

International Labor Organisation

Support to Indigenous People Project in Cambodia



Indigenous Community by Law Development



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Abbreviations

CBNRM	Community Based Natural Resource Management
CDP	Commune Development Plan
CLP	Council of Land Policy
DoLA	Department of Local Administration
DPA	NGO in among others Ratanakiri
FA	Forest Administration
IDRC	International Development Research Centre
ILO	International Labour Organization
IWGIA	International Working Group on Indigenous Affairs
LCC	Land Caretaker Committee
MLMUPC	Ministry of Land Mangement, Urban Planning and Construction
MoI	Ministry of Interior
MRD	Ministry of Rural Development
RGC	Royal Government of Cambodia
NRM	Natural Resources Management
NTF	National Task Force
PLG	Partnership for Local Governance
PLUP	Participatory Land Use Planning
VDC	Village Development Council
WCS	Wildlife Conservation Society

Introduction

The paper traces the development of by-laws among indigenous communities in Cambodia that can enable them to become legal entities for the purposes of gaining collective ownership of their lands. The development towards bylaws started at the end of the 1990s as Natural Resource Management (NRM) Rules in communities where research and NGOs worked. In 2004, a national project on Participatory Land Use Planning (PLUP) arose as a donor project with the Ministry of Land Management, Urban Planning and Construction (MLMUPC). This project developed a process for the identification of lands and land use zones, and lead to digitalised village resource maps. The process was undertaken in a number of indigenous villages, and enables a number of communities to identify their lands and even to agree on land use boundaries between themselves and other communities.

These NRM rules, and the PLUP methodology, paved the way for the development of actual by-laws for indigenous communities that fulfilled the requirements of the 2001 Land Law, which recognizes the collective rights of ownership of indigenous communities to their lands. This further development was facilitated by the Ministry of Interior, whose representative travelled to the provinces a number of times for sessions in the communities during the period 2005-2006. This input by MOI financed by ILO was decisive, and support to the process of drafting by-laws was identified by the ILO as one of the main challenges for the securing of collective ownership for indigenous peoples in Cambodia. The ILO has been providing support since 2005 to DoLA, in its efforts to draft by-laws for 3 pilot indigenous communities, as well as ongoing support to several NGOs working at the provincial level in Cambodia to undertake community-organizing activities, and prepare indigenous communities adequately to draft and register their own by-laws.

The combination of earlier NRM rule-making and processes and the subsequent preparation of MOI-supported bylaws of a general nature was instrumental in making three pilot communities come forward with bylaws that were signed by the Minister of Interior in 2007, turning them into legal entities in the eyes of MOI. Land registration has not happened yet as additional legal norms are to be prepared prior to registration, including the sub decree on indigenous communities' land registration and use rights to land'. This despite the fact the Land Law provides for the full rights, but political complexities drive the development.

Given the above background, the objective of this study is an assessment of the process undertaken thus far, as a collaboration between the ILO and DoLA, to draft by-laws for specific indigenous communities, to enable them to become registered as legal entities and thus have their collective land rights recognized, in accordance with the 2001 Land Law of Cambodia.

This assessment comprises the following elements:

- Evaluation of the content of the by-laws of the pilot villages that have already drafted their by-laws, and were selected by the Department for Local Administration (DoLA) of the Ministry of the Interior - the Government agency overall responsible for the drafting the registration of the by-laws in question. This evaluation analyses the following elements:

- o The extent to which the content of the laws is consistent with their governing legislation (i.e., the Land Law)
- o The appropriateness of the content of the by-laws for the existing forms of social organization and structures of decision-making in the concerned indigenous communities, and any gender issues associated with this
- o The extent to which the objectives of the by-laws, and their general content, is consistent with the recognized rights of indigenous peoples
- Evaluation of the process undergone to draft the by laws
- Recommendations to improve the content of future by-laws, and to improve the process by which they are drafted.
- Recommendations for a more efficient expansion (scaling-up) of the process to draft community by-laws, and to replicate existing by laws if appropriate.

By the time that this study is being written, urgent action is required to find a way to upscale the development of bylaws among many more indigenous communities so they are ready to request collective title. This would also provide additional protection for these communities against the ongoing, and increasing problems of land grabbing and other forms of land alienation that is taking place across Cambodia. The upscaling must take place as collaboration between NGOs (many of which have already facilitated processes in additional indigenous communities in order to prepare them for the drafting and registration of by-laws), the provincial authorities, and the MOI. Such processes also require the continued support of international organizations such as the ILO, as well as from the donor community.

1. Legal framework for Development of Indigenous Communities as Legal Entities

According to Chapter 3, section 2 of the Land Law of Cambodia, 2001, indigenous communities need to be recognised as legal entities to be eligible for collective ownership of their lands. The Land Law states that immovable property of the state may be provided to natural persons or legal entities of Khmer nationality. Article 8 lists the persons or legal persons covered by this provision, which includes 'Cambodian communities'. Article 10 defines collective ownership as "ownership by a group of persons exercising their prerogative through a legal way regulated for such ownership". Chapter 3, section 2 of the Land Law provides for collective ownership rights of indigenous communities to their lands. Article 23 envisages the legal recognition of indigenous communities to happen under 'a legal determination of the statutes of communities'. Currently there is no law or legal norm for setting up associations as legal entities and NGOs are recognised by MOI through a letter¹.

The year after the Land Law was promulgated, the Council of Land Policy formulated an Interim Strategy on Land Policy Framework, which stated that the implementation of Chapter 3

"will require careful research and pilot efforts which utilize the participation of Indigenous Peoples. This research and piloting will result in a Sub-decree under the Land Law to enable indigenous communities to register collective title."

Subsequently an official Pilot Project was conceived by the RGC for three pilot communities: Two in Ratanakiri and one in Mondulakiri, to Study the Registration of Indigenous Land Rights. These pilot activities were meant to lay the foundation for the commencement of the registration procedures in support of the preparation of an envisaged sub-decree on the registration of communal ownership, or land title, for indigenous communities.

In co-operation with international organizations (IOs) and Non-Governmental Organizations (NGOs) working in these two north-eastern provinces, the three pilot sites were identified: **two in Ratanakiri Province in the districts of Ou Chum and Koun Mom; and a third pilot site in Mondulakiri, Ou Reang district.** An Inter-Ministerial Task Force for the Study of the Registration of Indigenous Land Rights (the "National Task Force" or NTF) was formed in March 2004 by decision of the Council of Land Policy². The TORs of the NTF call on its support to the implementation of the pilot projects, develop procedures for the registration process, support the drafting of the sub-decree for the registration of indigenous land rights, and support the drafting of amendments to existing sub-decrees on land registration and the resolution of land disputes (if required). The NTF was to be assisted by a consultative group comprising PLG, national PLUP, CLEC, WCS, CIDSE, Highlanders Association and the Ratanakiri NRM network. A Provincial Task Force was set up in the two target provinces. The NTF went on study tour to Ratanakiri in May 2004. In November 2004, members of NTF from MLMUPC, FA, MOI and MRD undertook a study tour to the Philippines to acquaint themselves with the Philippines experience of indigenous peoples' land titling.

¹ Earlier drafts on a law on associations have been criticised by the NGOs and presently the MOI is considering developing not an act but guidelines. Indigenous communities are different in status from NGOs but still the application process is largely informal.

² The NTF includes representatives of MLMUPC, Ministry of Interior, Forest Administration, Ministry of Rural Development, Ministry of Environment, Ministry of Industry, Mines and Energy. A consultative group encompassing representatives from indigenous organizations and non-governmental organizations assists the NTF.

From 2005 onwards the PLG and DPA supported the two pilots in Ratanakiri and WCS supported the one in Mondulkiri province. Since late 2005 the ILO has supported the work on the legislative and policy environment and on strengthening of indigenous and tribal peoples' own representative organizations.

By end of 2006, the three communities had developed community bylaws that allowed them to become legal entities in the eyes of the Ministry of Interior (MOI). The Minister of Interior signed the bylaws in January and April 2007 respectively. The process has taken three years and was originally not the idea of the communities themselves, who would have been unaware of the ways and means to go about obtaining collective land title. The process on bylaws development arose as part of a pilot project of the Council of Land Policy (CLP) to examine and study how to implement the provisions in the Land Law for communal ownership of land for indigenous communities. But what should be very clear here, is that in accordance with the Land Law, and as stated in Chapter 3 of this study, the rights of indigenous communities to their lands are protected by law regardless of whether they have yet registered as legal entities or not, and any delays in this process do not imply in any way that these rights do not already exist. Furthermore, a number of land use maps developed by indigenous communities have already been officially recognized in areas such as Ratanakiri, by official acknowledgement or Deika. This also should serve as an interim protection pending the actual registration of community title.

2. Legal Incorporation

Indigenous peoples' communities do not make up corporate entities, neither at village nor supra-village level. There are networks among them such as the one supported by the Highlanders' Association in Ratanakiri or IRAM at national level, but the level of organization outside intra-village-based groupings of clans and kinship or age is negligible. The requirement implicit in the Land Law that legal entities at community level be formed in order to be eligible for collective ownership does match with the concept of the village as the unit of action but it also to some extent overlay traditional systems with a formal legal system. However, to the extent that this enables indigenous communities to continue to practice their traditional ways of life, as well as recognizing the broader concept of territories and common property, as well as forms of land use that are not commonly recognized in the legal regime governing private property. The joint-ness itself at village level is not new but the legislation of it is. Since far back in time indigenous communities have been managing their lands in common - or may be not even 'in common' in the strict terms of the word where land was plentiful. Recent decades have seen diminishing resources and outside pressures and most indigenous communities do have a system of common property land management, which includes internally recognized possession rights for agricultural land, including fallows, and fields with perennial cash crops as well as jointly held possession rights to spirit and burial forests. Many indigenous people feel that the current problems of land grabbing, cheating of the innocent, burgeoning land market and diminishing resources, are the main reason why it has now become necessary to put in place a legal regime that enables them to register their lands and obtain collective title through incorporation. Or go for individual title if so wanted. Where the primary cause of tenure insecurity is outsider encroachment, the best legal response is to recognize and enforce local group rights, and to demarcate and record clearly defined lands in the name of that group.

In Cambodia, land insecurity dictates a legal policy response alongside with mobilisation of civil society. The close spiritual relationship to the land around them characteristic for indigenous communities set amidst an exploding market for land in the remote corners of Cambodia warrants that the most appropriate legal response is to recognize and enforce local group rights, and to demarcate and record clearly defined community lands in the name of that group. Incorporation may happen in several ways and result in different modes of institutional arrangements, which are highlighted in the theoretical literature³. There are several different approaches that could be taken, in theory, to address the issues of the demarcation of external boundaries of collective title, as well as how to deal with the internal rules within those boundaries. A minimalist approach, which would avoid unnecessary over-regulation of indigenous communities themselves, who have traditionally managed their lands in accordance with oral customs and traditions, would ensure the external boundaries would be established by the State, yet leave the internal management of lands to traditional authorities. A more structured approach is the incorporation of customary groups as an institutional modality for a legal entity. A corporate structure grants formal legal identity to a traditional group⁴. Thus, the legal entity can include all individual members of the group represented through institutions and leadership structures that are defined in the internal bylaws or a representative body could act as the legal representative

³ Fitzpatrick, D. 2005 'Best Practice Options for the legal Recognition of Customary Tenure', *Development and Change* 36(3): 449-475

⁴ Ibid.

for the indigenous community. Such a representative body could also consist of the community traditional authorities. Article 23 of the Land Law mentions the legal determination of the community, not of representatives of the community so it should be the first option that is promoted. Whereas the MoI appears to view this arrangement as a trusteeship, this concept does not appear in the Land Law, which clearly states that the community itself should be the owner of the collective lands. If this were to indicate a trusteeship arrangement, a representative body of the community, and not the community itself, would hold the ownership right. **This does not appear as a concept in the Land Law. Nor does it appear from the content of the recently approved by-laws.** The Community General Assembly and Community Committee mentioned in the by laws clearly have the roles of representing the community, as well as various decision making roles, but they also clearly do not hold ownership of the community, or of the lands of the community, and this cannot therefore be a trusteeship arrangement. If it were to be so, it would not be in accordance with the land law, and the rights of these bodies would have to be curtailed and qualified, in order to prevent abuse of decision-making power, and to stipulate specific conditions to ensure that the whole community is involved in any decision making. This will be discussed further below, where an outline of the next steps in the development and scaling up of bylaws is presented.

3. The Land Law as Context for Development of Indigenous Communities' Bylaws

This section builds on the analysis undertaken in the GTZ/LMAP report by Susie Brown, Katrin Seidel and Todd Sigaty Legal Issues Related to Registration of Lands of Indigenous Communities in Cambodia, May, 2005. It addresses the 'who', 'what' and 'how' of indigenous peoples' land registration and is a comprehensive study reflecting the situation in 2005.

Indigenous peoples in Cambodia are not defined specifically, or for general purposes. However, for the specific purposes of the Land Law, Article 23 describes indigenous peoples as peoples that "manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle". A further characteristic in this Article is collective land use. This lays the foundation for the Land Laws provision for indigenous communities' collective ownership of immovable property in the same way as the monastic order also can hold collective ownership of immovable property. Article 24 emphasizes that a person must possess these characteristics of a traditional lifestyle and be accepted in the group. There are four main criteria: residing in the territory of the Kingdom of Cambodia; manifesting ethnic, social, cultural and economic unity; practicing a traditional lifestyle; and cultivating the lands in their possession according to customary rules of collective use.

In Khmer, indigenous peoples are termed 'original ethnic minorities' thus distinguishing them from the Chinese and Vietnamese immigrants that are also ethnic minorities, but that do not. The legal provisions of the Land Law are for an indigenous community and each member of the community enjoys their prerogative⁵ respectively. For the purpose of collective ownership *it is therefore necessary to define an indigenous community*, not the concept of indigenous peoples. There are several policy papers and government documents in Cambodia that refer to the 'original ethnic minorities' for development purposes for everyone to know what the meaning is. The ILO Convention No. 169, 1989, outlines criteria that can be used to identify indigenous peoples. These include peoples whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations'. Convention No. 169 also considers self-identification as a fundamental criterion for identifying indigenous and tribal peoples. Article 23 of the Land Law applies to 'groups actually existing at present' even before their legal status as been determined and the Land Law gives these groups the right to 'continue to manage their community and immovable property according to their traditional customs'.

Following the idea that indigenous communities can be described with reference to their way of life, Article 23 of the Land Law, provides a legal definition on who qualifies as an indigenous community *for the purpose of collective ownership, according to the four criteria outlined above.* . The legal determination of the statutes or bylaws of the community is close to the one of self-identification given by indigenous peoples during a meeting in Kampong Speu in 2004 with the NGO Forum. They said:

⁵ Art 10 of Land Law 2001

- We, the indigenous peoples are those peoples with an indigenous identity that comes from our ancestors, and we all respect our traditions and way of life
- Most of our indigenous communities have been conducting rotational swidden agriculture for a very long period of time and in most cases it is an integral part of our culture
- We allocate individual user rights to families within our communities. This is generally done following the traditions and customs of each ethnicity
- The individual rights over community land do not include the right to sell. Land is considered to be community property. It is allocated to families or individuals within the community for use but not for sale

In accordance with the Land Law, the rights of the indigenous communities are protected even before an indigenous community is registered as legal entity, although this interpretation is not brought to bear on any legal action against the ongoing land grabbing. In fact, the rights of existing communities, regardless of legal incorporation, are as follows:

- rights to manage their immovable property according to traditional customs;
- rights to gain their livelihoods in the traditional manner;
- rights to file an application for registration of the lands;
- rights to dispute claims of other people to their lands; and
- rights to agree on boundary demarcation for the purpose of registration.

These rights that are clearly provided for in law, are not recognised in the recent draft CLP *Policy on Registration and Use Rights to Land of Indigenous Communities in Cambodia* (December 2006), which prescribes interim protection measures of land only for the indigenous communities that are already legal entities, and has thus been the subject of concern from a number of actors. The proposed interim protection measures are important and will be dealt with below separately and in a further report on the legal determination of shifting cultivation areas. However, suffice here to say that contrary to this draft Policy, the Law does provide ongoing rights for indigenous peoples that should enable the protection of their lands, as described above. An irony is that the a target for the Joint Monitoring Indicator agreed by RGC and donors by May 2007 in relation to indigenous communities' land calls for the adoption of " *RGC's Policy on Registration and Use Rights of Indigenous Communal Land and pilot interim protective measures (identification, mapping, classification and provisional endorsement of indigenous land legal claims) to safeguard the indigenous community's land in two provinces within the framework of provincial level state land management committees and district working groups as per Sub-Decree #118*)." This target reads as if two provinces are protected but in fact, since the Policy excludes communities that are not incorporated the *target actually pertains to only three villages*.

At present, while absence of formal guideline or procedure in place, the MoI set the requirement, also not in writing, for the establishment of the by-laws that they must include documentation of rules and customs related to the social, cultural and economic organisation of the community and demonstrate collective use and rules for allocation of land. However, the bylaws of the three pilot communities now signed by MOI minister do not demonstrate the internal rules for allocation of land as a scrutiny of the bylaws in Annex 3 will reveal. In fact, they are not specifically about land, which means that by 2007 another set of bylaws related to the internal land rights must be prepared as an annex to the signed bylaws. The implications of this situation will be discussed below in section 8.

4. The trajectory of bylaw development in Ratanakiri

The by-laws discussed above are the ones linked to the Land Law's requirements in Article 23. But they are not the only by-laws found in the indigenous villages. Bylaws and rules and statutes have a long history, especially in Ratanakiri. Prior to the promulgation of the Land Law in 2001 there were a number of stakeholders active supporting indigenous communities to manage their lands and counteract land alienation. Many agencies and research organisations such as IDRC have worked in Ratanakiri since the 1990s focusing on land management combining a mapping of communities' environment friendly land use with developing rules or statutes for the use of the land, including developing community forestry initiatives. The Community-based Natural Resource Management (CBNRM) project was supported by IDRC in collaboration with the Cambodia Area Rehabilitation and Regeneration Project (CARERE), which on its side was supported by the United Nations Development Programme (UNDP) and other donors. The project helped indigenous peoples from three communes map forest resources, document indigenous knowledge, and outline management rules and regulations for these resources. These are rendered in Annex 1 that shows how a community's plan for natural resources management back in 2000 was endorsed at provincial level, and Annex 2 clearly shows how three villages held meetings to discuss land boundaries and rules. At community level the IDRC worked to assist communities to map traditional user areas and develop rules and regulations for the management of these areas. This was complemented by assistance to communities to present this information and negotiate recognition and support from provincial government. At provincial level the IDRC project assisted the Provincial Rural Development Committee to deal with these issues, and interpret of the emerging legal framework. In 2005, the approaches developed through pilot (action research) activities were scaled out to nearly two-thirds of Ratanakiri province (co-financed between SIDA and IDRC) in a limited number of sites.

Therefore a number of communities have been well trained, and accustomed to developing rules and formats and creating maps. Some communities like La Eun Kren would have experienced more than one facilitation by outsiders that came to assist in the participatory development of land management rules and community rules for local community governance. **Therefore, an understanding of 'bylaws', also in the present report, must keep this context in mind. The bylaws now signed by the MOI minister are special in that they fulfil the legal requirements of the Land Law to establish a legal entity. The trajectory leading up to this has contained a number of social mobilisation processes linked to the participatory land use mapping and supported by NGOs and donors.** In view of several sets of rules and bylaws pertaining to other legislation or processes, some members of indigenous communities may not be sure, which bylaws the accidental inquiring visitor is asking about.

Generally, there are two kinds of 'bylaws' or rules established by the indigenous communities:

1. Those originating from the participatory land use planning (PLUP), which involves community agreement on demarcation of its lands and the borders to its neighbours as seen in Annexes 1 and 2. These rules are measures, which lend themselves to full participation of all households as they require ground thruthing and thorough involvement. These PLUP activities are discussed in section 4 below.

2. The other bylaws are the MOI-supported governance bylaws that deal with structures for decision-making and, more importantly, establish the community's self-representation as an indigenous community eligible for a kind of "collective indigenous community ID card". **These by-laws are the basis for eligibility in relation to collective land title under the Land Law.** The bylaws, which allow the community to incorporate as a legal entity, are the ones MOI has supported during 2005 and 2006 with ILO financial and technical assistance, and which are now the ones that have been signed by the Minister of Interior . These bylaws, which are discussed in Section 5 below, were not required prior to 2001, when the Land Law was not promulgated and collective title was not on the table as an established legal option.

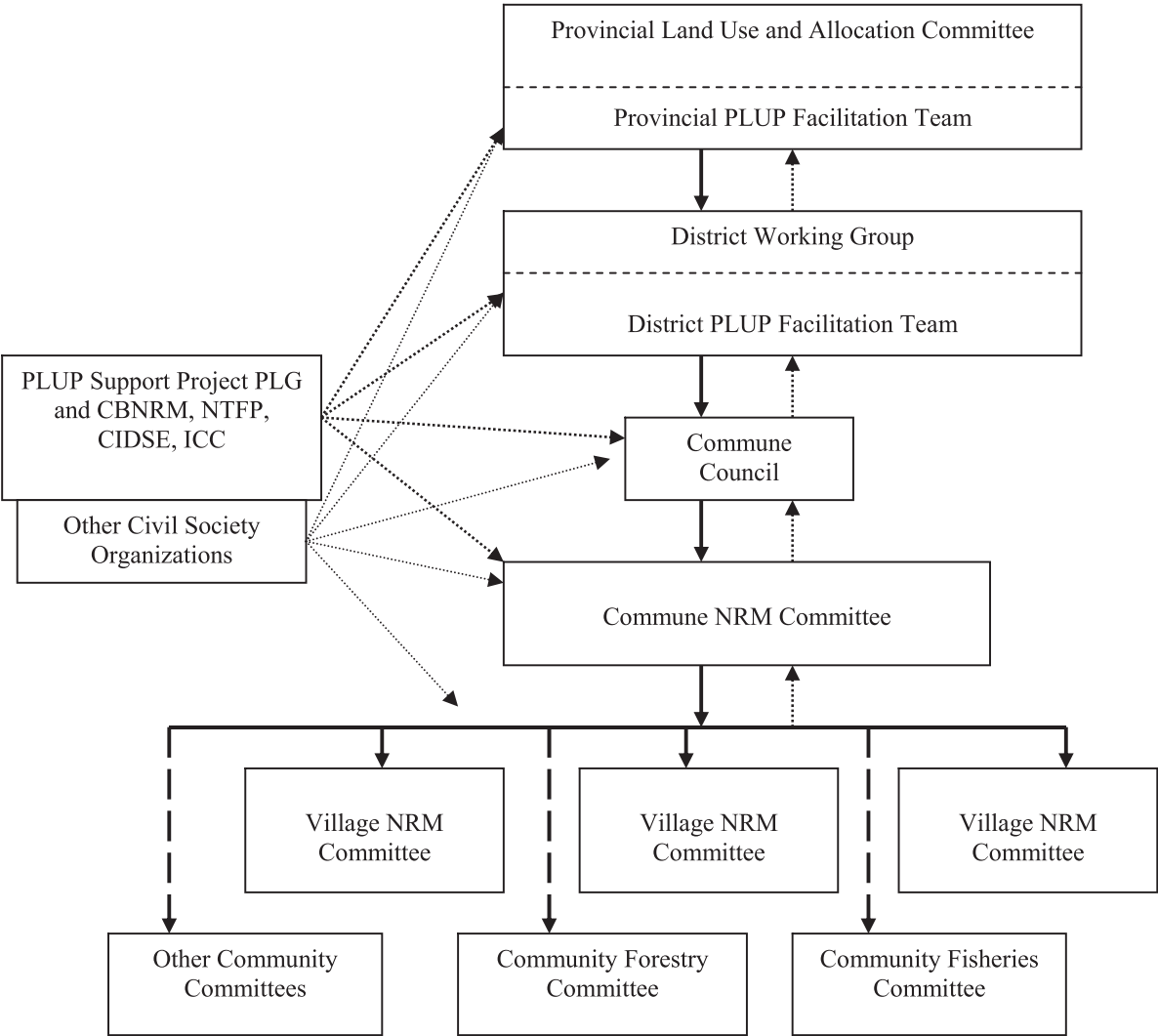
5. The PLUP rules

The following describes and analyses the development of participatory regulatory measures for land use - the Participatory Land Use Planning (PLUP) - which established rules of land use and established boundaries between communities. These activities have laid the ground for the later development of incorporation bylaws to establish indigenous communities as legal entities, so they are an indispensable part of the process. In fact, these PLUP and NRM rules are much closer to the heart of the indigenous communities as they deal with tangible issues as can be seen clearly in annex 1 and 2. The MOI bylaws have more of a specific purpose, that is, to establish the village as a legal entity and partly to fulfil one of the first steps of the requirements of the Land Law, the presence of a legal entity. The following portrays the land use mapping and rules development under PLUP partly, as said, because it paved the ground and partly because the results of the PLUP are likely to feed into the future annexes⁶ to the MOI-supported bylaws⁷.

⁶ The idea primo 2007 with MOI is that the completed PLUP maps and decision on boundaries and land use would eventually feed into a future annex to the legal-entity-bylaws defining the land rights internally and defining in more detail the rights regime of the collectivity and of the individual. The existing PLUP maps and agreements on boundaries may need to be adjusted but basically it contains the land information that forms the basis for the work that MLMUPC's land demarcation is to address in the registration process proper.

⁷ PLUP is still alive as national program supported by Danida, but only at commune level, now called CLUP, where it defines a limited number of land categories that do not lend themselves to the detailed PLUP required for indigenous communities' decision making.

PLUP Framework for Indigenous People in Ratanakiri



Danida has been supporting the PLUP as a national programme, and in 2004-2005 it was expected that the PLUP would be endorsed by the Ministry of Land Management, Urban Planning and Construction (MLMUPC) as a national system. Already in 2004 a draft PLUP manual was published with an annex containing the special "PLUP for indigenous communities" (See annex 4 for the detailed consultation process). However, the system has never been adopted officially despite the fact that more than 100 communities in Ratanakiri have prepared PLUP maps. The process has entailed the participatory identification of land uses and contributed to a shared understanding within villages and communes about the issues of natural resource management and the boundaries between villages and communes. In the province of Ratanakiri the process was carried out as a 'special PLUP' for indigenous peoples using steps portrayed in annex 4. In Mondulkiri the PLUP received support through WCS and centred on the one community of Andong Kræleung and spent more than a year where the villagers from Andong Kræleung and neighbouring villages went on foot along the boundaries and spent the night in the forest and built up companionship together with the Forest Administration (FA)⁸. It is a planning process starting at the village level in which villagers, commune and other stakeholders jointly decide on the future use of all land and most importantly discuss community boundaries with neighbouring communities. In Ratanakiri the process has covered, as said, almost a hundred communities, while in Mondulkiri only four-five communities. In Ratanakiri it was implemented under the Seila programme with PLG support, in Mondulkiri, only the pilot community under WCS support was addressed and here stakeholders used more than a year for the process for the one pilot village of Andong Kræleung. Here the PLUP was closely linked to the production of the MOI-supported bylaws.

The WCS FA-seconded advisor in Mondulkiri indicates that a long time is needed to make sure all households understand the process and participate fully, in order to have full ownership of the results. This statement emphasises the foundation the NRM and land use planning activities have provided for the later development of MOI-supported bylaws with the more specific purpose of establishing a legal entity. A Review⁹ of the national PLUP programme was undertaken in 2006 and one of the lessons was that the costs in time, both in terms of person-days and in terms of the period between 'start' and 'finish' were much higher than anticipated. It was expected that the PLUP process would take 21 days per village. In the PLUP manual 28 days are suggested (not including training of teams and mapping activities). But experience demonstrated that it usually took much longer to implement PLUP - and even longer to do PLUP with indigenous peoples.

The information produced by the PLUP in the national programme is ideally to be used to guide natural resource development priorities and investment at the commune level. Here it would constitute a basis for the Commune Development Plan (CDP) and the Commune Investment Plan (CIP). Creating a basis for the CIP was the goal of the national endeavours but the use has been different in Ratanakiri, where the PLUP was carried out at community (village) level, not commune level and the goal was agreeing on boundaries between communities and mapping internal land use. The teams in Ratanakiri, which carried out the PLUP, were composed of local line department staff in the province such as staff from land management, environment, agriculture, fisheries and/or forestry and agriculture, particularly at district level. This team that was funded by PLG/Seila met with villagers in the field to discuss the mapping.

⁸ WCS has one FA officer seconded to it. This officer has been instrumental in having FA endorsing the results on the ground.

⁹ Veer, Cor 2006 Participatory Land Use Planning, Natural Resource Management, and Rural Livelihoods. Lessons and Prospects

The impact of the PLUP process in Ratanakiri has been that communities among themselves and in relation to the neighbouring communities have gained a shared understanding within and between villages and communes about the state of natural resource management and most importantly **have agreed upon boundaries** (at least where the PLUP exercise has entailed the necessary social processes in addition to the more technical ones). Many villages have copies of maps or 3-D models where NGOs participated in the process. The agreements are clear from Annex 2. Also the commune council members regarded the information a useful tool in their dealings with the outside world. The formation of Natural Resources and Environmental Management (NREM) Committees at community level and the drafting of rules and regulations were perceived as tangible outputs with potential for future development and sustainable management of natural resources.

Community regulations or bylaws on land originated from these land use planning exercises and make up the foundation for all later development. But as the diagram above demonstrates there was a need for institutional support for the process and approval mechanisms for the *outcomes at provincial level. This is evident in Annex 1 dating back to 2000 that shows the governor's signature. Outcomes such as maps have not been endorsed except in Ratanakiri and Mondulkiri where the governor in Ratanakiri issued a deika or official acknowledgement.* In Mondulkiri the FA has endorsed the PLUP of Andong Krleung all the way to the central authorities of the FA in Phnom Penh as the process was a win-win exercise because forestland at the same time was demarcated and clear boundaries to the forest established. **Thus, the difference between Ratanakiri and Mondulkiri and the rest of the country's PLUP exercises was the former's link to the indigenous peoples' issues and the detailed PLUP for indigenous villages.**

In organisational terms, a concomitant outcome of the PLUP process in Ratanakiri has been that each community has an NRM committee at village level. However, there are some challenges with the establishment of such committees, which may overlay the traditional authority structures of indigenous villages, for example. Furthermore, due to various processes other than the NRM process, several committees are usually established by different organizations at community level. The consequence is often that not all committees may know clearly what they are meant to do and there may be some occasional confusion as to the number of other committees established at community level. The latest committee to come up is the one for the MOI-supported bylaws, which in Ratanakiri are limited to the two pilot villages. These committees established under the MOI-supported bylaws (naturally) include a member of the parallel NRM committee, as well as traditional authorities of indigenous peoples, and then the additional official village Leaders, which form part of the official administrative structure of the decentralization process, and may or may not also be village elders or traditional authorities. .

All PLUP regulations developed so far are void of information on internal land rights except for oral agreements in villages primarily on non-sale to outsiders and maximum area of individual cash crop land. Customary internal tenurial arrangements and their possible implications for future collective land title have not been clearly recorded in the PLUPs. The teams undertaking the PLUP, also, were not trained to investigate tenure, and in Ratanakiri the State Public Land and State Private Land has not been identified, mapped and classified yet so this renders the process more challenging.

The Review of the PLUP¹⁰ concluded that the use of PLUP results in Cambodia is limited to the CDP/CIP process. Therefore, it suggests, instead of undertaking full PLUP it would be better to limit PLUP to be 'PLUP on request' for the purpose of specific project identification in the context of the CDP purposes. It is noted, though, that the Review did not cover indigenous communities and it did not look at the results from the detailed PLUP among the Indigenous Communities. It therefore misses the fact that PLUP in Ratanakiri has facilitated a much clearer understanding *and agreement* among communities of their boundaries, an agreement that is a precondition for any collective title¹¹. The Review does render an impression that for communal land titling of indigenous peoples' land the use of PLUP has demonstrated to be useful and is expected to remain a relevant application, but the Review does not address how exactly it has been useful and how it can be linked to the larger picture of collective land titling. Nor are the costs of the indigenous PLUP assessed.

In conclusion it is reiterated here that for the indigenous communities, a **result of land use planning in the 1990s, including the PLUP since 2004, has been that several communities, especially in Ratanakiri, have developed rules for land use that are approved by commune, district or province with a provincial *deika***. However, the difference must be stressed that these were prepared for the management of the lands, not for establishing a legal entity to be eligible for collective title under the Land Law. The WCS's lessons from PLUP in Mondulkiri for the village of Andong Kralleng (the pilot site) are as follows concerning the need for¹²:

- strong support to these processes from the relevant lead Government agency (e.g. from FA in forest lands), province, district authorities and other relevant line agencies;
- key threat or conflict to motivate participation and follow up;
- recognition that building trust and understanding requires much time;
- future PLUPs in other village to require less detailed data to be collected as situations are similar;
- informing all individuals of relevant processes, as committees may be less effective disseminators of information;
- mixed NGO/GO teams, because of language issues;
- temporary approval mechanisms;
- rapid and local final approval;
- flexibility in methods, scope and types of zones;
 - o -a stronger role of the commune council: *deika* to formalize committee and regulations, facilitate issues, monitor committee; and
 - o increasing the availability of recent imagery/ photos.

¹⁰ Veer, Cor 2006

¹¹ The review also states more intensive use of PLUP approaches at both village and commune level would only be justified if there were a commitment and institutional arrangement to grant the land use and natural resource management plans an official approval, with provisions to enforce compliance by both insiders and outsiders. As long as such arrangements are not in place it may be wiser to use more intensive PLUP approaches in case of special and demonstrated need or on request from commune councils.

¹² Evans, T. and Phet Phaktra, 2005

6. The history of 'legal-entity-bylaws' or 'statutes of community'

The 'legal entity bylaws' are the bylaws that are linked to the Land Law and seek to prove the indigenous community as a legal entity with the characteristics required by the Land Law. The minimum requirements for community bylaws are, by the study, to define

- structure of the indigenous community
- traditional rules and customs related to the social, cultural, and economic organisation of the community
- traditional rules and customs related to allocation of land and natural resources among the members of the community
- acceptance of new members
- rights of individual members vis a vis the rights of the community
- termination of membership or restrictions of membership rights
- governance structure
- decision-making
- conflict resolution
- representation of the community
- roles and responsibilities of representative body
- interaction with outsiders
- relationship between legal entity and representative body
- developing, changing and endorsing of community bylaws
- rules applying to the dissolution of the indigenous community

Besides proving the indigenous community to be an indigenous community, the bylaws need to regulate how new members are accepted in the community and on what grounds members may be excluded from the community. Bylaws are to describe how decisions are made. The balance between individual and group rights is also spelled out, e.g. article 27 that refers to conditions for an individual leaving the community.

There are also provisions concerning representation and decision-making. If the community is represented through a traditional authority, e.g. elders, *then traditional rules and customs applying to the roles and responsibilities of the traditional authority should be detailed in the bylaws*. If, however, the communities choose to be represented by a committee, the bylaws should detail 1) how such a committee is formed 2) what are the roles and responsibilities of the committee, and 3) how is the committee accountable to other members of the community. These provisions provide important safeguards concerning accountability, and prevention of abuse of positions by members, as well as providing safeguards against indigenous individuals being tricked into selling land that belongs to the community.

Article 24 of the Land Law gives authority to decide about membership of an indigenous community to the majority of that community but also mentions that members have to accept the unity and subordination of the group, thus respect the traditional authorities and institutions. The authority to decide on membership is therefore the traditional authorities and institutions and the majority of the

¹³ Susie Brown et al, 2005

community. This is what the Land Law stipulates. The 2007-signed bylaws do not fulfil all these points and annexes may make up for that.

Legal entity bylaws were addressed in the context of the RGC Pilot Project for three communities that took off in 2004. In the years that followed, a number of initiatives to support the development of bylaws that would turn the communities into legal entities took off. First, the International Working Group for Indigenous Affairs (IWGIA) drafted terms of reference in 2004 for a consultant conversant with the implementation of *The Indigenous Peoples Rights Act of 1997 (Republic Act 8371, or IPRA)* in the Philippines to visit Ratanakiri and discuss with the communities. Later, Sida/GTZ implemented a programme in Ratanakiri with a number of TA that was terminated by end of 2005, when Sida's funding stopped. Then, during 2005, the ILO identified the official drafting of by-laws to register indigenous communities as legal entities as one of the major stumbling blocks for the effective implementation of their land rights in accordance with the Land Law. It thus began support to the MOI (DoLA) to finalize the process for drafting and approving the by-laws for this purpose. The focus of all endeavours was on the three pilot communities: the two Tampuan communities La Eun Kren and La En in Ratanakiri; and the Phnong community of Andong Kralleng in Mondulkiri. An energetic MOI official, Dep. Director of Department of Local Administration (DoLA) took the lead on this. He is the MOI appointed member of the NTF and without his initiative nothing would have moved.

The aforementioned IWGIA consultant met with the Partnership for Local Governance (PLG)/Seila, which were the main institutions involved in responding to issues concerning indigenous communities in the Province of Ratanakiri, including on the question of the communal titling initiative for the two pilot sites in 2004. He held a number of consultation meetings in the communities and reported that the level of participation was excellent, which could be attributed to the fact that **the village elders themselves fixed the schedule for meetings. His conclusions were that the community characterized traditional lands as consisting both of individually managed/utilized land as well as communally managed areas and that community consensus played a very vital role in defining the extents of these two categories.** Of particular importance he reports:

"When asked to identify the communally-owned areas, both communities commonly identified forests as areas which provide resources to the entire community and are thus the best examples of collectively-managed areas. Not all forest areas were considered communal: old fallows and secondary growth forests were exceptions and were regarded as cultivation areas previously utilized by community members. Specific sections of the forest, which had cultural and spiritual significance and areas, which provided resources for the whole village were defined as part of the communal property of the community. Both communities asserted that all lands covering both their cultivation areas and communally-owned forests should be defined as Tampuen traditional lands and should be legally recognized by the RGC and titled to the respective communities."

On the representation of the community to the outside world, the IWGIA consultant reported that:

*"Respondents in both sites commonly asserted that the Communal Title should be registered in the names of their respective communities. **They contended that all village members should be recognized as legal owners with equal rights and access to the land and its legal title.** After acknowledging the inherent difficulty and impracticality of listing all the names of the village members in the title, they recommended the establishment of "a land committee" composed of respected elders who shall act as the custodians of the Communal Title on behalf of all village members **who are clearly understood and recognized by all as co-owners of the land.**"¹⁴*

The communities identified that the committee could be a Land Caretaker Committee (LCC) consisting of five-persons composed of 1) the village chief; 2) two elders who are unaffiliated with or are not current officials of any existing formal organization in the village; 3) the head of the Village Development Council (VDC) or similar structure and 4) the head of the village Natural Resource Management Committee. Both communities in Ratanakiri were asked on the role of women. In La-en, the participation and nomination of women to the LCC was welcomed and encouraged. In La Eun Kren, the respondents considered the participation of women in the committee or in discussions regarding land issues as a waste of time. The IWGIA consultant reports that the establishment of the committee would be an open process based on community consensus in a Community Assembly. There should be no elections due to negative effects on the community. Both communities contended that elections create losers and intense rivalry and competition within the community, resulting in unwarranted divisions and splits among clans.

Regarding decisions on land rights, the villages are recorded to have said that the LCC should serve as the representative of the people in all transactions pertaining to land and **the LCC members should also be the legal holders of the communal title on behalf of the community.** The Committee members would be responsible for ensuring the equitable allocation of land among all the families and its proper disposition and utilization. In the concluding remarks the consultant proposed that the five-person committee should act as the trustee of the communal title. It shall represent the community in all official transactions with agencies of the RGC and private entities. As over-all managers of the land, the LCC is expected by community members to set down rules and regulations on the utilization and disposition of land based on accepted traditions and practices of the people.¹⁵ However, as the Land Law clearly states, as the community itself, and not a trustee body, should be the owner of the collective title, such a trusteeship arrangement would not be possible, and others may argue that it may also not be desirable. The by-laws also do not indicate this kind of arrangement.

¹⁴ This clearly raises the question of trusteeship and the definition of the mandate of the committee and the community members. This is discussed in sections 6 and 7.

¹⁵ The consultations carried out during 2004 by the IWGIA consultant are rendered above as they are the result of a fairly thorough consultation and they are important for the further development post 2004. The IWGIA document goes into detail with all the requirements of the Land Law and discusses them bringing the view of the IP community, but it does not draft bylaws proper.

The second person to assist the communities develop bylaws was a Sida consultant who drafted (non-completed) bylaws with the communities in 2005 and rendered them in as an articulated set of bylaws with Articles on Membership, Decision-making, Representative Committee, Penalties and Conflict Resolution. The legal entity here is called *L'eun Kraen Tampuen Indigenous Land-Ownning Community Legal Entity*. It also states that the *legal entity shall be the legal owner of the Communally-Owned Land of L'eun Kraen village*, Ou Choum Commune, Ou Choum District, Ratanakiri Province, Kingdom of Cambodia.¹⁶ The consultant's document renders legal articles in minute details such as rules of membership for an adopted person "A member of the Land-Ownning Community who adopts an infant of any ethnicity may apply for this infant to be a member, on condition that the infant is aged between 3-5 months at the time of adoption." This stipulation seems exaggerated but the document also operates with a general assembly and introduces a 'communal land titling committee' as the body that takes action. The report proposes a different composition of the committee than that of the IWGIA consultant, and adds that selection of the members has to be made so that each of the four clans in the village is represented among the five members of the Land Caretaker Committee. The report does not discuss or stipulate the role of the committee¹⁷ as a trustee.

¹⁶ These (incomplete) bylaws differ from the MOI-supported bylaws by focusing on land while the MOI supported bylaws do not feature land as the basis for the legal entity.

¹⁷ This sharing among clans is a fact in the present composition of the committee by 2007 as observed by the Consultant during village discussions in LaEun Kren although not expressed as a requirement in the bylaws themselves.

7. The MOI-supported bylaws 2006

The MOI-supported bylaws that establish the indigenous community as a legal entity **do not directly address collective land rights** and land use. According to their main legal purpose, the by-laws are specifically to establish the communities as legal entities for the purposes of registering their lands for communal title or ownership. However, in the interpretation of the MoI, this purpose has been broadened to include other purposes, despite the legal mandate. The MoI-supported by-laws are therefore at variance with some of recommendations of earlier studies that said by-laws should be for the sole purpose of land. However, these studies were undertaken at the time when stakeholders thought the MLMUPC would take action to develop bylaws and create legal entities ready for land registration. This did not happen as MLMUPC thought the MoI was the responsible ministry.

The MoI-supported bylaws are generic and mainly stipulate structures and governance serving as a first steppingstone towards collective land registration meeting the requirements of Article 23 of the Land Law. This development of legal entity by-laws took off when the deputy director of DoLA started to become engaged in the process late 2005, with ILO support and technical advice on a number of issues including methodologies for more effective and inclusive consultation with the communities concerned - a concept that has not yet gained currency in the development of laws and policies in Cambodia, in particular as regards the special considerations that need to be made in respect of consultations with indigenous peoples. His participation has been instrumental and indispensable moving the process forward to gain recognition at central level, and the ILO financial support to him has been very important for this result. He has visited both Ratanakiri and Mondulkiri around 8 times and in the meantime during his absence NGO partners have worked with the communities on the bylaws and kept the momentum going until by October 2006 the bylaws had received signature of the respective commune councils and been forwarded through the provinces to MOI in Phnom Penh. In January 2007 the bylaws of the two communities in Ratanakiri were signed by the Minister of MOI and in April 2007 the bylaws of the community in Mondulkiri. The bylaws of La Eun Kren are attached in Annex 3 for easy reference.

DoLA came into the picture in late 2005 taking off in Phnom Penh and it has remained bound to Phnom Penh except for the periodic visits to the provinces by the DoLA deputy director. This is partly due to the lack of staff at the provincial level, as well as the lack of capacity of existing staff. This meant that all the groundwork with communities has been carried out by NGOs such as DPA and NTFP in Ratanakiri and the WCS in Mondulkiri, the latter supported by ILO through the WCS. In Preah Vihear the NGO *Buddhism for a Progressive Society* also received support from ILO to work among Kuy people on bylaws. DoLA visited Preah Vihear a couple of times, but the community is not singled out for collective title by the RGC, which considers the community to be assimilated. Its land tenure is in fact private for parts of the lands but the community makes use of an area that is managed as common property for which a collective title could be issued. No English translation of Kuy bylaws has been seen from Preah Vihear. In many cases DoLA also indicated the lack of capacity to run on its own on by-law development process due to distances, the need for more regulations to cover its performance, no sufficient fund directly support the by-law development, capacity building to its line departments officials at the provincial and district levels and commune councillors on indigenous issues, their roles and responsibilities concerning indigenous land and by-law and harmonization of all local works in this effort.

Given the various challenges involved in the MoI-led process of drafting the community by-laws, the effective involvement of communities has largely fallen under the responsibility of NGOs in their day-to-day work where it has been combined with other work such as land use discussions and other advocacy activities - reaching timely further consolidation each time the DoLA representative visited the province. In this way the NGOs' work has been a continuation of work of previous years, which was carried on and which to a large extent focused on land use planning as a means to protect against outside impacts. Furthermore, the ILO as a complement to its support to DoLA, the ILO has provided financial support to several NGOs working at the provincial level, in order to enable them to undertake some of the necessary groundwork, capacity building, training and advocacy activities to enable selected communities to understand the legal framework, and discuss, draft and submit legal entity by-laws for official approval themselves. However, NGOs also have their own challenges, in particular in terms of being able to work in an official capacity or as entities embedded in official bodies with a mandate to deal with the by-laws. During 2005, a number of expatriate advisors (under IDRC) were also present in Ratanakiri for research purposes, as already mentioned, and these contributed to the process as well working closely with the provincial authorities and Seila. The expatriate group in Ratanakiri wanted to keep up the momentum into 2006 and prepared a proposal to GTZ and Sida to continue but Sida withdrew support. In Ratanakiri, PLG/Seila then held the reins and funded the work of the provincial land department to work with the NGOs and with the DoLA representative each time he came. In Ratanakiri, a provincial task had been established for the Pilot Project supported by Seila and PLG, both government institutions. In Mondulakiri it was different as here the WCS supported by, among others, the ILO in 2005-2006 works as an NGO, so it cannot work embedded with the provincial authorities the same way as Seila. However, the close connections between WCS and the FA through an FA-seconded officer in Mondulakiri kept the links to government firm and produced PLUP maps and land use rules endorsed by all villagers of Andong Krangleung.

It can be concluded that the engagement of the indigenous communities in the development of the legal-entity-by-laws forms part of a continuous process dating several years back in time, primarily related to the land use mapping and rules of use and protection against outsiders. Against this, it was DoLA that developed the first format for the by-laws that met the requirements of article 23 of the Land Law besides meeting other MoI requirements such as being supervised by the commune council. DoLA used the format as a foundation for the specifics of each village that emerged during community consultation. Earlier rules and by-laws, which dealt with land use and land protection and setting up committees for land and NRM did not pay the necessary close attention to the requirements of each specific article of the Land Law nor to what the possible requirements of the MOI might be. They were more concerned about protection here and now. The inclusion of all the characteristics of self-identification as an indigenous group may not come naturally to an indigenous community when doing land use planning as it was already living there and it already knew who it was. But to prove to the outside world and align to the requirements of the Land Law, the by-laws needed several articles that identify the community as an indigenous peoples' community.¹⁸ And the up front linkages to the commune council would also not come as a natural ingredient.

¹⁸ See Article 3 of the La Eun Kren Bylaws in Annex 3 for how it self-identifies.

Meetings on bylaws in the field attended by DoLA were prepared well in advance by the ILO, the NGOs, provincial authorities and line agencies on the ground as well as catered to by the PLG/Seila in Ratanakiri. Meetings were held in village community hall, flip charts used and texts discussed. This took place in Khmer and Tampuan, and most indigenous women would not have a chance participate when the meetings were conducted in Khmer. And the men of the community would not automatically promote women's participation either when the context was defined in the Khmer language.

The legal-entity-bylaws went through several versions during 2006 and the contents are as follows:

- The first articles name the legal entity as the "Leun Kraen Village of Tampuan Indigenous Community" and they specify that the commune council is meant to support and interact with it and supervise it. So the link to the commune council is firmly established and in line with MOI thinking.
- Article 3 provides a long list of self-identification characteristics comprising all kinds of productive activities in land such as shifting cultivation and forest NTFP collection, fishing, the presence of spirit- and burial forest sites, sacred sites, Tampuan dances and songs, Tampuan language, and a number of other characteristics that meet the requirements of article 23 of the Land Law.
- Chapter 2 of the bylaws establishes goals and objectives, such as six specific objectives that are of a mixed nature, including both the intention to collaborate with the commune council, government agencies and other development partners in fields including education, health-care, agriculture, natural resource, and environmental protection and to maintain the tradition, custom, community property and control the communal land. The highest leading body of the community is the 'Community General Assembly' that collects ideas and establishes consensus from the majority of community members in order to make decision on the necessary works. The Community Committee has right to make decision over the use and control the land that is legally recognized as the communal land. The Community Committee represents the traditional authority, which practices the traditional governance of the collective system and it is composed of a total of nine persons:

1. One traditional authority.....	Chairperson
2. Two village elders.....	Deputy chairpersons
3. One representative of village administration.....	Permanent member
4. Four village elders	Members
5. Other representative of committee in village.....	Member

- Article 9 lists the roles of the committee, which include preparing the community guidelines and measures to manage the property of the community. This entails scrutiny of the decision making on distribution of the communal land such as residential land, shifting cultivation plots, and other land for cash crops to the community members for subsistence as well as collaboration with the commune council on the CDP.
- Chapter 4 stipulates membership rules, how to gain and loose and regain membership.
- Chapter 5 stipulates how Community Committee members gain or loose office.

- Chapter 6 are regulations on administrative matters, how to conduct meetings and write minutes, which in fact is not required to be carried out the way it is put (by MOI) following the normal standards of the government. People are not accustomed to read and write and women may not be able to in the near future. It also stipulates to have a meeting of all members four times year but presumably the village will have meetings whenever it feels like it and according to its own priorities.
- Chapter 7 briefly mentions the property of the incorporated Indigenous Tampuan community and **makes explicit reference to consult the annexes of the bylaws, which are not yet prepared.**¹⁹
- Chapter 8 of the bylaws brings more rules of a structural and procedural nature and the relationship between the Committee and the general assembly. It also touches upon the property of someone who leaves the community and refers this case for community decision. It also mentions the occasion of the community itself dissolving.

It is evident that traditional authorities and elders make up the majority and only one person comes from the official hierarchy, namely the representative of the village administration, probably the village chief. Thus, the composition of the committee follows closely the indigenous custom of traditional leaders. The general assembly has the power to amend the community bylaws and to define the guiding principles, goals, objectives, tasks, and measures to the interest of community. This also is in agreement with traditional practices. **The general assembly can select, punish, or dismiss the member of Community Committee but it can also transfer all decision- making power to the Community Committee - except in special cases (undefined).** The Community Committee can assign a representative to negotiate and coordinate with all public or private investment related to the interest of the community.

¹⁹ This fact is treated below and suggestions for ways forward recommended.



Ceremony to hand over the letter of recognition (Sor Chor Nor) of the Ministry of Interior, La Eun Kren community, Tumpuon group, 24 may 2007, Ratanakiri province

8. Analysis of Contents of the Legal-Entity-Bylaws

In response to the TORs for the present study we note that the contents of the bylaws are generally consistent with the requirements of the Land Law, but that may be a matter of interpretation as long as the minute details of the internal relationships are not in place.

The bylaws do not use the Khmer word for trusteeship but the MoI appears to see the mandate rendered the Community Committee as such, despite that if it were a real trusteeship, it would have ownership rights to the collective title, which is not the case, and is not provided for in the Land Law. Nevertheless, this management arrangement will require elaboration in the annexes to the bylaws, in order to **ensure that real safeguards are established to ensure the decision making power of the Committee stems from the participation and expressed wish of the community as a whole. This is a very real concern, particularly when such institutions are established which effectively overlay the traditional governance system of the community.** The appropriateness of the contents of the by-laws for the existing forms of social organization and structures of decision-making in the concerned indigenous communities is appropriate as the general assembly, meaning all villagers, is seen as the main body to discuss and to select the Community Committee and that fits normal practice of the village that uses the large community hall for village 'plenary' discussions of issues of concern to all.

Gender issues, understood in the by-laws as women's participation, is not sufficiently well addressed as some indigenous communities tend to think that this is only a matter of dealing with the outside world. Furthermore, reading Khmer is considered as belonging to the men's sphere and this will not change easily.²⁰ However, when all the outside stakeholders have left the village and the general assembly sits by itself and speaks in the native language, women are equal participants. The Community Committee in La Eun Kren includes two women out of its nine members and it was noticed by the Consultant that while they were grown-ups, they were not elderly, that they understood Khmer and carried a wristwatch indicating by a token that they understood the demands of the world outside the community. This is the way the gender and women's participation issues are catered to for the time being.

In the annexes to bylaws which have yet to be written, the internal land rights and rights of access and possession are likely to be addressed and here it would be advisable to specify women's rights separately, in particular rights of female-headed households, widows and elderly women. This has been touched upon in discussion with MOI too, because it seems the MOI is the agency to deal with this land annex. Although the annex is to deal with land issues, or allocation of rights and rules of resource appropriation, the MLMUPC it is reluctant to handle it, and leaves it to the MOI. "The MLMUPC only takes care of the registration (of land) process".²¹ This means the MOI will require assistance on this matter. Recommendations concerning the objectives of the annexes are dealt with below in section 9.

Regarding the extent to which the objectives of the by-laws, and their general content, is consistent with the recognized rights of indigenous peoples it can be said that they are consistent with the

²⁰ In the Ratanakiri workshop April 2005 to discuss sub-national NSDP and IP Issues the consultant was the only women among 55 men. None of the IP representatives at the workshop were women.

²¹ Statement by Madame Ou Vuddy, General Secretariat, Council of Land Policy, 4th May 2007

collective nature of land management of the communities, they are consistent with the rights expressed in the Land Law as they provide the stepping stone for further consolidation of rights. However, it is not yet possible to say if the internal traditional rights of the individuals are catered to sufficiently, because these have not yet been specified. Nevertheless, given that these by-laws are intended for a very specific purpose - the registration of indigenous communities as legal entities - it does not necessarily follow that they should be so explicit in the by-laws or their annexes. This is however, a matter that has not yet been resolved. It must be recognized that the formulation of bylaws for the pilot communities has been a multi-pronged process with many actors. The NGOs and the researchers are the ones who have been present on site and able to give most time to discuss the issues and the ones who have worked most in line with the accepted standards for consulting with indigenous peoples. On the other hand they have lacked the political understanding and connections, which MOI brought into the picture. The MOI is not a strong participatory actor, and among the main objectives of ILO support to the MOI in this area was to work towards the improvement of methodologies for the more effective consultation of indigenous peoples during the process of by-law development lead by the MoI (DoLA). Evaluating the contribution by ILO it must be emphasized that it was a timely input and it represents a choice of the right actor with the necessary political status to carry through what is developed with the communities. And it was possible because of the work that has taken place before that based on the PLUP. If MOI had not been supported by ILO to participate in the work and carry it forward in its own way no bylaws would have been endorsed yet. The ILO' work on community organising led to the strategising of the approach. Late 2005 and in 2006 the ILO-ITP identified the entry point working on community organising to pave the way for collective land ownership registration for indigenous community in line with the Land Law of Cambodia. The ILO supported MoI/DoLA and MRD/DEMD officials in late 2005 to visit a number of provinces such as Ratanakiri, Mondulakiri, Preah Vihear, Pursat and Koh Kong in order to find out possibility to take on more indigenous communities in those provinces for legal entity. In this regard the emerging of the needs to support the MoI/DoLA took place to begin the by-law to complement the existing process of the 3 pilot communal land registration. The ILO-ITP then was the only supporter to the MoI/DoLA on this work from national level. But the MOI leadership in the process also means that the land issue has been downplayed in the bylaws. The MOI leadership also means that the bylaws read almost the same 80% -90% except for the names.

The legal-entity-bylaws do not deal with 'rights' but with formal structures that need to be in place to turn the community into a legal entity eligible for land registration of collective title. Only when it comes to the drafting of annexes on internal rights will the question of rights pop up as the rights of the collective, the rights of the committee and the rights of the individual vis a vis the collective, and here it is important to make sure the traditional norms are adhered to, that gender issues addressed and to avoid impact of the market forces that may hold an attraction to some individuals inside the communities. Secondly, the annex must also cater to the indigenous norm of extended families making up one household, one cooking place, so rights cannot be held by houses/households in an equal fashion without understanding the composition of households and the way younger generations only gradually split off. During consultations to undertake this study, for example, an interview was held with a middle-aged man who seemed to hold a relatively large amount of land internally until it was revealed that his household consisted of four families that shared the fireplace. These four families make up one unit of production and consumption.

The organising process used in the three pilot villages has been described above calling for a telescoping view back to the late 1990s through 2005 and 2006 where many stakeholders were engaged and where PLUP and NRM mapping took place. This has been the foundation for DoLA to build on, as the DoLA did not enter a vacuum and could not have accomplished the work unless the previous work had taken place. The government partners have had extensive consultations with communities under the PLUP, where provincial teams interacted with all communities to discuss rules of land use and boundaries. But again, without this visit and without the DoLA representative to hand-carry the results back to Phnom Penh the formal process of recognition would not have moved. The link from the field to Phnom Penh is likewise seen in Mondulkiri where both DoLA and FA could bring the message back into the own institutions. During the meetings with the DoLA representative a number of government and civil society stakeholders were present beyond the community members and all the traditional means of communications and consultations were used such as flip charts and group work using indigenous languages. Reflection of different issues of relevance to indigenous men and women respectively will not really come forth until the detailed discussion on internal rules on the land gets started and feed into an annex

9 Possible annexes to the by-laws

The thus far approved by-laws clearly indicate that the three communities in question shall be managed by the statute (By-law) in accordance with their own rules and regulations (in their "own way", according to the English translation). Article 18 of the thus far approved by-laws states that the "Resources and property of (village name) can be seen in an annex, and are recognized by Commune Council and competent institutions". As is clear from the Land Law, and the preceding analysis in this document, with the specific purpose of the by laws being to register indigenous communities as legal entities for the purposes of registering communal ownership of lands once the relevant legislation has been passed, the question of annexes remains a contentious one. This is for a number of reasons.

For example, some argue there is a need for the annexes to go far beyond the stated specific purpose of the by-laws and comprise the following annexes:

- One Annex dealing with the land allocation procedures and rights of the nuclear families, households, clans etc in relation to the kind of crops that are grown;
- A second annex detailing further the governance issues and the administrative issues associated with the legal entity. As indicated above, this would be to ensure that real safeguards are established to ensure the decision making power of the Committee stems from the participation and expressed wish of the community as a whole. This is a very real concern, particularly when such institutions are established which effectively overlay the traditional governance system of the community

Some of the justifications behind the call for these annexes to be drafted include the need to protect the more vulnerable members of the community, such as women, or more vulnerable households. Article 27 of the Land Law also provides the indigenous community with the discretion to regulate the granting of land areas to individual members who choose to leave the community, for individual ownership.

Nevertheless the question as to whether such detailed annexes are at all necessary has also been posed by others. Certainly there is an argument that this would overcomplicate the whole process of registering indigenous communities as legal entities. It would also certainly serve to delay the process, meaning that fewer communities would be able to register in a short space of time, and that many more resources would be required to then enable communities to register if annexes going into such detail also become a requirement. Another argument is that the proposed content of the annexes goes far beyond the actual requirements and purpose of the by-laws, and may also serve to over-regulate the traditions of the communities in respect of how they manage their lands, even if these lands have already been managed in accordance with well-established traditions.

Originally it was thought by non-government professionals that the process of establishing the legal entity and the process of land registration for that entity could be part of the same process of application (to MLMUPC) if only it contained name of the community, thumbprints of all applicants, detailed description of location and size of area attached with all available documents such as maps. It did not turn out this way as the processes have been separated and two ministries are involved, each with its own mandate. This is a further argument that the proposed annexes to these by laws may actually simply serve to over-complicate the process, as they will have a direct impact on the later land title registration process, and thus delay actual protection of indigenous peoples' land rights.

These annexes are not formally required by MLMUPC even though the draft CLP Policy states that "each community should have its own internal rule on the use and management of their collective land. This internal rule shall be compliance with their by-law and detail up their rights over different types of land, the management of community's property if the community is dissolved. Moreover, the internal rule must in line with the land use planning and keep at the Commune/Sangkat Council as well as copied to relevant institutions."

The MLMUPC and its provincial land management department will be involved, though, when it comes to the need for geographical land information and they will need to undertake mapping and demarcation at least of boundaries again based on the former PLUP. The MLMUPC would be responsible only for registration meaning the outer boundaries demarcated by the provincial land management committee and district working groups as per the State Land Management Sub-decree, 2005 and associated Prakas. This demarcation is part of the registration process irrespective of whether the indigenous collective land registration takes place as systematic or sporadic registration or it is part of State Land Mapping. The information and maps from the PLUP make up a solid foundation for ground truthing but conditions may have changed since the PLUP maps were prepared so new PLUPs are needed that feed into the registration proper. And the new PLUPs must contain all the necessary internal rules for land allocation. Although the Land Law calls for demarcation "according to actual use" that would include fallow land reserved as part of shifting cultivation,²² the government may decide unilaterally on a ceiling for collective land holdings to five hectares per family. *This is not known yet but the situation may arise, even if, for example, the proposed ceilings in the draft CLP Policy appear to be contradictory to the spirit of the Land Law..* Already the size of the land that each of the three pilot communities expect to get differs widely among themselves with La Eun Kren expecting no more than 960 ha in total while the expectations of La En are for far larger areas and Andong Krallengon Mondulkiri expects 2000 ha.

For this reason, it is argued that the annexes to these particular by-laws, besides the mapping of boundaries and demarcation of areas of land use (shifting cultivation, plantation, bamboo groves, burial and spirit forests, wetlands, streams and other sites), also need to **specify the rules of land allocation internally**.

For those who support the proposal for detailed annexes, such a detailing of internal rights of appropriation is necessary as many changes are taking place with the onslaught of the market forces and some groups among the indigenous communities may be more vulnerable than others. While back in 2000 when the Land Law was drafted it was the impression that most indigenous communities practiced shifting cultivation, either in a nomadic form moving through the forest or as a rotational farming system within a limited area with fallow lands in between, the fact of today is that many communities, including the pilot of La Eun Kren, have put most of the land under cashew cash cropping, which are subject to individual appropriation and claims. Older small cashew plantations are found alongside with swiddens newly planted with young cashew trees turning the swidden into a plantation forever. The pilot communities have established unwritten internal rules that are agreed by all for each nuclear family to have a maximum of 3 ha - or 5 ha depending on village - under cash crop, the

²² Article 26 reads: The measurement and demarcation of boundaries of immovable properties of indigenous communities shall be determined according to the factual situation as asserted by the communities, in agreement with their neighbours,...

rest for shifting cultivation. In most villages the area left for shifting cultivation is much less than before. This limits the time for the soil to rest under fallow and eventually causes soil exhaustion, which will need fertility management such as nitrogen fixing cover crops during fallow periods. An investment of labour (and seeds) in cover crops during fallow may not be compatible with letting the land go into the common pool resource once it is harvested without being sure to have access to the same land again. So this is a catch 22. The ideal shifting cultivation system requires large areas of land and low population density but this is changing or will change within the next ten years. The sub-decree on shifting cultivation, when eventually published, may also prove detrimental to the existing system of shifting cultivation if the FA claims areas of shifting cultivation as the part of the permanent forest reserve.

However, collective title remains extremely relevant and important for indigenous communities. It has high importance as a protection against outside forces, ensuring village cohesion in relation to the land of the ancestors that includes both agricultural lands and sacred forest areas. Collective land holding will be an important instrument in guaranteeing social justice protecting the vulnerable within the community. Common pool resources that are managed collectively are also generally more geared towards environmental conservation, where the collective prevents any future free rider from spreading pesticides or blocking waterways or selling the land to someone who will act this way. Eventually, the lands under collective title would be supplemented with areas under community forest contracts with the Forest Administration so the community would have access to both its own collective agricultural lands and its own community forest area.

A further question for discussion is whether the development of the proposed annexes should take place before or after the demarcation (cum registration) because the community needs to be sure of the amount of land made available for collective title, should a limit eventually be placed on this in the process of drafting the necessary legal instruments for registration of titles. Indeed, it also needs to be sure of its own land area and boundaries. This necessarily involves a longer, more participatory process. As mentioned above there is a big difference in the expected amount of land of, for instance, La Eun Kren expecting 960 ha and the other pilot village of almost the same no of houses expecting around 6000 ha. In the latter may be included burial and spirit forests but still the difference is significant.

As the existing by-laws refer to annexes, for these communities at least it is now a requirement, although it is not evident that the communities in question are aware of this. The MOI will certainly require support from outside to develop these annexes. And the MLMUPC, which is preparing the Sub-decree on Indigenous Peoples' Land Registration needs to decide whether it wants to mention these annexes in the sub-decree.

10. The way forward

As can be seen from the preceding analysis, and overview of the process thus far, a number of challenges remain present, for the further development of by-laws, and indeed also in terms of the manner in which they are developed, their content, and the annexes that are proposed to attach to these by laws. The following is a set of recommendations, organized according to three main areas:

- Scaling up the by-law process
- Content of the by-laws
- Annexes to the by-laws
- Improving the process

10.1 Scaling up

According to the 2001 Land Law, indigenous communities have rights to the lands that they traditionally use regardless of whether or not they have yet been registered as legal entities. This in effect constitutes a form of interim protection for the lands of these communities. However, it is not sufficient to ensure that their lands will not be grabbed, that indigenous communities will be otherwise be deprived of their lands through any number of means. Furthermore, as the draft *Policy on Registration and Use Rights to Land of Indigenous Communities in Cambodia*, limits the 'interim protection measures' to indigenous communities that **are already legal entities**, the scope of these protection measures risks being very limited. Despite that this draft Policy does not actually conform to the intent of the Land Law, its existence has already been seen to create confusion, ensuing from differing interpretations of the level of protection for the lands of indigenous communities, among other things. Thus, this renders the process of scaling up the registration of by-laws all the more urgent and important.

Furthermore, in view of the fact that community incorporation as legal entities is a precondition for subsequent collective land registration there is an urgent need to upscale the process to all interested communities. Already the NGO called NTFP has worked in Krola village for many years and the bylaws of Krola are ready and they are known to the DoLA. It can go through the motions of a commune council deika onto a district and province acknowledgement and submission to MOI in Phnom Penh. The Highlanders' Association, which works in most communes of Ratanakiri can identify 3-4 communities that are ready to develop bylaws. It is presently seeking EU funding for further endeavours to organise communities so they are ready when DoLA shows up. The NGO ICSO also works in communities that are ready for bylaws. The communities supported through ILO funds channelled through NGOs in Ratanakiri, Mondulkiri and Preah Vihear for community organizing may also be in a position to submit by-laws for approval and formal registration. In Mondulkiri and Ratanakiri the PLUP process will continue with Provincial Land Department as the lead agency under funding with Danida and these PLUP exercises should be capitalised upon in the mobilisation for bylaws development.

To scale up the process urgently, would require the following steps or actions to be undertaken:

- A rapid appraisal is needed to identify interested communities, or those who have already undertaken the groundwork to draft and register their by-laws. As indicated above, there are already a number of communities ready, and many more could be identified. Priority could be given to those which declare themselves interested and prepared.
- A consultation meeting is required, bringing all the relevant partners together (Government, NGOs, donors and other relevant partners), under the leadership of MOI, and facilitated by the ILO, to exchange information and experiences on the development of the existing by-laws, and the community organizing processes undertaken. The objectives of this meeting should be:
 - To discuss the challenges and best practices in by-law development
 - to systematize information, training tools and approaches to community organizing and by-law drafting (including content of by-laws)
 - to agree on methods for improving the consultation process with indigenous communities for by-law development (see section 10.4, below, on improving the consultation process with indigenous communities)
 - to provide information on procedures for registration of the by-laws
 - to discuss and agree on the main framework and content for the annexes to the by-laws (see section 10.3, below, for a further discussion on the possible content of the annexes)
 - to prepare and agree on an action plan for scaling-up the process
 - to explore funding opportunities for scaling-up
- ILO support to NGOs providing assistance to communities for community organizing and drafting by-laws, should be expanded to cover at least 10 more villages during the next 12 months, and more during the next 2 years, and further if possible.
- Continued ILO support and training to DoLA officials at central level, as well as officials of other relevant Ministries at central and provincial levels, is required to further understanding of the specific rights of indigenous peoples, and the considerations needed to be taken into account when dealing with indigenous issues and communities, above all in the area of consultation.
- If possible, DoLA officials from central level could be seconded for limited and strategic time periods to relevant provinces to facilitate the by-law registration processes. To facilitate this, MOI could set up an administrative arrangement with the provincial authorities including the Provincial Local Administration Unit and the Provincial Land Management Department, in order that DOLA can provide extra staff to assist with the incorporation process.
- Opportunities for securing funds for scaling-up indigenous community by-law development from within the context of existing donor programmes should be explored, and utilised.
- Existing by-laws can be used as models for the scaling-up process, pending resolution of the annexe issue (see below)
- Develop training tools (or harmonize existing ones) and model by-laws in indigenous languages.

10.2 The content of the by-laws

As indicated in the body of this report, there are several issues covered in the existing by-laws that leave scope for improvement, and whereas it is clearly not possible to modify the content of existing by-laws, as approved by the MoI, if it is possible to address these issues in later by-laws, it would ensure more consistency with the Land Law, as well as the more broadly recognized rights of indige

nous peoples. What is important to retain here is that these by-laws have a very specific purpose - the registration of indigenous communities as legal entities in order that they are able to claim their collective titles to their lands and resources.

10.2.1. The scope of the by-laws

The by-laws are intended for a specific purpose that is in accordance with the Land Law. This purpose is the registration of indigenous communities as legal entities, in order for them to be in a position to register their collective lands for community ownership. Thus, in terms of the actual requirements of, or what should appear in the by-laws, they should not go far beyond such requirements, and extend into questions that are beyond their scope mandated by the Land Law.

- This means that questions such as internal community regulations, functioning of traditional authorities, land management, land use, and conflict management, should only be covered insofar as they relate directly to the specific purpose of the by-laws.

10.2.2. The definition of an indigenous community for the purposes of the by-laws

What has been marked throughout the discussion on by-laws, is that whereas, for the purposes of the Land Law, indigenous communities are described as those whose members manifest ethnic, social and cultural unity and who practice a traditional lifestyle, and who cultivate lands in their possession according to customary rules of collective use, the by-laws go much further in describing in great detail the characteristics of the indigenous communities to which they pertain. Furthermore, it has been clear that in some cases, an over-restrictive interpretation of who can be considered as an indigenous community has been applied by officials, which may serve to limit considerably the number of indigenous communities to which the Land Law, and the possibility for registration as a legal entity, law may apply. In this regard, recommendations are as follows:

- Ensure that the list of characteristics of an indigenous community in future by-laws is not so restrictive as to place serious limitations on indigenous communities' ability to define their own path of economic, social and cultural development by adopting a static approach to identifying indigenous peoples, and by over-emphasizing that indigenous communities should be, and remain "traditional" in all aspects of their social, cultural and economic lives, and forms of organization. The emphasis instead should be on broad characteristics, leaving room for indigenous peoples to make informed choices about their lifestyles and paths of development, without being restricted.

10.3 The proposed Annexes to the Bylaws

The issue of what the annexes to the by-laws should contain is far from resolved, and merits further public discussion, which has not yet taken place. Given the ambiguities, questions and challenges associated with the issue of the proposed annexes to the by-laws, as outlined in previous chapters, the recommendations of this study are as follows:

- A public forum, including legal experts (knowledgeable of indigenous issues), representatives of MoI and MLMUPC, ILO, other government agencies (those associated with PLUP processes) and civil society organizations working on by-laws with indigenous communities, should be held to discuss the necessity for the annexes, and the possible content. This could be combined with the consultation meeting contained as the second recommendation under point 10.1 (scaling-up), above.

- A model annex (or annexes) is developed for La Eun Kren to learn what is important to regulate. This work should be based on detailed further discussions and ToRs, developed possibly with assistance from ILO, who has been supporting the process.
 - One model annex could address issues of internal regulation as it specifically relates to land, making specific reference to the rights of individual families, individuals, and women within the collective, as well as the more complex matters of dealing with members who express a wish to leave the community²³. The age and the land ceiling for cash crops would be decided by the village assembly and put in the annex. The rights would make special mention of rights of women.
 - A further issue that would need to be addressed is the manner in which the Community Committee performs its roles as assigned in the by-laws, and in accordance with the community tradition. Specific mechanisms need to be put in place to prevent the very real danger of decision making taking place in the absence of community agreement or consensus. To this end, the MOI needs to take advice from legal experts, particularly in the area of Cambodian law, and indigenous peoples' collective land rights, and how this has worked in practice in other countries.
 - Any annexe should ensure it is in conformity, and makes reference to all the legal norms (laws, sub decrees and prakas) that are relevant
- In any eventuality, the content of the annexes should be as simple and uncomplicated as possible, should not go beyond the purpose of the by-laws themselves and so on.
- Any process to develop annexes should be undertaken with the assistance of a consultant or organization who can be present on a daily basis on the communities in question, in order to be able to undertake the kind of extensive groundwork and consultations required to gain the kind of information required and ensure that the community has full ownership of the content, and understands the content and its implications fully.

²³ A Khmer migrant household now part of the pilot village of Andong Kraleung settled some years back when it was allowed by the community to do so and it eventually bought a small piece of land for 200 USD. Now this household and its land will be included in the collective title and the household is feeling insecure what will happen.

10.4 Improving the process

As has been described in earlier chapters, there has been a significant history of work in Cambodia of that is of direct relevance to the drafting and registration of by-laws. This includes not only the official process led by DoLA, but also various NGO, donor and government-led initiatives to identify and demarcate lands, draft by-laws, and build capacity of indigenous communities. The advantages and disadvantages of the various approaches have been highlighted, and as ultimately the registration of the by-laws is an official process, DoLA remains an essential component of this broad process. However, in the process of drafting the three pilot by-laws that have now become the first official by-laws of indigenous communities in Cambodia, there are several recommendations ensuing from the analysis above that would help to ensure that the process not only is able to better capitalize on previous process of consultation, demarcation and other related initiatives that were not necessarily undertaken in direct conjunction with the DoLA-led process, or, to better ensure the effective involvement of indigenous communities. Although it is not yet clear to what extent DoLA will be directly involved in the actual drafting of the by-laws in the future, it will remain directly implicated in the approval and registration process. And there is a need, as recommended above, to harmonize the approaches of the various actors involved in these processes, as well as to enhance the participatory nature of the DoLA initiatives in this area.

- Establish an inventory of previous work and research of relevance to indigenous communities (such as the research undertaken by IWGIA, PLUP work, and the work of various NGOs mentioned previously) that has been geared towards by-law drafting in Cambodia, to ensure that these experiences are used and built on, in particular those processes that were the result of extensive consultation and capacity building processes.
- Establish a mechanism for closer collaboration between official bodies working in the area of by laws and land registration for indigenous communities, and NGOs (also applies to scaling -up recommendations, above). This would help to ensure a smoother process of registration, as well as more systematic processes of consultation with indigenous communities with the goal of drafting and registering the by-laws.
- Develop training tools (or harmonize existing ones) and model by-laws in indigenous languages.

The work on bylaws contrast somehow with the work on land. Most donors in the Government-Donor Coordination Committees as well as the NGOs all push for land issues with the MLMUPC and for the registration of collective title requiring the MLMUPC to complete the sub decree on indigenous communities' land registration. Relatively less attention has been paid to the development of bylaws and the necessary legal incorporation of the indigenous communities despite the fact that the Land Law makes it clear no land registration can take place until the communities have become recognised as legal entities. From NGO side most work has focused on advocacy, awareness raising and preventive measures. In their point of view the bylaws will not in themselves help against outsiders, but the land use planning and the social processes linked to it will. So the two need to be combined closely in the future. There are donor funds available for the MLMUPC to work on indigenous peoples' land registration and development of the sub decree, but limited funds for the MOI to do the necessary preparatory work. Comparatively speaking, the work with MOI has cost rather little but moved the process ahead, while the work with MLMUPC has cost much more and moved very slowly. But the work with MOI is not finalised, the upscaling waits to start and the annexes must be prepared in close

consultation with the indigenous communities. Both spheres of work must be prepared and implemented in a way that pays full respect to the understanding, culture, time, and appreciation of the indigenous communities.

But what should be restated at this final juncture, is that in accordance with the Land Law, and as stated in Chapter 3 of this study, the rights of indigenous communities to their lands are protected by law regardless of whether they have yet registered as legal entities or not, and any delays in this process do not imply in any way that these rights do not already exist. Furthermore, a number of land use maps developed by indigenous communities have already been officially recognized in areas such as Ratanakiri, by official acknowledgement or Deika. This also should serve as an interim protection pending the actual registration of community title.

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Annex 1: NRM Bylaws 2000 of La Eun Kren (prior to Land Law)

Agreement

- Referring to the minute of a discussion about Laeun Krein village's border with its neighboring villages held on January 11, 1999.
- Seminar on the amendment of draft by-law on Laeun Krein's natural resources management at district level organized on August 29-30, 2000.
- Meeting on the amendment of community's draft by-law on Laeun Krein's natural resources management with provincial expert officials held on November 28, 2000.
- Meeting on the amendment of community's draft by-law on Laeun Krein's natural resources with provincial expert officials and Ratanakiri Provincial Rural Development Committee organized on November 28, 2000.

The followings are the agreements made between party (A)-Ratanakiri Provincial Rural Development Committee including various provincial expert services and Party (B)-Laeun Krein's Natural Resources Management Commission.

Ratanakiri provincial rural development committee has agreed to sign an agreement to transfer the control of natural resources to Laeun Krein's natural resources management commission under a number of the following agreements and conditions:

1. Laeun Krein's natural resources management commission shall have a duty to lead community to be responsible for management, preservation and development in Laeun Krein's natural resources management area as stated in Laeun Krein's Natural Resources Management by-law.
2. Laeun Krein's natural resources management commission that has signed an agreement with provincial rural development committee to set up an attached map with an area of 906 hectare (nine hundreds and six hectares) by dividing the area into two separate zones as stated in Laeun Krein's natural resources management by-law.
3. Laeun Krein's natural resources management committee is the main agents who are obliged to implement, communicate, prepare plans and report to district and commune development committee, relevant expert institutions and provincial rural development committee. These happen every three months in order to make the management run smoothly and effectively.
4. Local authority and relevant expert institutions that are members of provincial rural development committee must help facilitate and provide techniques so as to increase relationship and intervention when necessary or requested by community.
5. The purposes of this agreement are stated in by-law of Laeun Krein's natural resources management.

6. This agreement can be considered valid unless there is an annual positive assessment from a mixed assessment committee.
7. Any change of management system in community as stated in by-law of Laeun Krein's natural resources management could be made only with prior agreement from Laeun Krein's natural resources management committee and villagers.
8. Any necessary changes relating to border and by-law alteration or withdrawal of the agreement could be possible only with prior study and assessment. The assessment team is made up of representatives from provincial rural development committee, local authority, relevant expert institutions, local and international NGOs, local community and other external independent assessors.
9. Besides the annual inspection, a special inspection would be conducted if necessary.
10. Laeun Krein's natural resource management community, relevant expert institutions, local authorities and inhabitants in Laeun Krein community must abide by the above by-law and agreement.

No.....

Seen and.....

Date:.....,2000

Ochum Commune Chief

Date:....., 2000

Chief of Laeun Krein's Natural

Resources Management Committee

No.....

Seen and.....

Date:.....,2000

Head of Provincial Environment Service Ochum District Governor

No.....

Seen and.....

Date:....., 2000

No.....

Seen and.....

Date:....., 2000

Head of Provincial Service of

Agriculture, Forestry and Fishery

No.....

Seen and.....

Date:....., 2000

Chief of Provincial Land

Management, Urban planning, Construction and Cadastre Service

No.....

Seen and.....

Date:....., 2000

Provincial Governor and

Chief of Ratanakiri Provincial Rural Development Committee

Annex 2: On Boundary Discussion 1999

Kingdom of Cambodia
Nation Religion King

Minute of The discussion on border of Laeun Krein, Phnom and Ochum Villages

On January 11, 1999 at two o'clock, held a meeting in Laeun Krein Village to discuss the border of Laeun Krein, Phnom and Ochum villages with the neighboring villages bordering Laeun Krein, Phnom and Ochum villages. The meeting was arranged by the chief of Laeun Krein village with the participation of chiefs of villages, village natural resources management committees and a number of elderly villagers including the representatives of Laeun Chhorng and Trong Svay Villages. The attendance sheet of the meeting participants is attached.

Objective of the discussion:

To find common agreement and recognition of borders between the three villages (Laeun Krein, Phnom and Ochum villages) in an attempt to avoid land disputes and to create favorable conditions for land management in each village

Agendas of the meeting:

1. Opening
2. Self introduction
3. Each village representatives show their geographical area map.
4. Thank expression by chief of Laeun Krein village

Firstly, Mr. Nhel Bob, chief of village and natural resources management committee of Laeun Krein village expresses his warm welcome to all village representatives who attend the discussion to recognise the village border. Then he and other participants introduced themselves to the meeting by telling their names, positions and addresses. Next, he showed the other village representatives his village geographical area map and stated clearly that his village shares borders:

- In the North with Laeun Chhong village, Ochum commune along Outapel stream to Kalach Mountain.
- In the South with Phnom village, Yaklaum commune from national road No.19 and Ouyak Prous stream.
- In the East with Pachhornn village, Ekapheap commune from Kalach Mountain to the foot of Kalach Mountain.
- In the West with Ochum village, Ochum commune at the conjunction of Oukachuch and Outapel streams.

After that Mr. Teu Mel, Chief of Phnom village and management committee of Phnom's natural resources showed the other village representatives his village geographical area map and stated clearly that his village shares borders:

- In the North with Laeun Krein village along Oukachhuch stream to national road No.19.
- In the South with Lorn village along national road No.19 to Mr. Tathy's Coffee plantation in Sil village.
- In the East with Pachhum village along Ouya Prus stream to the foot of Yorl Mountain.
- In the West with Ou Pachhunveng stream to national road No.19.
- Also, in the West with Sil village along Ou Rakses stream at the corner of rubber plantation. If you turn to the northern direction, you will head for Ou Kaksern stream.

After the presentation of the chief of Phnom village, Mr. Vi Kacheng, chief of Ochum village and management Committee of Ochum's natural resources also showed his geographical area map and stated clearly that his village shares borders:

- In the North with Torgkamal village and stretches along Cashew nut plantation.
- In the south with Braab and Laeun Krein villages, stretching along the first hydroelectric dam.
- In the East with Laeun Chung village, stretching along the plantation frontiers of Mr. Ta Teong, Mr. Talat, Mr. Ta Sorn, Mr. Ta chheut and stretching across the plantation edges of Mr. Ta Ting, Mr. Ta Doung and Mr. Ta Chuong.
- In the West with Laeun Chung and Trong Svay villages, stretching along Ou Kachuch stream.

After the presentation of geographical area maps of all village representatives, all village representatives and also the management committee of villages' natural resources, an agreement was made without any objection.

At the mean time, the chief of Laeun Krein village said to the meeting that his neighboring villages can borrow some land temporarily for a small agriculture purposes, but not for sell.

Suggestion:

Mr. Plin Puok, chief of Trong Chung village development committee made a request for an understanding among the neighboring communities of borrowing land for a small agriculture.

Before closing the meeting, Mr. Nhel Bob, chief of village and natural resources management committee expressed his deep thanks to all participants who attended the discussion on the recognition of the three village borders which came into effect from the date of this discussion onwards. Then he dismissed the meeting at 5:30 PM in a pleasant atmosphere.

Laeun Krein, 11 January 1999

Minute Writer	Kong Sornah
Chairman of the meeting	Chief of Laeun Krein Village

Team leader of Natural Resources Development Nhel Bob

Annex 3: Signed Bylaws of La Eun Kren 2006 - MOI endorsed

Kingdom of Cambodia
Nation, Religion, King

Leun Kraen Village of Tompoun Indigenous Community Statute

- In accordance with the Constitution of Cambodia.
- In accordance with the Land Law of the Kingdom of Cambodia.
- In accordance with the Forestry Law of the Kingdom of Cambodia.
- In accordance with the Commune/Sangkat Administration law of the Kingdom of Cambodia.
- In accordance with the goal and objective of collective **Leun Kraen Village of Tompoun Indigenous Community** to reinforce the community ownership, to ensure the participatory law application along with preserving culture, customs and traditional living and cultivation for their livelihood of indigenous community in the Kingdom of Cambodia.

Chapter 1

Name, Legal Aspect, Office and Management Framework

Article 1:

The collective institution of citizens established by this statute is named "**Leun Kraen Village of Tompoun Indigenous Community(LKVTIC)**" and is located in Leun Kraen village, O'Chum commune, O Chum district, Ratanakiri province.

This statute is named "**Leun Kraen Village of Tompoun Indigenous Community Statute**".

Article 2:

Leun Kraen village of Tompoun Indigenous Community is a civil body, characterized as a community organization, where members assist each other, protect the national interest and social order, directly administered by **O'chum** commune council and is legally registered at the Ministry of Interior.

Leun Kraen Village of Tompoun Indigenous Community shall be managed by this statute and its management formalities.

Rules and regulations and other management formalities shall be prepared in separate annexes and recognized by O'chum commune council and relevant competent authorities.

Leun Kraen Village of Tompoun Indigenous Community shall have no branches and shall not establish any branches;

Article 3:

This statute is the statute of Leun Kraen Village of Tompoun Indigenous community.

'Community' is the Community of Leun Kraen Village of Tompoun Indigenous Community which is established by this statute and has the following identification:

- Leun Kraen Village of Tompoun Indigenous Community have Khmer nationality including four clans such as **Kois, Ting, Klong, Sev**.
- They practice traditional livelihood which includes swidden chomkar, secondary cropping, Timber and non timber forest product collection, animal husbandry, traditional weaving of scuffs and skirt for household consumption and bartering and traditional fishing practice.
- The community has a traditional of living together and building their houses in a cluster in one particular place, under management and solving conflict by traditional authority, presently it have been changed the name as the committee of Tompoun Indigenous community .
- The community has a communal residential and agriculture land such as shifting cultivation land, paddy land and other cropping land.
- The community has a state public land which provided by state for management and use right for traditional collective use by the community such as holy places like spirit forest land, burial forest land, water catchments forest land, fishing open area, traditional NTFP forest for animal raising, handcrafting and fishing, reserved land for fallow in the traditional agriculture.
- The community uses Tompoun language to communicate within and outside the community, but it has no scripts. The community use Khmer language and scripts to communicate officially.
- The community has traditional dance, arts, musical instruments, lyrics songs, musical rhythm, foods, sculpture , carving, graveyard, village hall meeting, houses, other household material which it hold in heritage from its ancestors.
- The community has a communal residential area that includes open public areas for conducting traditional ceremonies, village meeting hall, sacred banana clump , cluster of clan's house and each individual family houses
- The community holds beliefs in animism such as ghost spirit, guardian spirits , house spirit, swidden plot spirit, mountain spirit, sky spirit, water spirit, forest spirit, stone spirit, leaf spirit, land spirit and mountain spirit. They have number of sacrificial practices such as village sacrifice offering, house sacrifice offering, swidden plot sacrifice offering, sacred banana village sacrifice offering. It pays a respect to village spirit mediums who are living in community. It has taboos of eating certain animals and certain vegetation, and having a taboo during sacrifice offering ceremony such as village offering, individual offering and swidden plot sacrifice offering ceremony.
- Identification described above was defined by the 'community' and have awareness by its neighbors.

Article 4:

Leun Kraen Village of Tompoun Indigenous Community has its 'office' in the village meeting hall in Leun Kraen village, O'Chum commune, O'Chum district, Ratanakiri province.

Article 5:

Leun Kraen Village of Tompoun Indigenous Community has the following scope and own management framework:

- The statute and management procedures of the community as an association/organization. The statute can be applied only in the community;
- All management procedures which are approved by the collective community are to be implemented following the contents described in articles of this statute;
- All community development activities relevant to community objective and other development partners will cooperate with commune councils and government.

Chapter 2

Goal and Objectives

Article 6:

Leun Kraen Village of Tompoun Indigenous Community has a goal to maintain cultural/traditional identity of Tompoun indigenous people by linkage to community livelihood enhancement for contribution to poverty reduction.

To achieve this goal the community has objective as following:

- To reinforce the community's ownership in parallel process of strengthening capacity
- To cooperate with commune council, government agencies and other development partners in development field of education, healthcare, agriculture and natural resource and environmental protection.
- To raise awareness on legal enforcement.
- To maintain and preserve the tradition, custom and community's property and governing of community collective land.
- To participate with authority and competent institutions in forest protection and conservation.
- To support the public or private investments of the government.

Chapter 3

Structure, Rights, Roles and Responsibilities

Article 7:

Leun Kraen Village of Tompoun Indigenous Community has a structure as the following :

- The highest body of the community is the 'Community General Assembly' to collect ideas and consensus of a large majority of whose members in order to make important decisions.
- Leun Kraen Village of Tompoun Indigenous Community has the right to make decision in land use and management which is a legal collective ownership.
- The 'Community committee' shall function in stead of traditional authority for traditional collective management of Leun Kraen Village of Tompoun Indigenous Community since the memorial time.

- The Community committee shall permanently fulfill their role and responsibility as representation of community in communication and advising in all affairs concerning the leadership, management and community development. The committee is composed of the following:
 - 1/ One village elder.....Chief
 2. Two village elders.....Deputy chiefs
 3. One representative of village administration.....Permanent Members
 4. Four village elders.....Members
 5. Other representatives of committee in village.....Members

Article 8:

The highest body of the community has the right to determine the following tasks:

- Amend the community's statute;
- Define main guidelines, goals and objectives, tasks, and measures which serve the community's interest
- Nominate, impose punishment on, and dismiss Community Committee members;
- Transferred automatically all decisions made by the highest body to the Community Committee, except in important cases.

Article 9:

The Community Committee is the executor who has the following roles and responsibilities:

- To implement all decisions of the Community General Assembly;
- Prepare community guidelines and measures to manage the community's property;
- Collect requests of the community and then send them to O-chum commune councils, government agencies and development partners to address.
- Represent the community to facilitate and negotiate with all public and private investments on economic and social welfare that affect the benefits and property of the community;
- Assist to extend all government policies and laws to community members;
- Examine all decision, allocation of land that is owned by the community, such as residential land, rotational shifting chomkar land, land for cash cropping and to community members for their survival
- Assist to resolve the conflicts occurring within the community following their traditions and customs;
- Take part in arrangement and holding traditional ceremony of community
- Maintain community identity like beliefs, traditions, custom, language, dance, song, musical rhymes and instrument.
- Attend to prepare a various development plan with commune council by maintain community culture and tradition.
- Organize meeting and write a report of any community meeting
- Monitor/follow up and make assessment of all implementation of management measures (difficulty and easiness) and make a continuous management measure.

Article 10:

Committee or elder has a role and responsibility as the following:

- Give a summary and report to collective meeting of general assembly in all community work during ordinary meetings, and encourage an implementation of principle and measures.
- Maintain a good communication with community members to improve the community management
- Follow up/monitoring job implementation and take any intervention based on the schedule which given approval by the community.
- To be a chairman of community meeting and community committee.
- To be a representative of community and community committee for all necessary communication with local authority, government agencies and development partners
- Ensure land security in use and allocation.
- Assign a representative for negotiation, coordination with all public or private investment on economic, social aspect which related to community interest and properties
- Fulfill all functions what collective community decide and give
- Dealing with all affairs by ensuring the protection of community interest by linkage with national interest.
- Hand over properly an assistance role of community management to deputy chief and permanent member, as well as encouragement implementation
- Collect all the member suggestion which they are from relevant committee representative before taking any decision of it's development plan preparation

Chapter 4**Gaining, Losing and Renewing Membership****Article 11:**

To become a member in the Leun Kraen Village of Tompoun Indigenous Community, a person needs to meet the following conditions:

- Apply for membership willingly and without pressure to join;
- Shall be vouched for by the village elders.
- Shall be accepted by the whole community like migrants and Khmer people who live near the village
- Have to agree to comply with the community Statute and follow the community tradition/custom.
- Shall have birth certificate, citizen ID card or family book or residential book.

Renewing a membership

A person who loses his or her membership can apply for renewing a membership based on above condition and the following cases;

- A reason to live with husband/wife or family in other community.
- Not involved in any criminal case
- By holding a traditional ceremony

Become a new membership

To become a new membership of community have to be based on above condition and the following case:

- Have married a new couple with community member.
- Not involved in any criminal cases
- Have a residential book certified by commune council
- By holding a traditional ceremony

Article 12:

Leun Kraen Village of Tompoun Indigenous Community member may lost his or her membership as the following case:

- Apply for or verbally ask resignation with approval from community committee
- Move to live with husband/wife or the whole family move out to live outside the community
- Leave out from community over one year without reasons and clear information
- Leave out to serve any job outside the community without any information or clear deadline
- Do not follow the community statute and cheat or destroy communal property of community
- Do any activity that may have adverse impact on community custom/tradition.
- Leun Kraen Village of Tompoun Indigenous Community have a list of family and membership name, will be updated annually, recognized by O'chum commune council and keep at O'chum commune office.

Chapter 5

Obtaining and Losing Position

Article 13:

Obtaining Positions in Leun Kraen Village of Tompoun Indigenous Community Committee shall have the following conditions:

- Shall be an elder, a representative of village administrative or representative of any committee of village.
- shall be adopted by all community members by using simple selection approach;
- The elder as chief and Committee member have no mandate
- The representative of village administrative and other committee member who serve as the committee member have their own mandate based on regular update of their position.

Article 14:

Loosing a position in the Community Committee shall have the following causes:

- deceased;
- loss of professional aptitude;
- written resignation;
- sentenced to jail by a court for a felony or misdemeanor;
- Not follow the statute and rules and regulations of the community;
- General Community Assembly decision to discharge a committee member in case of his/her conducting activities affecting the community's interest.

- Misconduct activities affecting the community interest related to culture, tradition/custom.
- Move to live with family or go to serve as government officer outside the community.

Article 15:

If the position of chief of Community Committee is vacant by resignation or death, the next person of deputy chief of community must to automatically play a role as acting chief until the replacement of new chief.

For the Community Committee members shall be selected following the conditions described in this statute. Obtaining of committee position and replacement of chief or committee members shall be recognized by O'chum commune council.

Chapter 6

Meeting and Job Functioning

Article 16 :

The Community Committee shall organize ordinary community meetings 2 times per year. Any extra-ordinary meeting shall be held only for the following issue: (1)imposing a traditional punishment or banishment from the community, (2)replacement of Community Committee member, and (3)selecting a new chief of Community Committee when Community Committee chief have died or resigned.

- The collective community meeting has to make a report on relevant subjects, and solve all the issues of community
- The collective community meeting shall write the minutes and summarize the meeting outcomes, and set up the next activities.
- Before organizing a collective meeting the community committee have to form a working group with the following task:
 - Preparation Agenda: such as content and paper document which related to the meeting like community statute and rule/regulation
 - Assign task for working group such paper preparation, making minute and report.

Article 17:

The Community Committee shall organize community meetings 1 time per quarter with the following content:

- The permanent member of community committee shall prepare a schedule and agenda of meeting, and inform the community committee members at lest 3 day in advance.
- The chief of community committee or elders shall be a chairman of any meeting.
- Making a report on outcome, difficulty and easiness and set a suggestion
- Set a community management measure and collaboration with evelopment partners and put a various activities for the following month

Chapter 7

Resource and Community Property

Article 18 :

Resources and property of **Leun Kraen village of Tompoun Indigenous Community** have been listed in an annex and its management is recognized by Commune Council and competent institutions.

Chapter 8

Management leadership and Accountability

Article 19:

The Community Committee shall manage all work in the community based on management rules/regulations, procedure of community which consistent with legal and policy of the Royal government

- Support and cooperate with all conservation activities and utilize natural resources according to the law and sustainable practices;
- Prevention against destructive logging and illegal forest land encroachment.
- Enhances the community's living standard and support the rural development program of the Royal Government.

Article 20:

Leun Kraen Village of Tompoun Indigenous Community shall not do any illegal activities that lead to disturb the social order and the policy of the Royal government.

The Community Committee shall be accountable to O-chum commune council and competent institutions on various activity such as managing and protection of community and public interest.

The Community Committee shall be the legal representative of the community's immovable property and community property of **Leun Kraen Village of Tompoun Indigenous Community**

All individuals either community members or non-community members shall have obligation to maintain security and look after the community's property in conformance with the statutes, rules and regulations, and decisions of the community;

Any person who neglects their work, or has an ill intention to destroy or destroys the community's property, either financial or physical properties, shall take responsibility for compensating the community for the damage.

Article 21:

Procedures for amending the **Leun Kraen Village of Tompoun Indigenous Community** statutes are below:

- Amending the community statute can be done if there is a majority agreement of supportive ideas of community members, and is recognized by commune council and competent authorities.
- Community Committee shall report all points of the amendments to the General Assembly meeting by giving clear reasons for submitting and getting approval of the amendment;
- Community Committee shall conduct extension 2 month in advance on the proposed amendment of statute to community members.

Article 22:

Community immovable Property will be distributed for person who asks leaving or losing their membership based on community approval and going through legal procedure.

Article 23:

In case of Leun Kraen Village of Tompoun Indigenous Community are dissolved by competent institutions the community property and financial asset shall be transferred based on the measure of local authority and competent institution.

In case of waiting for official handing over by competent institution in managing the community property after dissolving, those properties shall be temporally handed over to a committee which is established by O-chum commune council, O-chum district, Ratanakiri, with participation from competent institution and agencies as well as development partners.

Chapter 9

Final Provision

Article 24:

This statute will come in force from the date it is recognized by the Ochum commune Council, and registered by the Ministry of Interior.

Ratanakiri, Date.....Month.....Year.....

**Representative of Leun Kraen Village
of Tompoun Indigenous Community**

Annex 4: PLUP Process in Indigenous Communities (2004)

Step and Activity	Method/Tools	Material	Technical team	Participants
Step 0 Preparations to start PLUP				
<p>Preparation</p> <ul style="list-style-type: none"> • Consultation with various stakeholders for support activity, resources and existing data • Assess the resources required and necessary equipment • Identify the target villages/communes • Formulate project • Establish and train Provincial PLUP facilitation team • Present proposed PLUP projects. • Present the PLUP process. • Obtain approval and support from local authorities and relevant line departments. <p>(4-7 weeks)</p>	<ul style="list-style-type: none"> • Meeting with relevant department/NGO/IO and communities • Develop links with Provincial/National PLUP team to support training and provide technical backstopping • Organize the training course • Assist communities include NRM issues in CDP and CIP • Respond to needs raised in CIP/CDP in District Integration workshop • Organize provincial workshop/meeting/ discussion 	<ul style="list-style-type: none"> • PDIP • CDP • CIP • Topo maps • Aerial maps • Satellite images • GPS • Stereoscope • Computer • Scanner • Printer • Stationary • Plastic sheet • Material for Training • Training manuals • PRA tools • Statistics and general data of target area • Transport (cars, motorcycle, etc) • Project document • PLUP process • Audio-visual aids 	<ul style="list-style-type: none"> • Provincial PLUP team • National PLUP team • Provincial Land Allocation Committee 	<ul style="list-style-type: none"> • Community representatives • Commune Council • District Governor • DCA and PCA • Forest Cantonment. • Relevant Departments project/ NGO/IOs • PRDC ExCom • Relevant civil institutions • CC • District/provincial authorities

Step 1: Establish and train NRM				
Step and Activity	Method/Tools	Material	Technical team	Participants
<ul style="list-style-type: none"> • <i>Present the PLUP project to commune level</i> • Select Commune NRM committee • Set up Roles and Responsibilities of the commune NRM committee • Prepare Deika Khum for NRM Committee to be recognized by Commune Council. <p>(2 days per commune)</p> <ul style="list-style-type: none"> • Awareness raising on: <ul style="list-style-type: none"> ○ Principals and steps of PLUP for highlanders ○ Indigenous rights related to Land and Forest Law ○ Conflict resolution ○ Mapping and GPS use ○ Information collection (PRA tools) • Organize study tour for V/CNRMC <p>(5-7 days per commune)</p>	<ul style="list-style-type: none"> • PLUP team organize meeting at commune level • Commune Council facilitate village meeting to select the members of CNRMC from each village • Discuss criteria for selection of CNRMC • Brainstorm roles and responsibilities of V/CNRMC • Prepare Deika Khum • Prepare training plan/session plan and training schedule • Present experience of NRM through movies or pictures • Prepare venue, and schedule of study tour with community • Prepare objective and questionnaires of study tour with study tour participants • Reflect output of study tour 	<ul style="list-style-type: none"> • Stationary • Training documents • Session Plan • Training schedule • Training manual • Audio-visual aids • Topo maps/GPS • Aerial photo 	<ul style="list-style-type: none"> • Provincial PLUP team • CC • Experienced NRM committee • Village chief 	<ul style="list-style-type: none"> • Commune NRM committee • Villagers and elders

Step 2: Project Orientation at Local Level				
<ul style="list-style-type: none"> Assign tasks among the PLUP team Present proposed PLUP projects Reconfirm about request in CDP/CIP and obtain agreement CBNRM concepts (use, problem, vision and planning) Select village NRM focal persons Train village NRM focal persons on methodology of PLUP implementation, information collection (PRA tools) and map reading, GPS use Discuss problems regarding NRM and Gender and identify vision for NRM Study Tour <p>(5 days)</p>	<ul style="list-style-type: none"> Team meeting to assign tasks Inform commune NRM committee village chief to organize village meeting Village meeting Facilitate and brainstorm Discuss criteria for selection of VNRM focal person Brainstorm roles and responsibilities of VNRM focal person. Organize training at village or commune Provide on-the-job training Study tour to experienced target village 	<ul style="list-style-type: none"> Project document Stationary Audiovisual aids Topo map GPS 	<ul style="list-style-type: none"> Provincial PLUP team Commune NRM committee 	<ul style="list-style-type: none"> Village chief/Elder Villager Village NRM focal persons
Step 3: Collect data and analyze village situation (PRA)				
<p>Phase 1 - Participatory Appraisal and Information Collection</p> <ul style="list-style-type: none"> Collect data and analyze socio-economic 	<ul style="list-style-type: none"> Develop questionnaire Collect relevant information from Commune Center Brainstorm, individual and 	<ul style="list-style-type: none"> Commune profile Stationary Questionnaire 	<ul style="list-style-type: none"> Provincial PLUP facilitation team Commune NRM committee 	<ul style="list-style-type: none"> Village NRM focal person Village elders CC Villagers

<p>situation</p> <ul style="list-style-type: none"> Collect data and analyze institutions in community. Collect data and analyze present NR use. Collect data and analyze land and NR conflicts Document findings and present to communities for verification/revision Document and distribute to relevant stakeholders at provincial level (5 days per village) 	<p>group interview with key informants in village</p> <ul style="list-style-type: none"> Venn Diagram Draw village sketch map on NR use and conflict Trend analysis on NR loss Combine information and data collected 			
<p>Phase 2 - Establish customary village/commune boundaries</p> <ul style="list-style-type: none"> Present and revise the village NRM sketch map Present sketch map and transfer customary boundary to topo map and if necessary revise with villagers 	<ul style="list-style-type: none"> Presentation, discussion, negotiation. Physical verification of boundaries GPS point collection Transfer the information to geographic data 	<ul style="list-style-type: none"> Village sketch map/commune Topo maps Stationary Plastic sheet Aerial photos Satellite image GPS Magnifying glass 	<ul style="list-style-type: none"> Provincial PLUP facilitation team Commune NRM committee 	<ul style="list-style-type: none"> Village NRM focal persons Villagers from target village Villagers from neighboring villages and communes Village Elders CC from neighboring NRM committees from neighboring villages (if exist)
<ul style="list-style-type: none"> Village/Commune Workshop to discuss and revise village customary boundary with neighboring villagers/communes Identify overlapping boundaries and areas without 				<ul style="list-style-type: none"> District Governors Private land owners

<p>clear physical features demarcating boundary and negotiate for agreement on boundaries</p> <ul style="list-style-type: none"> • Collect GPS points in areas where natural features do not clearly delineate boundaries • Signed agreements between villagers on agreed boundaries • Physically mark boundaries • Produce digitized scale map <p>(30 days)</p>				
<p>Phase 3 - Declaration as village/ commune adjudication area</p> <ul style="list-style-type: none"> • Present boundary map and agreements to Land Administration Office • Adjudication Officer studies the agreements and map, verifies information and declares area as adjudication area <p>(14 days)</p>	<ul style="list-style-type: none"> • Public notice (14 days) displayed at commune, district and provincial level • Prepare relevant documents • Village/commune adjudication boundary 	<ul style="list-style-type: none"> • Boundary Map • Public Notice 	<ul style="list-style-type: none"> • Provincial PLUP team • Adjudication Officer 	<ul style="list-style-type: none"> • Commune Council • District Governor
<p>Phase 4 - Develop detailed land use map</p> <ul style="list-style-type: none"> • Analyze village situation and use of each zone 	<ul style="list-style-type: none"> • Village meeting • Presentation, discussion, brainstorm, agreement, etc. • Transect walk; identify 	<ul style="list-style-type: none"> • Stationary • Topo map • Aerial photos • Differential GPS 	<ul style="list-style-type: none"> • Provincial PLUP team • Commune NRM Committee • Village NRM focal persons 	<ul style="list-style-type: none"> • Villagers • Village Elders

<ul style="list-style-type: none"> Identify and demarcate detailed land use zones within boundary in topo map and aerial maps Identify areas suitable for community land titles Orient and collect GPS points along boundaries of each zone Feedback to revise and agree zone boundaries with the villagers Transfer information and data and develop scale map <p>(30 days)</p>	<ul style="list-style-type: none"> problems and issues in each zone Natural Resource Diagram to identify NR use by community and by neighbors Orientation on GPS point collection and collect GPS points for each zone Collect GPS points from villagers and enter data into computer 			
Step 4: Preliminary Identification of Community Land Areas + Land Suitability				
<ul style="list-style-type: none"> Discuss/ assess options to use and manage each zone Possibly conduct technical suitability assessments Assess land suitability and make map Feedback to community and obtain agreement <p>(20 days per village)</p>	<ul style="list-style-type: none"> Village meeting to discuss various options Physically check Sketch mapping Prioritize options for zone management Facilitate decision making on best options for future land use Feedback meeting 	<ul style="list-style-type: none"> Detailed Land Use Map PRA tools that were used in step 3 Stationary 	<ul style="list-style-type: none"> Provincial PLUP team Commune NRM committee Village NRM focal persons 	<ul style="list-style-type: none"> Elders Villagers Village chief Private land owners

Step 5: Select Village NRM Committee				
<ul style="list-style-type: none"> • Select Village NRM committee develops structure and by-laws • Capacity building to village NRM committee (4 days per village) 	<ul style="list-style-type: none"> • Inform villagers about village NRM Committee selection • Village meeting brainstorming on establishing criteria, roles and responsibilities and membership of NRM committee and selection • Study tour to exchange experience with experienced committee 	<ul style="list-style-type: none"> • Stationary • Audio visual aids • Guidelines for NRM Committee selection 	<ul style="list-style-type: none"> • PLUP team • Commune NRM committee 	<ul style="list-style-type: none"> • Village chief • Elders • Villagers • Village NRM focal persons
Step 6: Preparation of Future Land Use Plan, Village Regulations, and Detailed Management Plans				
<ul style="list-style-type: none"> • Review options to use and manage each zone (Identify state, private and community land) for preparing future master land use plan • Formulate rules and regulations for land use master plan • Feedback to community and obtain agreement on land use master plan and rules and regulations 	<ul style="list-style-type: none"> • Village meeting • Present, discuss, brainstorming and agreement • Revision if necessary of user areas • Facilitate to draft village Rules and Regulations 	<ul style="list-style-type: none"> • Stationary • Detailed land use map • Audio visual aids 	<ul style="list-style-type: none"> • Provincial PLUP team • Commune/village NRM Committee 	<ul style="list-style-type: none"> • Village elders • Villagers • Private land owners

Step 7: Submission of the Land Use Plan, the Regulations and the Management Plans for Official Endorsement and Approval at commune and provincial level				
<p>Phase 1 - Commune Workshop</p> <ul style="list-style-type: none"> Workshop on NRM rules regulations and Land Use Planning Submission of proposal from village and commune to relevant provincial authorities <p>(2 days)</p>	<ul style="list-style-type: none"> Workshop Feedback revise and agreement 	<ul style="list-style-type: none"> Stationary Detailed land use map Extension pictures 	<ul style="list-style-type: none"> Provincial PLUP team Village/Commune NRM committee 	<ul style="list-style-type: none"> Village elders Commune Council Village representatives from neighboring communes District Governor Private land owner
<p>Phase 2 - Provincial Workshop</p> <ul style="list-style-type: none"> Provincial Workshop to present map and R&R for PLUP Prepare relevant draft agreements to recognize village and commune land use Register all type of land resources at provincial level Commune Council, District authorities and relevant departments 	<ul style="list-style-type: none"> Workshop Comment, revise and agree Assist DLMUPC and Provincial Land Allocation Committee to prepare procedure for registration of land use and obtain agreement 	<ul style="list-style-type: none"> Stationary Detailed land use Map Audiovisual aids Agreement forms 	<ul style="list-style-type: none"> Provincial PLUP team Village and Commune NRM committee 	<ul style="list-style-type: none"> Commune Council Representatives of relevant line departments District Governor Provincial Governor

agree and sign on prescribed forms (2 days)				
Step 8: Monitoring and Evaluation				
<ul style="list-style-type: none"> Review the enforcement of PLUP Review the enforcement of rule/regulation Define priority on solution Prepare the monthly, quarterly and yearly plan Capacity building on NRM legal framework and administrative affair 	<ul style="list-style-type: none"> Prepare questionnaire for brainstorming, meeting agenda, invitation letter, training material, session plan Meeting with village/commune NRM committees and visit field Conduct semi structured interview Conduct training 	<ul style="list-style-type: none"> Stationary Detailed land use map NRM rule/regulation Extension picture 	<ul style="list-style-type: none"> Provincial PLUP team Provincial Land Allocation Committee 	<ul style="list-style-type: none"> Village and Commune NRM committee Commune Council Villagers District Governor Private Land Owner