

Report on Results of Discussions in the Regional and 13th National Conferences on 2020 Land and Natural Resource Governance Siem Reap, Battambang, Kampot and Phnom Penh



Background

In 2020, the NGO Forum on Cambodia, in collaboration with partner organizations, Land and Housing Rights Network (LAHRin), Indigenous People and Forestry Network (IPFN), and CSO REDD Plus Network (REDD+), organized regional and national conferences on land and natural resource governance in 4 different regions with 739 participants (146 females) in total, including representatives from the National Assembly, ministries, and relevant provincial departments, private companies; researchers and representatives of people with land conflicts, indigenous communities, community fisheries, community forestry, community protected areas, and NGO representatives from 20 capital/provinces of the Kingdom of Cambodia, including Phnom Penh, Kampong Chhnang, Pursat, Battambang, Pailin, Banteay Meanchey, Siem Reap, Kampong Thom, Oddar Meanchey, Preah Vihear, Stung Treng, Rattanakiri, Monduliri, Kampong Speu, Prey Veng, Svay Rieng, Takeo, Kampot, Preah Sihanouk, and Koh Kong.

Of these, three regional conferences were held: 1. in Siem Reap on 10-11 August 2020 with 259 participants (40 females) in total; 2. in Battambang on 09-10 September 2020 with 137 participants (31 females) in total; and 3. in Kampot on 01-02 October 2020 with 157 participants (37 females) in total. The 13th National Conference was held in Phnom Penh on 27 October 2020 with 186 participants (38 females) in total. The purpose of the regional and national conferences was to give opportunities for representatives of communities, civil society organizations, the National Assembly, the Royal Government at both national and sub-national levels, the private sector, and researchers to get together to discuss and share key achievements of the Royal Government, challenges and constructive comments as key inputs for representatives of the Royal Government, the National Assembly and other relevant institutions for consideration for solution and for better incorporation into national laws, policies, and implementation plans.

In this regard, on behalf of NGOs and community representatives who took part in the conferences, I would like to report the results of the discussions in the Conferences on Land and Natural Resource Governance, and would like to submit to the Royal Government (at national and sub-national levels), the National Assembly, the Senate and relevant institutions for consideration and solutions with the contents as follows:

1. Land and housing rights

1.1 Key achievement under land governance

The consultation results of the national and regional conferences show that in 2019 and 2020 the Royal Government of Cambodia worked hard to resolve issues related to land and natural resources with remarkable results through the amendment of a number of relevant laws, including the 2001 Land Law, the Law on Fisheries, the Forestry Law, and the Law on Natural Protected Areas; and strengthening law enforcement, such as judicial reform, settlement of land conflicts, land registration, suppression of encroachment on State public land and, illegal wood trading, and in-situ development for urban poor communities. Concrete achievements that the Royal Government of Cambodia national and sub-national levels has made include:

- Development of legal regulations on land and housing, such as the amendment of the 2001 Land Law, the draft Law on Housing, draft national strategic framework on urban development, Decision No. 039 dated 20 July 2020 on establishment of commissions to support registration of State land, private land, and indigenous collective land, and to resolve land conflicts and to develop a land use plan in Mondulkiri.
- According to the 2020 9-monthly Report No. 052 dated 05 October 2020 of the Ministry of Land Management, Urban Planning, and Construction, the results of land registration include issuance of 269,120 land ownership titles and distribution of 270,810 land ownership titles to people. Resolution of land conflicts under the cadastral commission of the Ministry of Land Management, Urban Planning, and Construction completed procedural solutions of 167 cases (final solutions of 76 cases) among the 180 cases of complaints received.
- **Kampot** provincial administration, Notification No. 489/20: notifies people of the admission of application for usufruct land occupation in the Bokor Preah Monivong National Park, Kampot.
- **Preah Sihanouk** provincial administration, Notification No. 312/20: notifies people of the admission of application for usufruct, multi-year land occupation within land areas under the jurisdiction of the Ministry of Agriculture, Forestry and Fisheries located in Preah Sihanouk. In 2020, the Preah Sihanouk provincial authority took measures to prevent land conflicts by seizing two machines that bulldozed conflicted land and kept them at the Stung Hao District Office.
- The **Battambang** administration supported the urban poor communities in Battambang city with concrete road development, electricity connection, and water supply projects with contribution from communities and the Royal Government. About 70% of people's land in Boeng Pram commune, Bovel district, were registered for land plots and received land ownership titles.
- The **Kampong Chhnang** commission coordinated solutions of land conflicts in Chor and Prosneb villages, Prosneb commune, Rolea P'ea district; and 25 families received compensation.
- The **Phnom Penh** administration provided birth certificates and decent housing for community households, and developed local infrastructure and services in a number of urban poor communities.
- The **Siem Reap** administration included a plan for discussions for solutions of residential land for poor communities in Siem Reap. The residents living on Wat Bo pagoda's land received land swap for a land plot of 7m x 15m in Veal village, Sambour commune, Siem Reap municipality, approximately 3 km from the old location.

1.2 Challenges

- **The restriction of stakeholders' participation in the amendment of the 2001 Land Law:** concerning the amendment of the 2001 Land Law, the Ministry of Land Management, Urban Planning, and Construction does not seem to have made it public or official yet, and has not given open opportunities for civil society organizations and other stakeholders to contribute to the process of amending this Law in order to co-organize consultations to collect inputs from all stakeholders so as to ensure that the law will be improved.
- **Lack of legal regulations or national policies on fair and just compensation for implementation in all development projects:** Cambodia does not have a national policy or guidelines on fair and just compensation for dealing with impacts of development projects in Cambodia. In practice, the Royal Government of Cambodia developed separate policies on compensation for impacts of development projects with different standards. Public consultations were not comprehensive while there no complain mechanism existed to ensure the principle of fairness, except for development projects under the Asian Development Bank (ADB), the World Bank (WB) and JICA.
- **Poor communities residing in slums:** Most poor communities residing in slums are encountering issues of safe land and housing, security, health, hygiene (environment, dirtiness, flood), lack of education, lack of access infrastructure in the communities, lack of vocational skills and subsistence jobs, high expenses on electricity / water supply due to connection from private individuals. Some poor communities have not been updated and studied on the details of their demography, geographical location, and needs for development of an effective solution plan.
- **Solutions to impacts of development projects and developemnt of relocation areas:** To develop the national economy, the Royal Government of Cambodia has given land concessions for development projects, special economic zones, commercial zones, and international-scale tourism for some private companies, such as Union Development Group Co., Ltd. in Koh Kong; OCIC in Chroy Changvar, Phnom Penh; Lower Sesan 2 hydropwer development project in Stung Treng, and irrigation infrastructure development projects, such as Raksa Dam in Rovieng district, Preah Vihear province, etc. All these large projects bring about social impacts. For instance, affected people who were continuing to live on land of administrative villages, communes, districts, properly registered and recognized by the Ministry of Interior, and who were the legal possessors of the land, were denied their rights, and their land was given to development companies according to the companies' plans by giving small compensation and requiring them to relocated to new locations against their will. Research studies by civil society organizations showed that solutions of impact were not transparent, did not provide proper compensation, lacked compliance with the leopard-skin policy (excluding actual occupied land for people). Concerning the implementation of relocation projects, development and implementation of the relocation master plan was poor resulting in competent authorities being unable to abide by the promise with the affected people that "development of the relocation areas will not be lower than the original standard". In practice, people were relocated to the new locations without completion of development. They encountered many problems. For example, residential buildings were of poor quaity; and there was a lack in infrastructure including access roads, sewage, toilets, water supply, electricity, health centers, schools; teachers and public administrative services, in particular, lack of sustainable subsistence livelihoods, thus forcing them to leave the new relocation areas for other areas, to migrate, or to sell the conceded land and houses to pay debts.
- **Gaps in social land concession process:** Implementation of some social land concession projects still had a lot of gaps resulting in delays and project objectives unrealized. There were three main challenges: 1. selection of unsecured land, overlapping land under other people's

occupation, resulting in conflicts; 2. development of social land concession lacked infrastructure (connection to roads, water supply, sewage, toilets, and electricity) and social infrastructure (schools, health centers, markets, administrative services, and maintenance of security and equipment of land development) to ensure sustainable livelihoods; and 3. selection of targets for land concession was not transparent, lacked dissemination of information on projects, deadlines for application, assessment of successful and reserved targets, and lacked mechanisms for complaints after 20 days of re-posting.

- **Land conflicts:** Cases of land conflict with big companies related to economic land concessions, land concessions of special economic zones, urban development projects, and powerful individuals have not been resolved although the Ministry of Land Management, Urban Planning, and Construction and sub-national administrative authorities made efforts to resolve. For instance, these conflict cases include:
 - The 2014 land conflict between 6 communities in Khan Chroy Changvar, Phnom Penh and Oversea Cambodian International Corporation (OCIC);
 - Impacts of land concessions of a commercial development zone and international-scale tourism of Union Development Group Co., Ltd. in Botum Sakor and Kiri Sakor districts, Koh Kong province;
 - 2012 land conflict between people in Promer commune and the sugarcane development economic land concession companies of Lai Feng and Roy Feng in Tbeng Meanchey district, Preah Vihear province;
 - 2010 land conflict between 23 families and the economic land concession company of MDS Thmorda SEZ in Thmorda commune, Veal Veng district, Pursat province.
 - Impacts of the Boeng Pram economic land concession project in Bovel district, Battambang province, resulting in conflicts between 192 families and 1,299 families since 2009;
 - Impacts of the rubber plantation economic land concession project of Binhphuoc Kratie Rubber 2 Co., Ltd. in Sre Chhouk commune, Keo Seima district, Monduliri province, in 2012, leading to conflicts with 180 families of indigenous people living in Chakchar village, Sre Chhouk commune;
 - Land conflict between 49 families and KDC Company in Lopeang village, Taches commune, Kampong Tralach district, Kampong Chhnang province;
 - 2015 land conflict between 476 families and First Bio-Tech Agricultural (Cambodia) Co., Ltd. called Chan Sothea Comapnay; World Tristar Entertainment Co., Ltd. called So Nguon Company; and VGP Company called India Company; over a conflicted land area of 3,144.15 ha located in Techo Pongrok village, Techo Aphivadh commune, Chhouk district, Kampot province;
 - 2013 land conflict between 43 families of integrated families and Mr. So Pan, deputy chief of Trapeang Run village, over selling of land to Tha J IN J Mong Co. Ltd., over a land area of 82 ha located in Chey Sena village, Taken commune, Chhouk district, Kampot province.
 - 2008 land conflict between 456 families with Mr. Kung Lom, deputy commander of navy, Division 31, over a conflicted land area of 91 ha located in Techo Anlung Kmeng Leng, Techo Aphivadh commune, Chhouk district, Kampot province.
 - Land conflict on 29 November 2001 between 108 families and 11 army families in Stung Bot village, Sangkat Psar Kandal, Poipet municipality, Banteay Meanchey province, over a land conflicted area of 10 ha.

- Land conflict on 1 January 2004 between 51 families and Messrs. Tuy Vanney, Set Rin, and Som Sokhen, over a land conflicted area of 113 ha located in Seila Khmer, O'beichoan commune, O'Chrov district, Banteay Meanchey province;
 - Land conflict on 24 November 2008 between 170 families and Mr. Chhoeung Sarith, a tank soldier, over a conflicted land area of 90.53 ha located in Chakrei village, Chubvari commune, Preah Net Preah district, Banteay Meanchey province.
 - 2018 land conflict between 32 families in Sambuor Meas, Kampong Cham city with Krola commune, Kampong Siem district, with EDC (Electricity of Cambodian Company) over development of electricity grids and building offices. The Company offered a compensation of \$1.80 per 1 m² while the market rate is \$45 per 1 m².
 - Impacts of the rubber plantation development economic land concession of Rath Sakhorn Cooperation Co. Ltd (Zhom Wang) in Samut Leu village, Seda commune, Lumphat district, Rattanakiri province. This Company received 9,000 ha of economic land concession. This land conflict occurred in 2014, affecting 254 families over a conflicted land area of 2,000 ha in Samut Leu village community forestry.
 - Impacts of the economic land concession of Jing Zhong Ri Co., Ltd. with investment in rubber plantation and industrial crops in Samut Krom, Seda commune, Lumphat district, Rattanakiri province. This case occurred in 2011 over 500 ha of boundary land areas with 126 families between community boundaries and the Company.
 - Impacts of economic land concession of 7 Makara Company with 05 villages with 247 families living in Phi village; in Sesan, Batang, Badal in O'yadav; Tangse and Tanglo in Nhang, Andoung Meas district, Rattanakiri province, over 600 ha of land area.
 - Land conflict between the Apsara Authority with 27 families lodging complaints to demand 114 ha of land area in Tani village, Run Ta'ek commune, Banteay Srei district, Siem Reap province, over a 2005 natural village development project.
 - Land conflict between 90 families living in Tapen village with people living in Sras Khvav village, who lodged complaints to demand 90 ha of land area located in Tapen village, Tbeng commune, Banteay Srei district, Siem Reap province.
- **Delays in granting systematic land ownership title:** Since 2019, the Ministry of Land Management, Urban Planning, and Construction has been committed highly to expending land registration for people, but in practice, granting land ownership title for the people remains delayed.
- **Lack of corporate social responsibilities remains to exist in implementation of development projects:**
- Some concession companies lacked responsibilities in implementing their projects, resulting in environmental and social impacts due to use of chemical fertilizers, poisons, improper disposal of waste by companies developing hydropower dams and irrigation and economic land concession development companies, affecting river and lake water quality, and discharged into rice fields and plantation areas affecting human and animal health and damaging people's rice and vegetable. At the same time, some companies applied a strategy of blocking communication access between residents and people living nearby affecting daily livelihoods and social relations. Some other companies used machines to bulldoze people's land boundaries and houses, and to evict residents.
- **Conflicts over administrative land occupied by people and regulations related to protected areas or forest cover land:** As we already knew, Cambodians' access to possession of land consists of 5 stages including: 1. land distribution during the State of Cambodia in 1989; 2. land distribution to repatriated people in 1991-1993; 3. land allocation for integrated former

Khmer Rouge soldier families in 1998; 4. implementation of social land concession since 2003; and 5. the campaign of implementation of the Directive No. 01. The challenge is that occupation of land possession of the people who received [the possession] during stage 1 through stage 3 has been recognized for legal possession rights under the 2001 Land Law while the land is located in village, commune, and district administrative boundaries recognized and registered officially by the Ministry of Interior, but it is also located in a protected area or is located adjacent to a forest cover, which is protected under the 1993 Royal Decree, and thus is considered or classified as illegal occupation of State public land, and may face confiscation without compensation for impacts in case of land concession for development companies, and loss of ownership.

1.3 Recommendations and requests

- The Ministry of Land Management, Urban Planning, and Construction should give open opportunities for civil society organizations and other stakeholders to participate in the process of amending the 2001 Land Law and collaborate in organizing both regional and national open consultations to collect comments and inputs from stakeholders to ensure that this Law is further improved and implemented effectively.
- The Royal Government of Cambodia should consider developing national guidelines or policies on fair and just compensation for impacts of development projects to meet demands for national economic development, resolve issues currently encountered, and achieve the objectives of the Cambodian Sustainable Development Goals (CSDGs), especially to meet the needs of the Law on Expropriation of Cambodia which requires establishment of regulations under the Law for implementation. Therefore, the Royal Government should carry out studies of good experiences in past project implementation, such as development projects of the Asian Development Bank (ADB), the World Bank (WB) and JICA, and shortcomings of development projects of national and international companies that did not have a safeguard policy in development, leading to long-term conflicts, inability to address impacts in a fair manner and to prevent environmental impacts.
- The Royal Government of Cambodia, in particular, the Ministry of Land Management, Urban Planning, and Construction, the Ministry of Economy and Finance and relevant sub-national authorities should continue to strengthen effectiveness of studies to update poor communities located in slums in order to develop a solution master plan for them to have land security and decent housing with infrastructure, security, safety, and good hygiene based on the two main principles, i.e., in-situ development and resettlement to a location not far from the old one, with assurance of not losing completely what they used to own, use, and enjoy and social relations. In particular, enhancement of education of both skills and general knowledge for their children is a key of an effective and sustainable poverty reduction strategy. The option of in-situ development, construction of buildings for poor people, or distribution of land plots like that implemented by the Phnom Penh Municipality at the Stung Meanchey canal is a good model, which received support and admiration from people and all stakeholders.
- The Royal Government of Cambodia should further strengthen the quality of environmental and social impact assessment (EIA) by properly applying technical standards with participation from all stakeholders starting from studies and public consultations to ensure accurate information and to develop a master plan to address impacts and to continuously monitor project implementation. The EIA must be carried out prior to project implementation. At the same time, relevant competent ministries should address impacts on land, housing, economy, and culture of local people by applying an EIA report as evidence; laws, policies and parties' consents as the basis for compensation. Further, the relocation site must be developed completely first, including quality housing building, infrastructure, roads, sewage,

toilets, electricity, water supply, health centers, schools, teachers, public administrative services, and a sustainable livelihood system to ensure that the relocation site is better than the old one, which is the objective of development projects of our country. The relocation site should be considered in advance, i.e., it should be as close to the old location as possible in order to minimize losses of what they used to have.

- The Ministry of Land Management, Urban Planning, and Construction and sub-national administrations should conduct more studies to monitor and evaluate the results of implementation of social land concession projects and to adjust strategic plans and project implementation more effectively through strengthening three pieces of local work, including:
 1. Selection of only State private land which has been registered for social concession to ensure that the land is secure and is not under any conflict.
 2. Development of land at the social concession site must be completed, including infrastructure (connection to roads, water supply sewage, toilets, and electricity), social infrastructure (schools, health centers, markets, public administrative services, maintenance of security, and equipment for land development), and provision of a sustainable livelihood system.
 3. Transparent selection of real poor, landless people for land recipients. In this process, commune/Sangkat councils have an important role to play in disseminating project information, application deadlines, assessment of successful and reserved applicants, and in implementing complaint mechanisms after 20 days of reposting and fair solutions.

The lesson of good practice of the implementation of the social land concession project in Sna Techo village, Balaing commune, Prasat Bakong district, Siem Reap province is a good model that the Royal Government should replicate for other projects because the form had developed the social land concession site properly in compliance with technical standards with good enough infrastructure and a sustainable livelihood system.

- The Ministry of Land Management, Urban Planning, and Construction and sub-national administrations should continue to strengthen the cadastral mechanism of more effective land conflict resolution task force by providing sufficient resources and encouraging them to investigate clearly each conflict case in order to find true information related to land history, conflict activities, points of conflicts, reasons for conflicts, actors involved in conflicts, regulations, and to develop a solution plan. The solution should be based on four main principles, including:
 1. Coordinate solutions in an inclusive manner with all stakeholders, from study or investigation of conflict cases to fora to discuss solutions to the cases to ensure comprehensive and true information. Inclusion of all stakeholders in the process of conflict resolution is very important for all parties to understand each other and to carry out their tasks based on their respective responsibilities so as to complement each other towards achieving a common goal and to avoid misunderstanding or use of incorrect information, which can create obstacles to conflict resolution.
 2. Competent authorities should be more committed to listening and considering all arguments of relevant parties, especially, affected people, such as challenges, concerns, needs, requests, and recommendations for verification with factual reports, regulations, and some other contributing factors to respond to and completing cases in a rational, acceptable and satisfactory manner for all. Any solutions that involve use of power, concealing information, protecting individual or any party's interest, which is detrimental to the other party's interest, resulting in failure to resolve conflicts and a lesson of incessant dealing with problems, i.e., the authority's reports say the cases have been resolved, but the people continue to complain.

3. Creation of multiple options is key to resolve land conflicts. Parties involved, especially, conflicting ones, need to compromise to create multiple options through concessions for mutual interests between conflicting parties by adhering to the win-win principle in case that a competent authority finds that no party has abused power in breach of laws to encroach on the property of the other party. In some cases, the Royal Government of Cambodia may also grant complementary or replacement concession to address gaps in laws or implementation.
4. Publicity of successful solutions and continuation of land registration and issuance of land titles for parties for future safety measures.

In addition, the Royal Government of Cambodia should review land management and resolution of land conflicts involving the Apsara Authority to demarcate Apsara zones, locations, and types of buildings that are allowed for construction or renovation as defined under the Sub-Decree and relevant documents in order to prevent corrupt practices and conflicts resulting from different interpretation, and expedite resolution of land conflicts in the Apsara zones in an accountable and fair manner.

The Ministry of Land Management, Urban Planning, and Construction should expedite land surveys and issuance land titles for people by adding capable human resources, providing material, financial and technical support, motivating active officials, and allowing open participation from civil society organizations and other stakeholders with active projects to mobilize resources and to ensure proper practice according to roles and responsibilities in compliance with existing laws and regulations. On-going meetings with civil society organizations and development partners should be encouraged to share information and to develop complementary action plans aimed at achieving common objectives.

- The Ministry of Agriculture, Forestry and Fisheries and other relevant ministries should strengthen monitoring and evaluation of implementation of master plans of economic land concession companies and other concession companies to ensure that the development does not cause social impacts and has environment safeguard, i.e., resolving land conflicts with people in a fair manner, and does not lead to environmental pollution and deforestation. In particular, have these companies complied with their master plans as stated in the environmental and social impact assessment (EIA) reports? Have these companies applied corporate social responsibilities, contributed to developing communities, and maintained and replanted trees? At the same time, the Royal Government of Cambodia has to punish those companies that do not comply with existing concession contracts, causing social and environmental impacts, such as criminal penalty and revocation of land concession for social concession for the poor, landless people and for reforestation.
- The Royal Government of Cambodia should expedite research studies to update accurately the land actually occupied by the people, to reclassify excluded land, to conduct systematic or indigenous communal land registration, and to issue land titles for people so that they will have full ownership. The Royal Government of Cambodia should install poles or signages to clearly identify State land and private land boundaries and carry out public awareness raising. At the same time, the Royal Government of Cambodia should review controversial laws and regulations so that they will have consistent and complementary contents for effective and efficient implementation.

2. Indigenous people's rights

2.1 Achievements

- By 2020, the Ministry of Rural Development had recognized indigenous people's self-identification of 150 communities in total.
- By 2020, the Ministry of Interior had registered 150 indigenous communities as legal entities.
- By 2020, the Ministry of Land Management, Urban Planning, and Construction had registered collective land and issued collective land titles for 30 communities.
- The Royal Government of Cambodia had conducted a campaign to exclude land from national protected areas or environmental corridors for State land registration, systematic land registration, and indigenous communal land registration, starting with Monduliri province.
- The Royal Government of Cambodia established protected areas of Boeng Yak Om, Yakkara, Boeng Yaklom, and Boeng Lumkod in Rattanakiri province, and Keo Seima and Sre Pok in Monduliri province.
- The Royal Government of Cambodia recognized the establishment of eco-tourism in reserved forest collectively owned by indigenous communities.
- The Royal Government of Cambodia recognized the establishment of community fisheries in land area collectively owned by indigenous people.
- The Royal Government of Cambodia provided social services, including community access roads, toilets (washroom at Tetoekpus tourist area), schools and curricula by including bi-lingual teachers into civil service and providing teachers for home schooling of indigenous students.
- The Ministry of Agriculture, Forestry and Fisheries provided farming techniques, such as animal husbandry and crop cultivation, etc.
- The Royal Government of Cambodia provided financial support for poor families during COVID-19 crisis.
- The Department of Indigenous People's Development, Ministry of Rural Development, led the preparation of the draft Strategic Plan on Conservation and Development of Indigenous People.
- The Royal Government of Cambodia is revising the Law on Forestry, the Law on Natural Protected Areas, and the Law on Fisheries.
- The Royal Government of Cambodia issued ID-Poor cards for indigenous people.
- The Royal Government of Cambodia disseminated techniques to prevent COVID-19 via videos for indigenous people.
- The Royal Government of Cambodia raised awareness about malaria and dengue among indigenous people.

2.2 Challenges

- **Concerns over losses of indigenous identities, cultures, and customs of indigenous** due to delayed recognition of indigenous people's self-identification, lack of publicity of the benefits of the acceptance of indigenous self-identification, relevant authority's negligence in raising the cultural and customary profiles of indigenous people leading to some community members' hesitance to engage and acceptance of external cultures. In addition, encroachment of communities' land in protected areas, divine forest, sacred forest, spiritual

forest, and burrial grounds by outsiders are an increasing problem, such as the case of Phnom Doh Kramom and Phnom Radang Kbal O'Chbar in Mondulkiri province. These acts are comparable with eliminating indigenous people's cultures, customs, and identities, and livelihoods because their identities, cultures, customs, and livelihoods depend on land and natural resources.

- **Indigenous communal land registration has been slow** due to some technical and resource issues. For instance, the sketch mapping process is complicated and requires GPS technology to transform the manual data to digital ones, which are technically supported by technical officials and recognized by relevant authorities. The land requested for collective registration is located in areas that have not been demined yet, overlaps with companies' land, natural protected areas / biodiversity corridors, or State permanent reserved forest, making it difficult to reach an agreement with companies, the Ministry of Environment or the Ministry of Agriculture, Forestry and Fisheries so that the Royal Government can reclassify the land and grant it to the communities for collective management. Another obstacle is that communities requested five types of land as defined under the Sub-Decree No. 83 and in compliance with the recognition of indigenous people's usufruct rights as stipulated under the 2001 Land Law, but in reality, they did not have all the five types of land. All these factors have resulted in collective land registration being delayed and not responding fully to the commitments made by the Ministry of Land Management, Urban Planning, and Construction and communities' needs. As a consequence, some community members became hesitant and changed their minds to withdraw from indigenous community membership during the process of collective land registration amidst the movement to interrupt, to publicize and to encourage some individuals to accept private ownership of land, which can be sold, exchanged, or pawned freely. The movement to occupy State public land located in indigenous communities' land areas for ownership and selling, and land conflicts in communities caused by illegal land transactions with local authorities' involvement and signature of related documents are also a major reason for the delay of indigenous communal land registration. Encroachment of land in protected areas, divine forest, sacred forest, spiritual forest, and indigenous burrial grounds stems from a number of factors, including lack of effective implementation of interim protected measures (IPMs), lack of effective conflict resolution mechanisms, local authorities' involvement in endorsement of illegal land transaction documents that allow private ownership in indigenous communities' land, and rich and powerful people's encroachment of land subject to collective land registration. For example, the communities that have already received provisional safeguard measures continue to experience encroachment of land for private ownership or companies' ownership. For example, 1. A Kuoy indigenous community in Ngorn village, Ngorn commune, Sandan district, Kampong Thom province was in the process of indigenous communal land registration with participation and coordination of Development and Partnership in Action (DPA) under technical support from the provincial department of rural development, the Kampong Thom provincial administration, the Ministry of Rural Development, the Ministry of Interior, and the Ministry of Land Management, Urban Planning, and Construction. As a result, this community was identified and recognized as a Kuoy indigenous community on 01 September 2016 with recognition of the communal land registration as a legal entity by the Ministry of Interior on 14 July 2017 with a membership of 90 families, equalling 351 people (168 females). This community has prepared a sketch map and has applied for indigenous communal land registration of a total land area of 600.51 ha on 07 September 2018. At present, indigenous communal land registration is having conflict with Sambath Platinum Company, which has received an economic land concession of 2,496 ha of land from the Royal Government of Cambodia on 08 December 2011. The Company has erected demarcation poles on a total 525 ha of communities' land, which includes divine forest, burrial grounds, cultivation land, and reserved land for shifting cultivation – all are the object of registration. In May 2020, His

Excellency Kampong Thom Provincial Governor an interim protected measure. Concerning this case, members of the Indigenous Community Management Committee has requested the Royal Government to take out the land from the Company and return it to the people, and to expedite the registration so that the title can be issued faster. 2. The collective indigenous community in Chakchar village, Chhouk commune, Keo Seima district, Monduliri province has registered their indigenous collective land and received the status of a legal entity (the community's by-law is recognised by the Ministry of Interior. At present, the indigenous communal land registration has been encountering obstacles and land conflict with Benh Hoeurk Kratie Rubber 1 Company Limited since 2012. The land area in conflict with the Company is 1,500 ha in size and is shifting cultivation plantation land located at Sre Trav, O'Tayang, Tranpaeng Thmor, and Trapaeng Ploes of Chakchar village. In addition, the community's spiritual land and reserved land were encroached by people from outside for private ownership. According to news on this case and some research reports show that implementation of the interim protected measure and the land conflict resolution mechanism have not been effective and timely for indigenous communities, whose rights are recognized and protected by the Constitution of the Kingdom of Cambodia, the 2001 Land Law and Sub-Decree No. 83 on Procedure of indigenous Communal Land Registration.

- **Lack of effective implementation of indigenous communities' by-law and internal rule:** Community management committee does not have sufficient capacity yet for leadership and management, does not understand well the process and the use of documents defined under the two documents, and lack comprehensive support in strengthening implementation of the by-law by stakeholders, in particular, local authorities and technical officials. These affects the good function of communities resulting in some members requesting to leave the communities, some members selling their community land to outsiders, and some members hesitating to continue to take part in communal land title registration.
- **Some local authorities explained and encouraged indigenous people to choose private land ownership** because the provincial authority has not understood well the Sub-Decree No. 83 on procedure of registration and the benefits of collective ownership. As such, the authority only publicizes the benefits of private ownership and encourages community members to choose private ownership so that it would be easy to sell or pawn to pay for illness treatment or to expand occupations.

2.3 Requests and recommendations

- The Ministry of Rural Development and the provincial department of rural development should expedite the recognition of self-identification, preserve, and compile indigenous peoples' culture and customs through four main strategic activities, including 1. strengthening collaboration with local authorities and partner organizations in disseminating the benefits of self-identification and indigenous peoples' rights recognized by national laws and policies and international instruments¹, benefits of collective ownership and private ownership so that indigenous communities can make appropriate decisions; 2. strengthening collaboration with the Ministry and provincial departments of culture and fine arts, local authorities and partner organizations to conduct research on indigenous identities, cultures, and customs for documentation; 3. collaborating with local authorities and partner organizations to prepare document and recognize indigenous peoples' self-identification; 4. intervening to protect and

¹ United Nations Declaration on the Rights of Indigenous Peoples, the ILO Conventions No. 169, and national laws, such the Constitution, the Land Law, the Forestry Law, the Law on Protected Areas, and the National Policy on Development of Indigenous Peoples, the Policy on Indigenous Communal Land Registration, and the Sub-Decree No. 83 on Procedures of Indigenous Communal Land Registration.

preserve divine forest and sacred forest to prevent all forms of encroachments because the forest land constitutes their culture and livelihoods.

- **The Royal Government of Cambodia should expedite indigenous communal land registration to ensure indigenous communal land security.** The Ministry of Land Management, Urban Planning, and Construction should consider 8 points of work, including 1. continue to disseminate the contents of Articles 23-28 of the 2001 Land Law, focusing on the benefits of private and collective land ownership for local authorities and indigenous communities; 2. review and readjust the process of sketch mapping to make it simpler, i.e., the provisional community commission and village elders with village/commune authorities' participation prepare a sketch map defining land boundaries by types of land, approximate size, and list of households located in collective land plots (groups) using color coding (color) of different types of land. Then, community members; village, commune and district authorities; the provincial department of environment, the Forestry Administration's cantonment, elders, and supporting organizations examine the types of land identified in the map to see if it overlaps with any protected areas or reserved or permanent forest; 3. hold off systemic land registration in indigenous areas to avoid the fact that community members would want to choose private land ownership because they do not understand the benefits of indigenous collective ownership; 4. stop unscrupulous officials, brokers, and outsiders from persuading indigenous community members to choose private ownership due to lack of comprehensive and accurate information in decision-making; 5. establish a separate mechanism and commission for resolving indigenous communal land conflicts; 6. allocate budget to support land registration and to strengthen the community committee' capacity; 7. coordinate meetings between the Ministry of Environment and the Ministry of Land Management, Urban Planning, and Construction for common understanding on interpretation of laws related to indigenous people, e.g., the 2001 Land Law, the Law on Natural Protected Areas, the Law on Environment, and the Sub-Decree No. 83, etc., to resolve land issue of application for communal land title registration overlapping with protected areas; 8. local authorities, the provincial department of land management, urban planning, and construction and cadastral officials need to review land occupation in indigenous communal land registration areas in order to prevent new encroachments, focusing on the number of actual occupants.
- **Establishment and effective implementation of interim protected measures for protection of indigenous land, cultures, and customs.**
 - ❖ The Royal Government of Cambodia should consider authorizing the Governor of the Provincial Council to issue **interim protected measures** after self-identification has been granted until land titles are issued by the Ministry of Land Management, Urban Planning, and Construction.
 - ❖ Strengthen effective implementation of **interim protected measures** effectively by disseminating **interim protected measures** for relevant people and punish those people encroaching indigenous communal land and thus delaying indigenous communal land registration. Request the Ministry of Interior and the Ministry of Rural Development to collaborate with the provincial department of rural development and local authorities to raise awareness of and strengthen the community committee' knowledge and to strengthen effective implementation of the community by-law and internal rule every quarter. Request the Royal Government through the Ministry of Interior to stop local authorities and brokers who disseminate information and persuade indigenous communities to register private land ownership.

3. Forestry Law and natural resources

3.1 Achievements

- The Royal Government of Cambodia through the Ministry of Environment has provided \$1,000 per community (some communities received 3,000,000 Riels) in protected areas for patrolling.
- The Royal Government of Cambodia has established eco-tourism areas in reserved forest of communal land.
- The Royal Government of Cambodia has established 516 community fisheries.
- Kampong Chhnang provincial administrative unity command took back the land from illegal encroachers in the Phnom Oral Wildlife Sanctuary and returned it to the Phnom Choeung Leang community protected area with clear demarcation and reforestation (for other communities, solution process is underway).
- The Royal Government of Cambodia has identified and divide the areas surrounding Tolesap into Zone 1, Zone 2, and Zone 3, and has installed boundary poles for the three zones.
- The Royal Government of Cambodia has implemented the first world's forestry carbon project in the Sorng Rukhavorn Wildlife Sanctuary of Oddar Meanchey province, Keo Seima REDD+, Prey Lang, etc.
- The Kampong Chhnang provincial department of agriculture issued a warrant to confiscate over 1,089.26 ha of land and returned it to communities in 2020.
- The Royal Government of Cambodia is in the process of amending the Forestry Law, the Law on Natural Protected area, and the Law on Fisheries.
- The Royal Government of Cambodia has delegated the authority to manage community protected areas from the Ministry of Environment to communes/Sangkat.

3.2 Challenges

- Lack of comprehensive environmental impact assessment according to technical and legal requirements and lack of comprehensive consultations with local communities and other stakeholders before implementing projects of economic land concessions, mineral concessions, and mineral exploration in natural protected areas or community forestry areas has affect natural resources, biodiversity and resulted in environmental pollution.
- Collaboration between park rangers and Prey Lang community members is limited. For instance, in 2020, Prey Lang park rangers stopped and prohibited Prey Lang community members from patrolling Prey Lang, which was to contribute to preventing and suppressing forestry offences in the Prey Lang area.
- Land filling in coastal area encroaching on the community fishery territory, which has been legally registered as a legal entity and is in the process of registration as per procedure: This land fill coastal area affected management of community fisheries, led to loss of mangrove, fish habitats, destruction of biodiversity, and seriously affected people's livelihoods because their occupations depend on fishing. For example, IGB Company, having 200 ha of land area for a development project, filled land into the Kep Thmey community fishery area located in Kep Thmey village, Boeng Touk commune, Toek Chhou district, Kampot province. Papaphat Company is filling land everyday into the Changhon community fishery area located in Changhon village, Prek Tnot commune, Toek Chhou district, Kampot province. Jingkor Company, having a total land area of 632 ha for development projects (192 ha in Prek Tnot village and 440 ha in Trapaeng Ropov village), Prek Tnot commune, Toek Chhou district, Kampot province. Oumny Development Co. Ltd., having 3,910 ha of land area,

affected/overlapped with 400 ha of community fishery land area in Kampong Kes village, Trapaeng Sangke village, Trapaeng Sangke commune and Kampong Samki community in Kampong Tnot village, Kounsat commune, Toek Chhou district, Kampot province, and O’Krasa community in O’Krasa village, Sangkat O’Krasa, Kep city, Kep province; Kampong Tralach community fisheries and Phoum Thmey community fisheries in Sangkat Prey Thom, Kep city, Kep province. Gen. Hua Hab filled land into 3 ha of Chroysvay coastal community fishery area located in Chroysvay Lech village, Chroysvay commune, Sre Ambel district, Koh Kong province. Crystal Vy Ream Beach Company, having 34 ha. of land area for development projects, affected Ong village, Ream commune, Prey Nup district, Preah Kampong Som province. An area of mangrove at Boeng Kangkep in Ong village, Ream commune, Prey Nup district, Preah Sihanouk province is occupied by an Oknha based on the right transfer document, certificate, and title. Some other private individuals have filled land into the coastal area for personal ownership at Poy Kampenh, village 1, Sangkat 3, Preah Sihanouk city, Kampong Som province and in village 2, Tumnuh Rolok commune, Stung Hao district, Kampong Som province, and at Prek Treng coast, village 4, O’Tres commune, Stung Hao district, Kampong Som province.

- Losses of mangrove in coastal areas: The losses resulting from land encroachment for personal ownership, farming, and building of slums affected the Chumpou Khmao community located in Chumpou Khmao village, Tuol Totoeng commune, Prey Nup district, Kampong Som province; the Chrolong community located in Kampong Smach Touch village, Toek L’Ak commune, Prey Nup district, Kampong Som province; the mangrove located in Koh Chvaeng village, Svay Tong Khang Tbound commune, Kampong Trach district, Kampot province. Losses of flooded forest areas in Tonle Sap and Mekong conservation areas – these losses were due to encroachment of flooded forest land areas for farming and personal ownership, which affected fish habitats, biodiversity, and local communities’ livelihoods.
- **There are two main community forestry problems:** 1. Registration process is complicated and takes a long time due to unclear community forestry boundary demarcation in terms of both mapping and pole installation, lack of public participation and awareness, responsible officials having uncertain positions, and lack of resources for implementing action plans, and conflict of interests of individuals inside and outside of communities; 2. lack of full support and participation of people, competent authorities, civil society organizations and other stakeholders in management and enhancement of local communities’ livelihoods. For example, these problems include: encroachment of communities’ land by powerful people, outsiders and local people; commission of forestry offences due lack of funding and support for patrolling activities and impunity; self-dissolution of community forestry due to poverty, lack of income, needs for land, depletion of trust in registration process; absence of legal recognition and support for community forestry networks for capacity building, coordination of information dissemination, development of management plans, compiling information, and discussions with stakeholders; community forestry lacks the capacity to establish eco-tourism projects to foster the love for forest and to enhance local communities’ livelihood. **Further, community protected areas** also encountered problems related to management or governance the same way as community forestry. However, the process of registering community protected areas has been better than that of community forestry.
- Illegal logging trade continues to happen because competent officials’ capacity, resources, and technical skills are still limited. Eventhough law enforcement against offences and control of offences achieved better results compared with previous years.
- Gaps in the the Forestry Law, the Law on Fisheries, and the Law on Natural Protected Areas, suspension of the process of adoption of draft Environmental Code.

3.3 Requests and recommendations

- Strengthen the quality of environmental and social assessment (EIA) reports in compliance with technical and legal requirements, dissemination of information and comprehensive consultations with communities and other key stakeholders based on the principle of free, prior and informed consent (FPIC). Strengthen monitoring of implementation of recommendations under EIA reports for approved projects. All development projects found to cause social and environmental impacts must stop must be penalty rules.
- The Ministry of Environment should consider providing good collaboration and support for Prey Lang community network members so that governance of Prey Lang can be more effective and achieve the objectives of the National Forestry Strategic Plan.
- The Royal Government of Cambodia should review the the process of granting land concessions for special economic zone development projects and comprehensive and participatory environmental and social impact assessment (EIA) to ensure the quality and public consultations. In case that the EIA results find that the economic value of conservation is greater than the economic value of development, then the development project must be abolished in favour of conservation. On the other hand, if the economic value of development is greater than the economic value of conservation, then the concession can be granted for development, but the company must be responsible for both the society and environment, including compensation for impacts on people's community fisheries, compensation for people's lost livelihoods and compensation for economic value. At the same time, the company must help provide skill training for local people so that they can access to employment opportunities from the project. In order to ensure sustainable environment, the company must implement measures to minimize impacts and create or rehabilitate a biodiversity area as a replacement.
- The Ministry of Agriculture, Forestry and Fisheries should collaborate with ministries, local authorities, civil society organizations and other stakeholders in order to prevent and suppress logging of mangrove, flooded forest, illegal encroachment of State land for personal ownership through two main measures: 1. prevention, i.e., to raise awareness among people to foster their love for natural resources and biodiversity and to encourage their actively participate in protection and conservation of mangrove; 2. counter measures: competent authorities, including national sub-national committee for State land management, judicial police, and all levels of courts, should take actions to counter the aforementioned offences in a strong and transparent manner without tolerance or impunity for any individuals.
- The Ministry of Agriculture, Forestry and Fisheries and the Ministry of Environment should review and readjust the process of registering community forestry and community protected areas to make it simple, and delegate functions of registration to recognize the two types of communities to a sub-national level (provincial level). The Royal Government should allocate national budget for sub-national investment plans so that the registration function will recognize and manage natural resources effectively. The process of establishment, registration, and management of communities should open to comprehensive participation of local communities and civil society organizations in partnership with relevant authorities for effective governance of natural resources. In order to ensure effective governance of natural resources, technical ministries should collaborate with development partners, civil society organizations and other stakeholders to strengthen the capacity of sub-national authorities and communities. The Royal Government should support and recognize community forestry networks for capacity building, coordination of information sharing, development of management plans, compiling information, and discussions with stakeholders. The Royal Government should increase investment in development of eco-tourism in community forestry areas and natural protected areas to create occupations for

community people so that they will be able to effectively take part in management and protection of natural resources.

- The Royal Government of Cambodia should expedite the adoption of the Environmental Code, the amendment of the Forestry Law, the Law on Natural Protected Areas, and the Law on Fisheries, with participation of civil society organization taskforce and other key stakeholders for effective governance of natural resources.