discussion]

Objective of the session

- Objective of the session is to provide students with a framework of human right protection at national level and regional level. The session also examine the role of external mechanism on human rights protection, case study of CAO, World Bank Group in Cambodia
- At the end of the session, students are able to examine human right protection at national and regional levels and role of stakeholders including the external one.

Class Rules and Methodologies (1)

Class Rules:

- Be generous & Keep environment safe
(confidentiality, nobody gets to be wrong, each opinion is valued)
- Respect one another (be on time, turn off your mobile phones)
- Empty your cup

Class Rules and Methodologies (2)

Teaching Methodologies:

- Interactive Teaching Methodology
- Socratic technique
- Group discussion
- Case study

Overview of Human Right Protection in Southeast Asia

- Session 1 Review[Asean HR Mechanism]
- Group Discussion on HR Protection in Southeast Asia: Who do what? Why and how?

Group Work (15 minutes)

- Group 1: Protection at National Level
- Group 2: Protection at Regional Level

Report to the plenary session by a group representative

Group 1: Protection at National level

Group 2: Protection at Regional Level

The Role of External mechanism in protection of human rights, a Case study of World Bank Group Mechanism, Compliance Advisor Ombudsman, CAO in Cambodia

HR Protection at National Law: A Case study from Cambodia (1)

- HR Protection within a state can be found in the Constitution, domestic laws, and HR treaties ratified by a state and incorporated into the domestic laws.
- However, enforcement is an issue of each state as a result, citizens/people who are affected have tried to seek an available external mechanism by themselves or through the support from NGOs, IOs, or Individuals who are aware of such a mechanism

HR Protection at National Law: A Case study from Cambodia (2)

- Therefore, this section provides an overview the role of the Compliance Advisor Ombudsman, an Independent Recourse Mechanism of IFC/MEGA, World Bank Group in relation to the social and environmental impact.

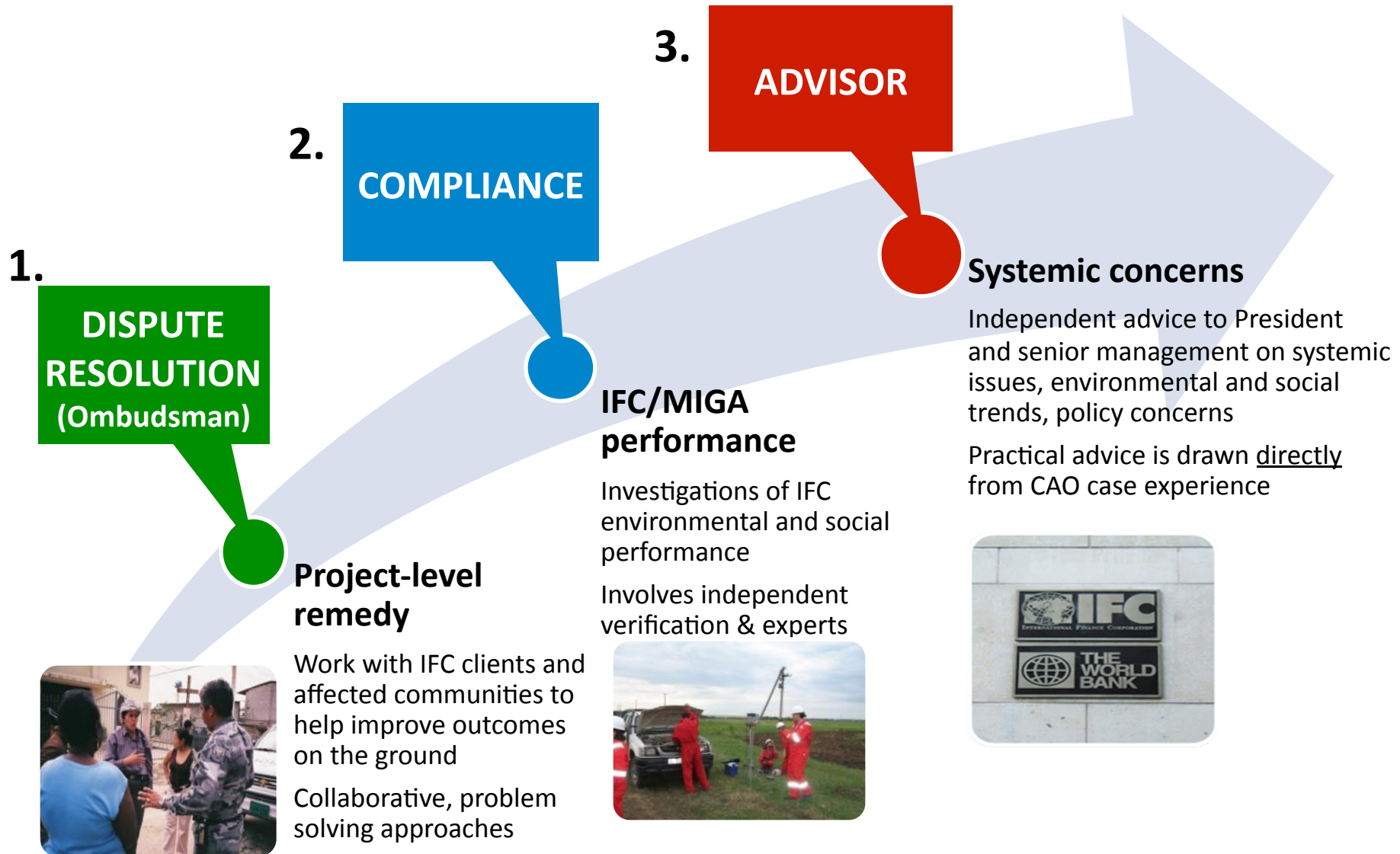
CAO Overview

- The Office of the Compliance Advisor Ombudsman (CAO) is the independent recourse mechanism for projects supported by the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA)--the private sector arms of the World Bank Group.
- CAO responds to complaints from project-affected communities with the goal of enhancing social and environmental outcomes on the ground.
- CAO was established in 1999 and reports directly to the President of the World Bank Group

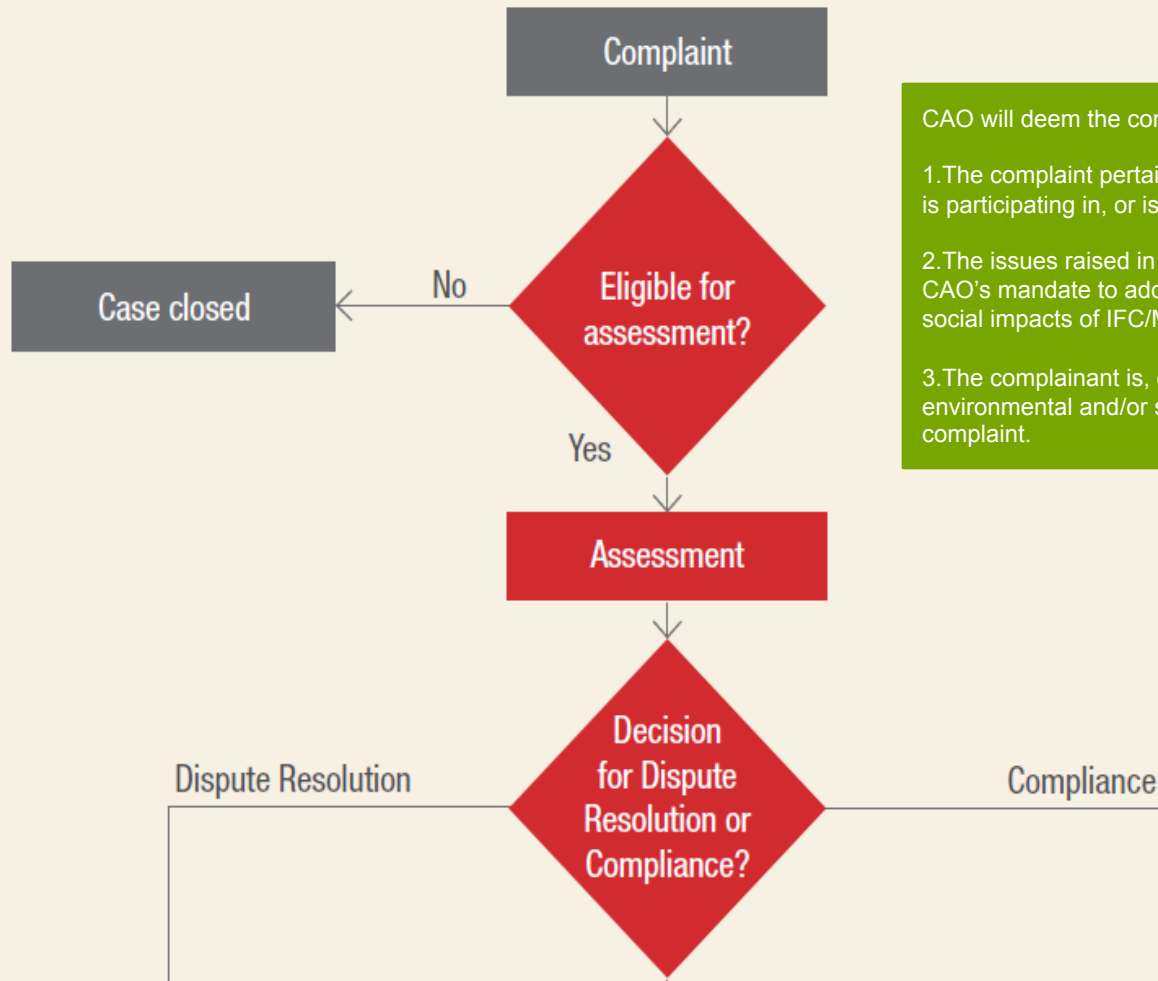
More info visit: www.cao-ombudsman.org

How does CAO work?

3 core functions focused on outcomes



CAO Process for Handling Complaints

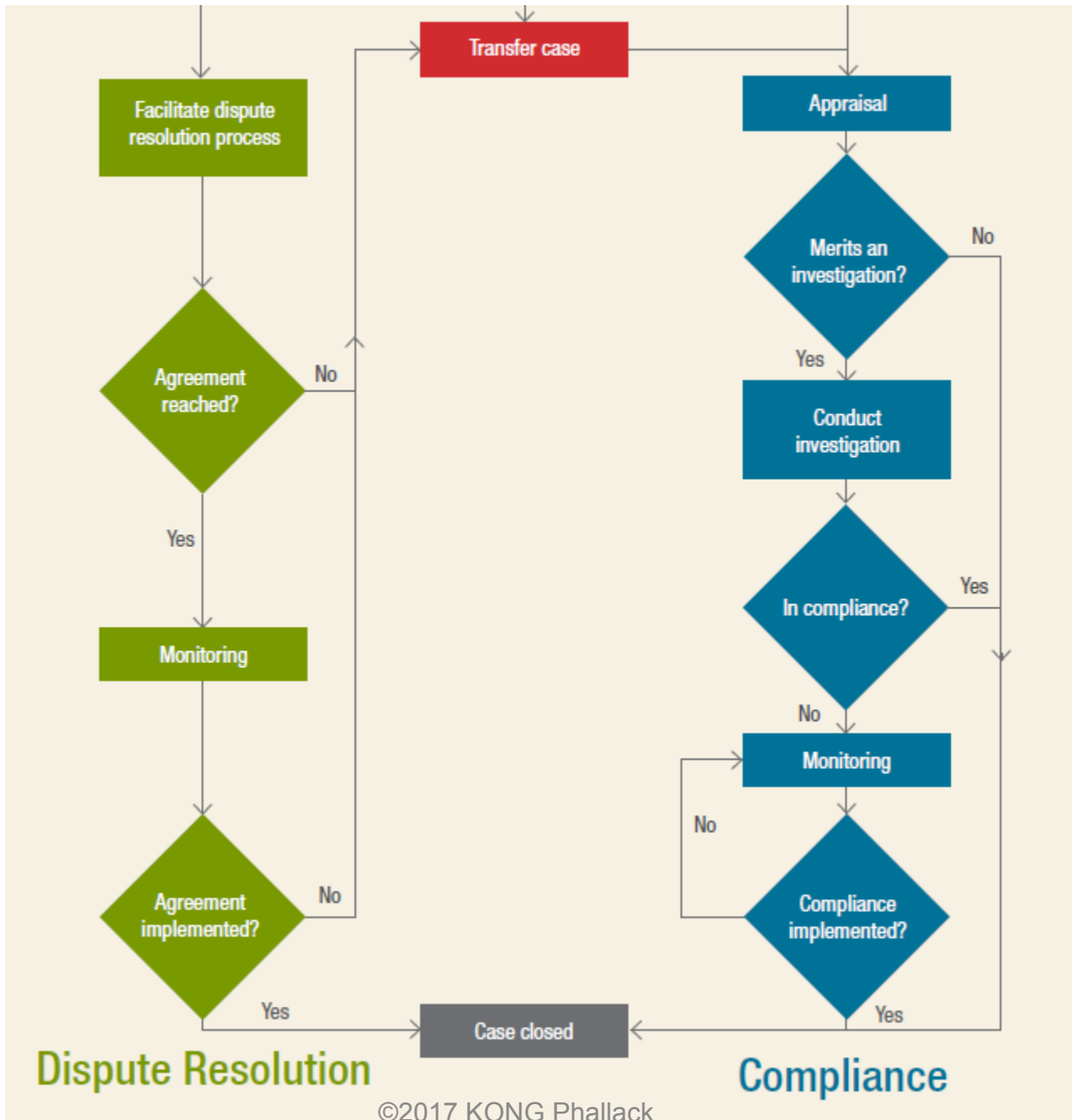


CAO will deem the complaint eligible if:

1. The complaint pertains to a project that IFC/MIGA is participating in, or is actively considering.

2. The issues raised in the complaint pertain to CAO's mandate to address environmental and social impacts of IFC/MIGA projects.

3. The complainant is, or may be, affected by the environmental and/or social impacts raised in the complaint.



Overview of IFC Performance Standards (IFC-PS)



PS1: Assessment and Management of Environmental Social Risks and Impact

Objectives

- Identify project E&S risks and impacts
- Adopt mitigation hierarchy
 - Anticipate, avoid
 - Minimize
 - Compensate or offset
- Improve performance through an Environmental and Social Management System (ESMS)
- Engagement with Affected Communities, other stakeholders
 - Throughout project cycle
 - Includes communications, grievance mechanisms

PS 2: Labor and Working Conditions

Objectives

- Fair treatment, non-discrimination, equal opportunity
- Good worker – management relationship
- Comply with national employment and labor laws
- Protect workers, in particular vulnerable categories
- Promote safety and health
- Avoid use of forced labor or child labor

PS 3: Resource Efficiency and Pollution Prevention

Objectives

- Avoid, minimize, and reduce project-related pollution
- More sustainable use of resources, including energy and water
- Reduced project-related Greenhouse Gas (GHG) emissions

PS 4: Community, Health, safety and security

Objectives

- To anticipate and avoid adverse impacts on the health and safety of the Affected Community
- To safeguard personnel and property in accordance with relevant human rights principles

PS 5- Land acquisition and Involuntary Resettlement

Objectives

- Avoid, minimize adverse social and economic impacts from land acquisition or restrictions on land use
 - Avoid, minimize displacement
 - Alternative project designs
 - Avoid forced eviction
- Improve or restore livelihoods and standards of living
- Improve living conditions among displaced persons
 - Adequate housing
 - Security of tenure

PS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

Objectives

- Protection and conservation of biodiversity
- Maintenance of benefits from ecosystem services
- Promotion of sustainable management of living natural resources
 - Integration of conservation needs and development priorities

PS 7-Indigenous Peoples

Objectives

- Ensure full respect for Indigenous Peoples
 - Human rights, dignity, aspirations
 - Livelihoods
 - Culture, knowledge, practices
- Avoid, minimize adverse impacts
- Sustainable and culturally appropriate development benefits and opportunities
- Free, Prior and Informed Consent (FPIC) in certain circumstances

PS 8: Cultural Heritage

Objectives

- Protection and preservation of cultural heritage
- Promotion of equitable sharing of cultural heritage benefits

Read more about IFC:

[http://www.ifc.org/wps/wcm/connect/
corp_ext_content/ifc_external_corporate_site/home](http://www.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/home)

CAO's Cases in Cambodia

- Questions always asked
 - Why affected people/ to be affected people do not use the state's mechanism or hesitate to use it?
 - Don't they use the state's mechanism?
 - Do they exhaust the state mechanism?
 - How they see the state mechanism?
 - Is the external mechanism/CAO better?
 - How can the external mechanism/ CAO work?

Cambodia Airports – Sihanouk Ville & Phnom Penh

Sihanouk Ville Case

Issues: Land acquisition and compensation, loss of livelihoods, community consultation, and disclosure of project information

Parties

- Societe Concessionnaire de l'Aeroport,
- Government of Cambodia,
- Communities and NGOs

Approach

- Combination of separate meetings and “shuttle diplomacy”

Outcomes

- Resettlement Action Plan compliant with IFC's Performance Standards
- Information made accessible to communities
- 185 families were compensated – involving financial compensation and provision of new land.
- Income restoration program. Implementation is ongoing.

Status: Monitoring/Close-out

Phnom Penh Case

Issues: Threatened land acquisition and possible forced evictions

Parties

- Societe Concessionnaire de l'Aeroport,
- Government of Cambodia,
- Communities and NGOs

Status

Agreement by government, company, complainants to work with CAO's Dispute Resolution function to try to resolve the issues raised in the complaint using a collaborative approach.

The Dispute Resolution process is ongoing and in the early stages. Joint meetings are being held with the relevant parties to work on possible MoU/ground rules, community representation, and DR process design.

Cambodia-VEIL II-01/Ratanakiri Province

Complaint: filed on February 10, 2014

Issues: Loss of Land, water concerns, child labor, information disclosure, community consultation and due diligence

Parties

- Vietnam Enterprises Investments Limited (VEIL),
- Government of Cambodia,
- Communities and NGOs

CAO Action

CAO has convened regular mediated meetings between parties since the launch of dispute resolution processes. Various agreements were reached along the way and communicated by parties in Joint Statement.

Status

- Joint trip to affected villages
- Parties continue to meet

Practice- VEIL II-01/Ratanakiri Province

- Read the complaint at http://www.cao-ombudsman.org/cases/case_detail.aspx?id=212
- Answer the following questions:
 - What are HR issues in the case?
 - If you were communities and NGOs reps in Cambodia what are approaches taken for the case?
 - Should these HR Issues be handled by state level or regional level ?

Required Reading

- IFC Performance Standards and Guiding Notes (2012)
- CAO Operational Guidelines (2013)
- Complaint [VEIL II-01/Ratanakiri Province]

- **Thank you for Your Attention**
- Contact: phallacklaw@gmail.com