

Country Technical Note
on Indigenous Peoples' Issues

Kingdom of Cambodia



Enabling poor rural people
to overcome poverty



Country Technical Notes on Indigenous Peoples' Issues
KINGDOM OF CAMBODIA

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Table of Contents

Country Technical Note on Indigenous Peoples' Issues – Kingdom of Cambodia	1
Summary	1
1. Indigenous peoples and political characteristics	2
1.1 Demography and administration	2
1.2. Location of indigenous peoples	3
1.3. Society and culture of indigenous peoples.....	4
1.4. Policies related to indigenous peoples.....	6
2. Situation of indigenous peoples	7
2.1. Development triangle for Cambodia-Laos-Viet Nam and southern economic corridor.....	7
2.2. Issues and challenges of indigenous peoples	7
2.3. Poverty among indigenous peoples' communities	8
2.4. Opportunities for indigenous peoples.....	10
3. National legislation on indigenous peoples	10
4. Conventions, international treaties and declarations	12
5. Indigenous peoples' organizations and network	13
5.1. Indigenous Peoples' NGO Network on land rights	13
5.2. Indigenous peoples' organizations.....	13
5.3. Support organizations for indigenous peoples.....	13
6. IFAD projects and operations in Cambodia	14
6.1 IFAD's potential partners at the national and grass-roots levels	20
7. International organizations' work with indigenous peoples in Cambodia	20
7.1. UN organizations working with indigenous peoples	20
7.2. International organizations working with indigenous peoples.....	21
8. Good practices of United Nations and international organizations	21
8.1. ILO project on indigenous community registration	21
8.2. Indigenous peoples in local development plans.....	22
9. Relevant information for indigenous peoples' development.....	22
9.1. Climate change	22
9.2. UN Special Rapporteur report	23
Annexes	24
Annex 1: Current data for Indigenous population in Cambodia	24
Annex 2: Case study of rubber plantation in Kratie Province: Living in fear	25
Annex 3: Technical working groups (TWG) in Cambodia	26
Annex 4: Legal instruments on land and natural resources management.....	27
Annex 5: Rural poverty portal	30
Bibliography.....	32

List of Tables

Table 1: Distribution of indigenous peoples in the six provinces of Kampong Speu, Kratie, Mondulhiri, Preah Vihear, Ratanakiri and Stung Treng.....	4
Table 2: Current data for Indigenous population in Cambodia	24

Abbreviations and acronyms

3SPN	3 Rivers Protection Network
ADB	Asian Development Bank
ADHOC	Cambodian Human Rights and Development Association
AEA	AgroEcosystem Analysis
CaNDO	Cambodian NTFP Development Organization
CBD	Convention on Biological Diversity
CBNRM	Community-based Natural Resource Management
CDNRM	Community Development and Natural Resources Management
CED	Community Economic Development
CEDAC	<i>Centre d'Etude et de Développement Agricole Cambodgien</i>
CEDAW	Convention/Committee on the Elimination of All Forms of Discrimination against Women
CEWs	Commune Extension Workers
CIDA	Canada International Development Agency
CIP	Commune Investment Programme
CIYA	Cambodian Indigenous Youth Association
CLEC	Community Legal Education Center
COSOP	Country Strategic Opportunities Programme
CRC	Convention on the Rights of the Child
DANIDA	Danish Agency for International Development
DPA	Development and Partnership in Action
DSF	Debt Sustainability Framework
ELC	Economic Land Concession
ExCom/PRDC	Executive Committee for Provincial Rural Development Committee
FA	Forest Administration
GTZ	German Agency for Technical Cooperation
HA	Highlander's Association
HBF	Henrich Boll Foundation
HIV/AIDS	Human immunodeficiency Virus/ Acquired ImmunoDeficiency Syndrome
HU	Health Unlimited
IADC	Indigenous Peoples for Agriculture Development in Cambodia
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICSO	Indigenous Communities Support Organisation
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IPNN	Indigenous Peoples NGO Network
IPRH	Indigenous Peoples' Rights to Health
IRAM	Indigenous Rights Active Members
MAFF	Ministry of Agriculture, Forest and Fisheries
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management Urban Planning and Construction
MoE	Ministry of Environment
MoI	Ministry of Interior
MoP	Ministry of Planning
MoWA	Ministry of Women's Affairs
MRD	Ministry of Rural Development
MVI	My Village Organisation
NCDD	National Committee for Decentralization and Deconcentration
NGOs	Non- Governmental Organisation

NMR	Natural Resource Management
NPDIP	National Policy on the Development of Indigenous Peoples
NSDP	National Strategic Development Plans
NSI	National Statistic Institute
NTFP	Non-Timber Forest Products
NTFP-EP	Non-Timber Forest Products-Exchange Programme
OHCHR	Office of the High Commission on Human Rights
OPKC	Organisation to Promote Kui Culture
PDA	Provincial Department of Agriculture
PDoWA	Provincial Department of Women's Affairs
PKH	<i>Ponlok Khmer</i>
PLG	Programme Leading Group
PLUP	Participatory Land Use Plan
RGC	Royal Government of Cambodia
RIPP	UNDP Regional Indigenous Peoples Programme
SADP	South-east Development Programme
SST	<i>Sor Sor Troung</i>
TWGs	Technical Work Groups
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNIFEM	United Nations Development Fund for women's empowerment
UNOPS	United Nations Office for Project Services
UNPFII	United Nations Permanent Forum on Indigenous Issues
VFC	Village Focus Cambodia
WB	World Bank
WCS	Wildlife Conservation Society
WWF	World Wildlife Fund

Country Technical Note on Indigenous Peoples' Issues – Kingdom of Cambodia

To facilitate policy implementation at the country level, IFAD's Policy on Engagement with Indigenous Peoples (2009) recommended that Country Technical Notes be prepared to provide country-specific information on indigenous peoples, as well as to contribute to the development of country programme strategies and project design. A number of them have been prepared by indigenous peoples' leaders with the support of indigenous peoples' organizations. The Notes are intended as "living documents" to support learning on indigenous peoples' issues.

Summary

Cambodia is a multi-ethnic society with a total population in 2009 of approximately 14,805,000¹. There are no definitive population figures for indigenous peoples, as national census are an imprecise gauge of it; the general consensus based on limited studies is that indigenous peoples number approximately 200,000 people, constituting 1.2 per cent of the Cambodian population². Indigenous communities are scattered over 15 provinces of Cambodia. There are 24 groups of indigenous minorities in Cambodia, who are also called Khmer-Loeu (hill-tribes). Indigenous groups from south-western and north-eastern provinces of Cambodia have similar cultural practices. Their livelihoods are based on animal husbandry and rotational (shifting) cultivation. Collection of non-timber forest products from the natural forest and weaving are the main sources of income. Indigenous peoples depend on forest products for their livelihoods, without destroying the land and forest that have been preserved by their ancestors. They have strong unity and respect for their customary law, practices and religion that bring blessings of good health and high-yielding crops.

There is no recent data on the poverty level among indigenous peoples in Cambodia. A 2009 World Bank (WB) study pointed out that poverty has decreased dramatically from 47 per cent in 1994 to 30 per cent in 2007. However, a third of the population, mostly in rural areas where the majority of indigenous communities live, still lives below the poverty line.

The immediate challenge faced by indigenous communities in Cambodia is the loss of rights to land and natural resources. As a result, land alienation has contributed to loss of jobs, impoverished livelihoods and health, loss of opportunity to attend school, and loss of traditional and cultural practices. The poverty of indigenous communities is also related to indigenous peoples' lack of representation in decision-making and in formulating and enforcing policies and laws.

Cambodia has a number of laws and policies that protect land and natural resources and provide for the rights of local communities. The Land Law of 2001 is most important for indigenous peoples because it sets the basis for their rights to land. Article 25 provides for collective ownership of land, while Article 26 recognizes the role of traditional authorities, mechanisms and customs in decision-making and exercising ownership rights. The subsequent Policy and Sub-decree for Indigenous Peoples' Registration of Collective Land Rights set as a condition for receiving collective title the incorporation of the community as a legal entity. However, these legal instruments lack enforcement in practice, and the Government has granted economic land concessions to rubber plantations without free, prior, informed consultation or consent of the indigenous communities.

¹ <http://data.un.org/CountryProfile.aspx?crName=Cambodia>

² IWGIA, The Indigenous World 2012

The Royal Government of Cambodia has ratified important human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC) and Convention on the Elimination of all Forms of Discrimination Against Women and the Convention on Biological Diversity (CDB). It voted to support and implement the provisions of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.

The Indigenous Peoples NGO Network (IPNN) is a network working on indigenous land rights in Cambodia. It is composed of numerous active NGOs based in Phnom Penh and in different provinces in the north, north-east and other parts of Cambodia. The Indigenous Rights Active Members (IRAM) is a network formed in 2003, composed of indigenous leaders from about 15 provinces. IRAM has been coordinating local and national events, raising awareness and mobilizing indigenous leaders to advocate on rights to land and natural resources. There are also many organizations supporting and empowering indigenous communities.

IFAD's 2008-2012 Country Strategic Opportunities Programme (COSOP) for Cambodia includes indigenous peoples as a target group. IFAD's assistance will focus on the needs of ethnic minority communities and advocacy on behalf of indigenous peoples, especially in natural resource management, investment in rural infrastructure, land titling for secure access to land and provision of land through social land concessions in order to address the issue of landlessness. Since 1996, IFAD has financed seven projects in Cambodia. Two of these specifically targeted Indigenous Peoples ("Rural Livelihoods Improvement Project in Kratie, Preah Vihear and Ratanakiri"; "Tonle Sap Poverty Reduction and smallholder development project"). IFAD has also supported a small project implemented by an indigenous peoples' organization, the Organization to Promote Kui Culture (OPKC), through the Indigenous Peoples' Assistance Facility (IPAF): "District level networking of Kui Communities in northern Cambodia for livelihoods development".

1. Indigenous peoples and political characteristics

1.1 Demography and administration

The Royal Government of Cambodia (RGC) is a multi-ethnic society with a majority of ethnic Khmer. These include the Vietnamese, Cham, Chinese and indigenous peoples. Identifying a population number for Cambodia's indigenous populations is fraught with complications, and there are no two population surveys that give exactly the same figures. The *National Population Census 2008* indicates that the total population is approximately 13,395,682³, comprising 6,516,054 males and 6,879,628 females. The census does not indicate figures of indigenous population but it shows that the population living in the plateau and mountainous region is approximately 1,530,544. The Report "The rights of Indigenous Peoples in Cambodia", submitted to the UN Committee on Economic, Social and Cultural Rights (42nd Session, 2009) by the NGO Forum on Cambodia, shows that the estimate for indigenous population ranges from 101,000 to 190,000, which is approximately 1.4 per cent of Cambodia's total population⁴. Tebtebba Foundation estimates that indigenous peoples make up a total population of approximately 140,397⁵. Information gathered by the Ministry of Planning (MoP) as part of its 1998 census is currently used for a listing of ethnic groups at the provincial level, based on the

³ According to UNData (<http://unstats.un.org/unsd/pocketbook/PDF/Cambodia.pdf>), the total population in 2009 was approximately 14,805,000.

⁴ According to IWGIA, *The Indigenous World 2012*, "indigenous peoples number approximately 200,000 people, constituting 1.2 per cent of the Cambodian population."

⁵ *Assessing the First Decade of the World's Indigenous People (1995-2004): Volume I - The South East Asia Experience*, Tebtebba Foundation

criterion of mother tongue. But it should be noted that indigenous peoples' wariness of Cambodian authorities⁶ might well have resulted in an over reporting of Khmer mother tongue speakers.

Indigenous population statistics are the responsibility of the National Institute of Statistics (NIS) of the MoP with collaboration of the Ministry of Rural Development (MRD) and Ministry of Interior (MoI). They communicate through the channel of the National Committee for Decentralization and Deconcentration (NCDD) and collaborate with the commune councils in gathering annual population statistics, including for the indigenous population. The NCDD consolidates and aggregates data for the indigenous population at the national level. However, the data on the indigenous population have not been shown in the commune, district and provincial profiles yet.

1.2. Location of indigenous peoples

The indigenous communities are scattered over 15 provinces of Cambodia. A 2006 study of the indigenous population of the MRD, NSI and Commune Database found that indigenous groups are living in ten provinces of Cambodia. These are 1) Jarai, Kaol, KreungSteang, Kui, Mondulkiri – Phnong, , Thmoon, Tumuon; 2) Brao, Jarai, , Kavet, Kachak, Kreung, Lun, Ratanakiri – Phnong, TumuonRadaer; 3) Khnong, Kui, Kraol, Kratie – Phnong, Mil, Steang, Thmoon, 4) Kui, Jarai, Kreung, Stung Treng – Phnong, Tumpuon; 5) Preah Vihear – Kui; 6) Kampong Thom – Kui; 7) Koh Kong – Por; 8) Pursat – Por; 9) Kampong Speu – Suoy; and 10) Sihanuk Ville – Saoch. In fact, there are five more provinces where indigenous peoples live, including: 11) Bantay Meanchey, 12) Battambang 13) Kampong Cham 14)Oddar Meach Chay, and 15) Seam Reap. Major groups among these indigenous communities are Kui, Por, Saoch and Stieng.

Prior to 1998, the policy in relation to indigenous peoples was named the Ethnic Minority Development in North-eastern of Cambodia. Now, the official policy used by the MRD is the National Policy on the Development of Indigenous Peoples (NPDIP) of 2009, which is consistent with the 2001 Land Law and the 2002 Forest Law. It shows that there are 24 groups of indigenous minorities in Cambodia such as Broa, Chhong, Jarai, Kachak, Kavet, Kel, Koang, Kouy, Kreung, Krol, Phnong, La'Eun, Lun, Mil, Por, Radei, Ro' Ang, Sa' Ouch, Sam Rei, Souy, Spong, Stieng, Thmoun and Tompoun.

The table on the following page indicates numbers of indigenous populations living in six main provinces including Kampong Speu, Kratie, Mondulkiri, Preah Vihear, Ratanakiri and Stung Treng.

⁶ Helmers, Kent and Pia Wallgren *Cambodia: Indigenous Upland Minorities Screening Study* (Rural Investment and Local Governance Project), World Bank, October 2002.

Table 1: Distribution of indigenous peoples in the six provinces of Kampong Speu, Kratie, Mondulkiri, Preah Vihear, Ratanakiri and Stung Treng

No.	Indigenous Groups	Ratankiri (RAT)	Kratie (KRT)	Steung Treng (STG)	Mondulkiri (MKR)	Kampong Speu (KSP)	Preah Vihear (PVR)	Total
1	Tumpoung	27,239	0	4	382	0	0	27,625
2	Kreung	17,683	0	278	598	0	0	18,559
3	Jarai	20,312	0	12	93	0	0	20,417
4	Brao/Brou	8,560	0	444	0	0	8	9,012
5	Kavet	2,620	0	2,710	0	0	0	5,330
6	Kachak	3,383	0	1	0	0	0	3,384
7	Lun	267	0	251	0	0	0	518
8	Phnong	270	8,306	430	23,964	0	39	33,009
9	Kraol/Kroy	0	2,389	0	597	0	0	2,986
10	Stieng	0	3,311	0	1,335	0	1	4,647
11	Thmun/Thmoon	0	669	0	147	0	0	816
12	Kuoy	0	5,216	1,644	2	0	4,536	11,398
13	Knoung	0	544	0	0	0	0	544
14	Roong	0	0	0	0	0	0	0
15	Radaer	3	0	0	0	0	0	3
16	Suoy	0	0	0	0	1,833	0	1,833
17	Pear	0	0	0	0	0	316	316
	Total	80,337	20,435	5,774	27,118	1,833	4,900	140,397

Sources: Statistic of IP of MRD

1.3. Society and culture of indigenous peoples

At present, RGC has official names for minority groups falling into three categories⁷: (1) the indigenous minorities, also called Khmer-Loeu, (2) The Chams or Khmer-Islam, and (3) the foreign residents/immigrants (Phath et al. 2006). Having discussed the definition of “minority” in the Cambodian context, most officials of the interministerial committee in 1997 stated that people belonging to ethnic minorities are exclusively the people who are native born in Cambodia for generations. For instance, the Khmer-Loeu (hill tribes) and the Cham, or Khmer-Islam, are appropriately called ethnic minorities of the Kingdom. The Chinese, Vietnamese, Lao, Thai and other ethnic groups are classified as ethnic minorities or ethnic groups or ethnic communities, etc. of the Kingdom as generally defined in the international context, despite the fact that they are commonly considered as national, ethnic, religious or linguistic groups different from other groups inside a sovereign state. Nevertheless, it is also generally agreed that most of the members of the so-called “foreign residents” are considered as *Procheapolroadh Khmae* (Khmer citizens), and therefore also as nationals or inhabitants of the state in which they live, the Kingdom of Cambodia.

⁷ Parth & Narong, *Draft of Assessment of the International Decade of the World's Indigenous Peoples(1995-2004) for Southeast Asia*, Phnom Penh, Cambodia 2006.



Culture Centre of Kreung Community in Teun, Ratanakiri

Representatives of indigenous groups from south-western and north-eastern provinces of Cambodia, who spoke during the commemoration of International Day of the World's Indigenous Peoples in 2006 in Cambodia⁸, indicated that they have similar cultural practices. Their livelihoods are based on animal husbandry and rotational (shifting) cultivation, and they are living in strong unity. Apart from rice cultivation, they collect non-timber forest products from the natural forest (i.e. chopping rattan and plucking vine, tapping resin, picking cardamom, searching for quintessence of the Kreusna tree), and weaving, which are the main sources of their families' income. Their customary law and practices have been respected, including taboos on certain animals, trees, secret areas and cemetery sites. They also know how to talk to wind, tree and water spirits to bring blessings of good health and high-yielding crops (Seng Sovathana 2004).

Currently, indigenous groups in North-eastern Cambodia are revitalizing their management and use of non-timber forest products (NTFP) for sustainable development, which is challenging given the current scarcity of resources. They also get technical and financial support from a number of NGOs, such as Non-Timber Forest Products Organisation (NTFP), Indigenous Community Support Organisation (ICSO), Sesan- Sekong- Srepok Protection Network (3SPN), Organisation to Promote Kui Culture (OPKC), Highlander Association (HA), Development and Partnership in Action (DPA), My Village Organisation (MVI), World Wildlife Fund (WWF), Wildlife Conservation Society (WCS). Some indigenous communities have been successful in forming groups for honey collection, resin harvesting, and *Sleng* Seed collection in Mondulkiri and Preah Vihear provinces. There are also good practices of community land-use planning and forest management in Yak Poi Commune, Ratanakiri province. It is worth noting that indigenous peoples' livelihoods that are dependent on forest products do not destroy the forest. This is because the land and forest that have been preserved by their ancestors are their lives. On the other hand, they believe in Neakta, the spirit of old people – the villages' or groups' elderly – and offer food to their spirits after they die.

⁸ Second Indigenous Peoples Day in Cambodia

1.4. Policies related to indigenous peoples

Constitution of the Kingdom of Cambodia

Article 31 of the Constitution recognizes and respects internationally accepted human rights standards, as stated: "The Kingdom of Cambodia shall recognize and respect human rights as defined in the United Nations Charter, the Universal Declaration of Human Rights and all treaties and conventions concerning human rights, women's rights and children's rights".

However, indigenous peoples argue that they should not be discriminated against as all citizens have equal rights according to article 32 of the Constitution, which states that: "Khmer citizens shall be equal before the laws and shall enjoy the same rights, freedom and duties, regardless of their race, colour, sex, language, beliefs, religions, political tendencies, birth origin, social status, resources and any position". There is no official definition of "indigenous peoples" in Cambodia; however, this does not indicate the absence of the concept. There are laws and policies that use different terms such as "indigenous communities", "indigenous ethnic minorities" and "highland peoples", which clearly refer to indigenous peoples.

Rectangular Strategy

The Rectangular Strategy for growth, employment, equity and efficiency in Cambodia aims to improve agricultural productivity and diversification, land reform and de-mining, fishery reform and forestry reform. The RGC aims to enforce its land policy and management. It promotes an equitable and efficient system of land management, distribution and utilization. It also provides support for land registration and distribution, land tenure security, eradication of illegal settlements and land grabbing. The control of land ownership concentration for speculative purposes was needed. The RGC ensures a sustainable forestry management based on three pillars: (1) sustainable forest management policy, to ensure the rational and strict monitoring of forest exploitation according to international best practices in forest management that require adequate forest reserves for domestic consumption; protection against drought and floods; and wetlands that serve as fish sanctuaries; (2) protected area system to protect biodiversity and endangered species; and (3) community forestry as a sound, transparent and locally managed programme.

National Strategic Development Plan 2006-2010

The RGC developed its National Strategic Development Plan (NSDP) 2006-2010 and extended it to 2009-2013 to complement the rectangular strategy and laws relevant to land, forest, fishery, mining and other relevant macroeconomic development. However, the NSDP does not describe and demonstrate in detail about indigenous peoples' development. It shows the efforts and opportunities for indigenous peoples in the section on land reform, page 59, which states that there is a need to "continue to discuss and develop the required legal framework for effective implementation of the Land Law, including registration of indigenous peoples' land rights". The other key actions are concentrated in general on sustainable forest management and biodiversity conservation. This indicates that the NSDP provides opportunity to improve indigenous peoples' livelihoods based on natural resource management.

2. Situation of indigenous peoples

2.1. Development triangle for Cambodia-Laos-Viet Nam and southern economic corridor

The RGC identified the three provinces of Stung Treng, Ratanakiri and Mondulakiri to be prioritized for the strategy of the development triangle of Cambodia, Laos and Viet Nam. According to a presentation delivered during a round-table discussion between Cambodia, Laos, Viet Nam and donors at the Ministry of Commerce on 20 January 2009, a number of infrastructure development projects will come up such as road and bridge construction, hydropower construction, industrial agriculture development, mining and tourism services. When good infrastructure is developed, the population will increase because of migration from lowland provinces. In this context, the mechanism for intervention and law enforcement has to be strengthened, in order to avoid land disputes between indigenous peoples and companies and between indigenous communities and new immigrants.

In December 2009, the Asian Development Bank (ADB) organized a governance forum in Phnom Penh, on the southern economic corridor of the Greater Mekong Subregion. The economic corridor lies across the western to eastern provinces of Cambodia; most of its areas are located in indigenous communities.

A number of concerns were raised in a workshop on eastern plains landscape and biodiversity conservation related to the environmental impacts, fragmented ecosystem and effects of lack of attention to impact assessments on indigenous peoples' culture and moving habitat.

2.2. Issues and challenges of indigenous peoples

In relation to land market pressures, indigenous peoples have been facing several problems, such as: economic land concession (ELC) for agro-industrial development such as rubber plantations (see Annex 2); migration of people from lowland provinces to new habitats inside existing farms of indigenous groups; and land grabbing by a number of rich people. The Provincial Department of Planning led the identification of annual commune profiles and found that land disputes between ELC companies and indigenous groups are increasing. Indigenous groups sold their existing farmland to newcomers who expected to occupy the new farms, but this was impossible because of protected areas.

The 2007 NGO Forum on Cambodia studies on land alienation indicated that some indigenous groups were forced to sell; sometimes, if the indigenous communities could not accept the money offered, the powerful people would take the land without payment. In other cases, the local authorities and land brokers took advantage of the indigenous community in the land deal.

The 2008 Report on Statistical Analysis on Land Dispute Occurring in Cambodia by the NGO Forum on Cambodia indicated that more than half of land disputes (54.34 per cent) occur in productive land areas (*Chamkar* and rice agricultural land). About one quarter (22.54 per cent) of disputes involve residential areas and 13.29 per cent are in the forestlands which are being used by local communities.

On 28 December 2009, the Indigenous Rights Active Members (IRAM) came together to raise concerns regarding double land alienation occurred in 2009 within indigenous communities. There were 14 cases of land grabbing and disputes in 15 provinces – seven more cases than in 2008.⁹ There were major concerns over the negative impacts of economic land concession of 100,000 hectares in indigenous communities. The NGO Forum on Cambodia study indicated the main challenges for indigenous communities

⁹ Phnom Penh Post, 30 December 2009.

associated with land rights.¹⁰ These include continuous illegal cross-border logging and hunting; migration from lowland provinces causing land grabbing for personal occupation, which mostly overlap with the existing indigenous rotational farms; slow implementation of land-use planning preparation causing huge effects on forest and biodiversity, particularly indigenous livelihoods improvement; and economic land concession for rubber plantation.

2.3. Poverty among indigenous peoples' communities

There is no recent research on identifying poverty among indigenous peoples in Cambodia. The NSI of the MoP studied the poverty ranking and scoring classification in 2006 and 2007 for all 24 provinces and 1,625 communes. However, the study did not contain information on poverty ranking and scoring classifications for indigenous peoples in Cambodia.

The 2009 World Bank (WB) study pointed out that poverty has decreased dramatically from 47 per cent in 1994 to 30 per cent in 2007. However, a third of the population still lives below the poverty line. They are mostly found in rural areas, where most of the indigenous communities live. The recent economic downturn, combined with high food and gas prices, is already causing a reversal of some of the recent gains.¹¹

The WB further indicated that Cambodia is among the 36 countries with the highest burden of child under nutrition in the world. It is one of 33 alarming countries in terms of hunger and under nutrition. Cambodia has one of the highest child mortality rates in the region, with poor nutrition status of women of child-bearing age, and high maternal mortality rates. Poverty is associated with high dependency rates; many large families with children live in chronic poverty in Cambodia. (See Annex 5 for IFAD's Rural Poverty Portal on Cambodia).

There is no doubt that the immediate challenge faced by indigenous communities in Cambodia is the loss of rights to land and natural resources, as mentioned above, which has put pressure on indigenous peoples' communities. As a result, land alienation has contributed to loss of jobs, impoverished livelihoods and health, loss of opportunity to attend school and loss of traditional and cultural practices.

The poverty of indigenous communities is not only associated with land alienation, poor public services and the economic downturn, but also to the lack of representation of indigenous peoples in decision-making and in formulating and enforcing policies and laws.

¹⁰ NGO Forum, Land Alienation Report 2006.

¹¹ World Bank, 2009, Safety nets in Cambodia, Council for Agriculture and Rural Development, World Bank and World Food Programme, World Bank East Asia Human Development Unit.



Poor family in Kanh Chheurng Community, Ratanakiri

There is no political platform for indigenous leaders and representatives to be engaged at local and national levels. This is true, despite the fact that there are 18 Technical Work Groups (TWGs) on land, forestry and environment, planning and poverty reduction that were set up in 2004 as mechanisms for government-donor collaboration (see Annex 3).

TWGs are supposed to coordinate meetings and develop action plans for poverty reduction, particularly among indigenous peoples' communities and/or rural poor people. Poverty is also linked to the lack of access to information and the lack of understanding of modern legal instruments (i.e. Land Law, Forest Law, Sub-decree for Land Registration, NPDIP); these undermine indigenous peoples' customary law and practices, and restrict their access to ancestral domain and livelihoods.



Stieng community in Ksach Lao, Kratie discusses land rights

2.4. Opportunities for indigenous peoples

Under the 2002 Forest Law, Permanent Forest Estate is categorized into Permanent Forest Reserve and Private Forest. Permanent Forest Reserve is again further categorized as Production Forest, Protection Forest and Conversion Forest. The Permanent Forest Estate, to be managed according to the principle of sustainable forest management, is classified, registered and demarcated by the Ministry of Agriculture, Forest and Fisheries (MAFF). The MAFF coordinates with concerned local communities, authorities and the Ministry of Land Management Urban Planning and Construction (MLMUPC) to assist in registering land property of indigenous communities and preparing the national land-use map.

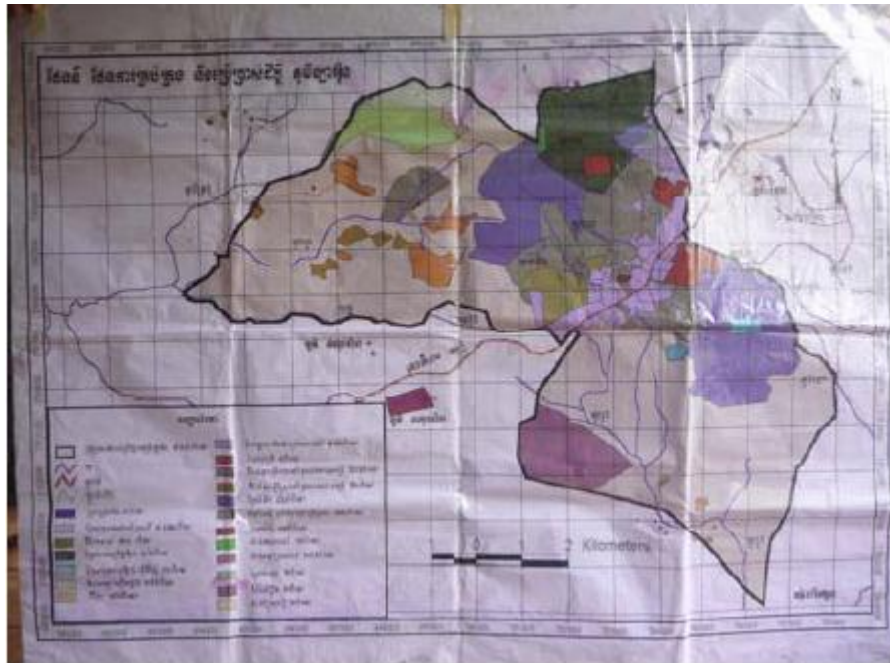
It is important to look into the whole land-use system of indigenous communities to ensure a coherent approach to the support of their livelihoods.¹² For instance, community forestry and communal land titling should go together to ensure that the intrinsic links between swidden agriculture and forest use are maintained with integrity. There is also one instance in the law that indicates and strengthens the argument that indigenous peoples' community title could include forest areas. Articles 15 and 16 of the Forest Law also seem to support the contention that indigenous community title can be guaranteed over forest lands demarcated as state public property by providing that activities of a concessionaire should not interfere with the customary access and user rights practised by communities residing within or adjacent to concessions.

3. National legislation on indigenous peoples

There are a number of legal instruments relating to the issue of community development, as it pertains to indigenous peoples. The legal context of the present inquiry comprises the following documents:

- 1) Land Law 2001
- 2) Forest Law 2002
- 3) Interim Paper on Strategy of Land Policy Framework 2002
- 4) Sub-decree on Community Forestry 2003
- 5) Sub-decree on Procedure, Establishment, Classification and Registration of Permanent Forest Estate 2005
- 6) Sub-decree on State Land Management, October 2005
- 7) Prakas on Guideline for Community Forestry, December 2006
- 8) Natural Protected Area Law 2008
- 9) Prakas on Guideline for Community Protected Area 2006
- 10) Law on Tourism 2009
- 11) Law on Commune/Sangkat 2002
- 12) Prakas on Identification and Mapping of State Land and State Land Classification, March 2006
- 13) National Policy on Indigenous Peoples' Development in Cambodia, April 2009
- 14) Sub-decree on Procedure of Commune Land Use Planning Process, April 2009
- 15) Implementation Manual on Commune Land Use Planning 2009.

¹² Andersen, Kirsten Ewers, Sek Sophorn & Francesca Thornberry (2008) *Development of a Sub-decree on Shifting Cultivation under Art. 37 of the Forestry Law (2002)*, Cambodia, ILO:Phnom Penh.



Maps of land-use planning in La' En Community, Ratanakiri

The Ministry of Rural Development (MRD), with the cooperation of relevant ministries, has been carefully developing a National Policy on the Development of Indigenous Peoples (NPDIP) for more than a decade. This was officially approved by the plenary of the Cambodian Council of Ministers on 24 April 2009. It could be seen as a complement to the laws and policies on land, forest, environment and international instruments. The policy concentrates on ten development sectors including culture, education and vocational training, health, environment, land, agriculture and water resources, infrastructure, justice, tourism, and industry, mine and energy.

The NPDIP aims to promote the livelihoods of indigenous peoples and to improve their quality of life. It includes equitable distribution of natural resources management according to the development of the programmes and projects of the RGC, collaborating with development partners, national and international organizations and private investment companies. The NPDIP highlights the protection and maintenance of indigenous peoples' culture, customs, traditions and beliefs. It supports the establishment of indigenous peoples' community and management of communal land. It also promotes education, giving priority to indigenous peoples. However, in order to function, the policy needs resources, including financial and technical support, and political will. Indigenous leaders, civil society and international organizations also need to take initiative to enforce its implementation.

The NPDIP builds upon the Land Law 2001, Chapter 3, in articles 23 to 28 regarding "Collective Ownership". The Land Law of 2001 is of utmost importance for indigenous peoples' collective rights to land. It has direct significance for indigenous peoples and is highly important as it sets out the basis for land ownership by indigenous communities in Cambodia. The chapter starts by defining "indigenous community" in article 23. Article 24 seeks to further define membership in an indigenous community. Article 25 provides for collective ownership to have "all the rights and protections of ownership as are enjoyed by private owners"; except the right to "dispose of any collective ownership that is State Public Property to any person or group". Article 26 emphasizes and recognizes the role of traditional authorities, mechanisms and customs in decision-making and exercising the ownership rights of immovable properties of the community. The Government, in 2008 and 2009, issued the supportive Policy and Sub-decree for Indigenous Peoples' Registration of Collective Land Rights. A condition for receiving

collective title is that the community incorporates as a legal entity – a process that is supported by the MoI. So far, only three pilot communities are registered as legal entities and are, in theory, ready for collective title. However, they are still awaiting the Ministry of Land Management Urban Planning and Construction (MLMUPC) to take action. The civil society organization prevailed on the RGC and donors to discuss a mechanism for “interim protection measures” to ensure that the lands of indigenous communities are not lost to economic land concession (ELC) while they wait for their collective title.

To sum up, Cambodia is now rich with laws and policies to protect land and natural resources and to provide for rights to local communities. These are related to international instruments and safeguard policies on indigenous peoples, for instance, at IFAD, ADB, WB and UN. However, these legal instruments lack enforcement in practice; the Government granted land concessions without free, prior, informed consultation or consent of the indigenous communities. In December 2009 the Law on Expropriation was approved, allowing the RGC to expropriate the property rights of Cambodian citizens, if the RGC needs the land for the benefit of the nation. (See Annex 4 for information on legal instruments for land and natural resources management.)

4. Conventions, international treaties and declarations

The RGC has accepted the international human rights treaties that were incorporated into the 1993 Cambodian Constitution. The following are the most relevant international human rights and other instruments that have been ratified:

- International Covenant on Civil and Political Rights (26/05/1992 Accession);
- International Covenant on Economic, Social and Cultural Rights (26/05/1992 Accession);
- International Convention on the Elimination of All Forms of Racial Discrimination (28/11/1983 Ratification);
- Convention on the Elimination of All Forms of Discrimination against Women (15/10/1992 Accession);
- Convention on the Rights of the Child (15/10/1992 Accession);
- Convention concerning the Protection of the World Cultural and Natural Heritage. (28/11/1991 Acceptance)¹³;
- Convention on Wetlands of International Importance especially as Waterfowl Habitat (23/06/1999 Accession);
- Convention for the Safeguarding of the Intangible Cultural Heritage (13/06/2006 Ratification);
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions (19/09/2007 Accession);
- Convention on the Protection of the Underwater Cultural Heritage (24/11/2007 Ratification).

Cambodia accessed the Convention on Biological Diversity on 9 February 1995, and it voted to support and implement the provisions of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.

¹³ All terms, "ratification" (rtf), "accession" (acs), "approval" (apv) and "acceptance" (acp), signify the consent of a State to be bound by a treaty. The legal incidents/implications of ratification, accession, approval and acceptance are the same. The treaty becomes legally binding on the State or the regional economic integration organization. All the countries that have either ratified, acceded to, approved or accepted the Convention are therefore Parties to it.

5. Indigenous peoples' organizations and network

5.1. Indigenous Peoples' NGO Network on land rights

The NGO Forum on Cambodia coordinated with local and international organizations to form the Indigenous Peoples NGO Network (IPNN). This network is working on indigenous land rights in Cambodia. It is composed of active members including Cambodian Human Rights and Development Association (ADHOC), Ponlok Khmer (PKH), Community Economic Development (CED), Centre d'Etude et de Développement Agricole Cambodgien (CEDAC), Community Legal Education Center (CLEC), Highlander Association (HA), Henrich Boll Foundation (HBF), Indigenous Community Support Organization (ICSO), My Village (MVI), Non-Timber Forest Products-Exchange Programme (NTFP-EP), Non-Timber Forest Products Organization (NTFP), Organization to Promote Kui Culture (OPKC), South-east Development Programme (SADP), Village Focus Cambodia (VFC), and Wildlife Conservation Society (WCS). The members of the network are based in Phnom Penh and in different provinces in the north, north-east and other parts of Cambodia.

5.2. Indigenous peoples' organizations

There is an indigenous peoples' network which was formed in 2003, namely the Indigenous Rights Active Members (IRAM). This network is composed of indigenous leaders from about 15 provinces. It used to be coordinated by the NGO Forum on Cambodia and is now coordinated by the Indigenous Community Support Organization (ICSO). IRAM members have been implementing a work plan to coordinate local and national events. At the local level, they raise awareness on land rights and mobilize the indigenous leaders to advocate on their rights to land and natural resources. At the national level, they have been involved in petition complaints, in communication with media for press releases and have developed their strategic action.

There are several grass-roots indigenous peoples' organizations and associations. These are: 3 Rivers Protection Network (3SPN), Cambodian Indigenous Youth Association (CIYA) based in Phnom Penh; Highlanders Association (HA), Indigenous Peoples for Agriculture Development in Cambodia (IADC) based in Ratanakiri, Indigenous Peoples' Rights to Health (IPRH), established in 2009, based in Ratanakiri and Mondulakiri and the Organization to Promote Kui Culture (OPKC) based in Preah Vihear.

5.3. Support organizations for indigenous peoples

There are many organizations supporting and empowering indigenous communities. These organizations are formed by indigenous and non-indigenous staff and are generally under the leadership of non-indigenous leaders working particularly in north and north-eastern Cambodia. These include the following:

- Indigenous Community Support Organization ICSO (<http://www.icsso.org.kh/>)
- Non-timber Forest Products NTFP (<http://www.ntfp-cambodia.org/>)
- Cambodian NTFP Development Organization (CaNDO)
- Ponlok Khmer (PKH)
- My Village (MVI)
- Development and Partnership in Action (DPA) <http://www.dpacam.org/>
- Community Development and Natural Resources Management (CDNRM)
- Community Economic Development (CED)
- Cambodia Human Rights and Development Organization (ADHOC) http://www.bigpond.com.kh/users/adhoc/about_adhoc/about_adhoc.htm
- Vision Fund Cambodia (VFC), <http://www.visionfund.com.kh/site/>
- Sor Sor Troung (SST), <http://www.seaca.net/viewArticle.php?aID=619>
- Indigenous People NGO Network (IPNN)

6. IFAD projects and operations in Cambodia

IFAD's 2008-2012 COSOP for Cambodia includes indigenous peoples as a target group. IFAD assistance will focus on the needs of ethnic minority communities, especially in the following areas: natural resource management, investment in rural infrastructure, land titling for secure access to land and provision of land through social land concessions in order to address the issue of landlessness.¹⁴

Since 1996, IFAD has financed seven projects in Cambodia. Two of these specifically support Indigenous Peoples:

RURAL LIVELIHOODS IMPROVEMENT PROJECT IN KRATIE, PREAH VIHEAR AND RATANAKIRI¹⁵

Project type	Rural development
Project ID	1350
Approval date	18 April 2007
Implementation period	2007 - 2014
Total cost	US\$11.51 million
IFAD grant	US\$9.52 million
Total cost benefiting ethnic minorities	Approx US\$8.63 million (IFAD grant US\$7.14 million)
Lead executive agency	Ministry of Agriculture, Forestry and Fisheries (MAFF)
Implementing agencies	MAFF-Project Support Unit (MAFF) National Committee for Management of Decentralization and Deconcentration Reform (NCDD) Ministry of Economic and Finance (MEF) Ministry of Women Affairs (MoWA) Provincial Rural Development Committee, Executive Committee (PRDC/ ExCom) Provincial Department of Agriculture (PDA) Provincial Department of Woman Affairs (PDoWA)
Indigenous beneficiaries	Chams

Background

The project takes into account the Government's National Strategic Development Plan (2006-2010), which includes the Government's Poverty Reduction Strategy, IFAD's mandate, IFAD's Strategic Framework for 2002-2006, Regional Strategy and Country Strategy for Cambodia.

Project area

The project specifically targets poorer villages where there is a potential for increased income generation and better natural resource management, and communities composed of ethnic minorities. About 84 poor communes in 16 districts in three provinces are involved: three districts in Kratie (with about 18 communes), seven in Preah Vihear (with about 36 communes) and six in Ratanakiri (with about 30 communes).

In the project area, there are 14 indigenous ethnic minority groups, each with its own language, with the greatest concentration in Ratanakiri where approximately 68-70 per cent of the population is from indigenous ethnic minorities (seven indigenous ethnic

¹⁴ Source: IFAD, Kingdom of Cambodia, COSOP, December 2007.

¹⁵ Source: Inception Report, July 2005; Formulation Report (and Working Papers and Annexes) 22 November 2005; President's report [EB 2007/90/R.16/Rev.1]; Appraisal Report (and Annexes), 9 January 2007; Project Grant Agreement, 28 May 2007; Annual Progress Report 2007, March 2008; Annual Progress Report 2008; Annual Work Plan and Budget for the year 2009, 15 December 2009.

minority groups). Eight indigenous ethnic minority groups live in the Kratie province, namely: the Cham, Phnong, Stieng, Kouy, Khmuonh, Mil, Khaonh and Thnon. In Preah Vihear, Kuoy and Por are the largest groups.

A wide variety of different situations exist. In Ratanakiri, a typical indigenous family has access to two or three plots of 2-3 ha which are used for shifting cultivation with a four-to six-year rotation. In Kratie, a typical family is more likely to have one small plot of wetland rice or upland (*chamkar*). In Preah Vihear, many families have a small plot of paddy and a small plot of *chamkar*. In all situations, however, traditional practices and unimproved cultivars are being used and productivity is low.

In north-east Cambodia people have traditionally operated a well-developed land allocation and forest management system that relied on communal decision-making through traditional structures. With natural population growth and immigration into these previously remote areas, the forest resources are under threat from reduced fallow periods in the areas used for shifting cultivation, new areas being cut for shifting cultivation, land being cleared for cash cropping and the wildlife trade. There are three economic land concessions in the project area, all in Ratanakiri, covering 31,380 ha. These concessions may cover areas of forest and other land used by local communities (e.g. land used for shifting agriculture, non-timber forest product (NTFP) collection, spirit forestland and burial land). New migrants are either illegally squatting on land or illegally purchasing land. As road infrastructure improves, significant land purchases of a speculative nature are also taking place.

This is particularly impacting upon indigenous ethnic minority communities, who may be sellers but who are increasingly finding that the land available to them for hunting, gathering NTFPs and shifting cultivation is rapidly shrinking. Loss of land is the most serious threat to the livelihoods of the indigenous ethnic minority communities. Land disputes and land grabbing are issues for some communities (Ratanakiri), while the widespread lack of land titles, especially for *chamcar* (upland) land, is a general issue in all three provinces.

Beneficiaries

The project directly benefits about 22,600 poor households or 38 per cent of the population of the project area. In conformity with IFAD's Policy on Targeting, the target group consists of four particularly disadvantaged subgroups: (i) poor households with little land; (ii) landless households; (iii) woman-headed households with young children and/or many dependents; and (iv) indigenous/ethnic minority households.

Project objective

The goal of the project is to improve the livelihoods of the rural poor in the target communes of the three project provinces. The objective is to make a positive and sustainable impact on agricultural development in these communes.

Through the grant, IFAD supports project activities that will help poor rural people:

- gain access to more advanced agricultural technology to improve household food security and incomes and agricultural productivity;
- diversify their on-farm income opportunities;
- form linkages with markets and development led by the private sector;
- build the capacity of commune councils and village-based organizations to plan and monitor economic development activities.

Project components and activities

The project has two components:

- **livelihood improvement.** This component focuses on (i) improving access to more advanced agricultural technology that can bring a rapid improvement in

household food security and incomes and agricultural productivity; (ii) diversifying on-farm income opportunities; (iii) forming linkages with markets and private sector-led agricultural development; and (iv) building the capability of the commune councils and village-based organizations to plan and monitor economic development activities effectively.

A prerequisite for project implementation is the participatory land use plan (PLUP).

Through a series of village meetings, the community identifies key livelihood issues. Indigenous ethnic minority communities are asked if they would like to develop a "No Land Sales Agreement" to ensure that land that is being developed by the project is not sold off. The activities to be supported depend on what the beneficiaries require and are not predetermined by the project design.

- **support for decentralization and deconcentration in agriculture.** This component has three subcomponents: (i) support for provincial agriculture investment; (ii) support for gender mainstreaming in agriculture; and (iii) learning communities.

Many activities are conducted as part of this component including: (1) raising awareness in all the target communes about the laws relating to land, forestry, fisheries and agriculture; (2) gender mainstreaming.

Activities include a focus on:

- capacity-building;
- skills training;
- technology transfer;
- improvement of food security, agricultural productivity and natural resource management;
- income generation through on-farm and off-farm activities;
- development of market-oriented production.

Participants will also have a role in monitoring the project's performance and in assessing its impact on their communities.

In addition, the project will enhance the capacity of the Ministry of Agriculture, Forestry and Fisheries to formulate pro-poor policies and poverty reduction programmes.

Strategy

In the poor communes where indigenous groups form all or a substantial proportion of the population the followed approach aims to: (i) provide security of land tenure; (ii) ensure adequate agricultural land for the present and the next generations; (iii) establish sustainable land use; and (iv) ensure food security and improve livelihoods.

Projects implemented previously in Ratanakiri have evolved a code of conduct for staff working with ethnic minority communities. All project staff is familiarized with this code of conduct and commit themselves to it by signing before they commence work on the project.

Each Provincial Department of Agriculture recruits a non-political indigenous ethnic minority people's organization to provide independent advice and feedback and raise any concerns that villagers may have over inappropriate behaviour by project staff in their dealings with the communities.

Regarding land issues, the project has produced a "Land and Forestry Legislation and Participatory Land Use Planning" (Working Paper 3) as part of the Formulation Report. The working paper describes land and forestry legislation and goes further in

highlighting the necessary steps to be taken towards participatory land-use planning and processes required to enable indigenous peoples to enjoy their legitimate rights over their lands. Furthermore, it stresses the need for awareness raising and information regarding land rights because even though “a legal framework and policies exist that can help ensure the rights of Cambodian citizens to land and forest, [...] very few are aware of such rights”.

Poor people will participate directly in planning and implementing project activities to ensure that they reflect local priorities and aspirations for social and economic development.

Lessons learned

To avoid further alienation of the land used by indigenous peoples through illegal sales to outsiders, land grabbing, illegal occupation and the granting of economic land concessions, the immediate enactment of the relevant legislation and its subsequent enforcement is essential.

Without this, there are dangers that areas used by indigenous communities may be allocated as economic concessions, without any prior consultation with the communities and to their disadvantage. However, it must be kept in mind that well-planned and appropriate economic land concessions have the potential to provide employment and hence contribute to poverty reduction.

From experiences in Ratanakiri, a major constraint to agricultural development in upland areas is a general lack of training and understanding of upland farming systems and how they could be developed and of the different social, cultural and technical circumstances prevailing in upland areas. To help overcome this lack of understanding, indigenous staff from the local area, including the elders, may hold discussions with the community before new activities are started. Activities need to be explained in local languages and extension material should be based on and support local cultures and not just be imported from lowland agriculture.

Innovative features

This is the first IFAD project to target the upland areas and the indigenous ethnic minority populations living in the area. One innovative feature of the project design for IFAD in Cambodia is the introduction of learning communities which will provide an additional feedback mechanism and provide information that can subsequently assist project implementation. They will also provide input into the policy analysis work of the MAFF for policy development with respect to rural poverty reduction, service delivery options, indigenous ethnic minority communities and approaches to gender analysis and mainstreaming.

TONLE SAP POVERTY REDUCTION AND SMALLHOLDER DEVELOPMENT PROJECT¹⁶

Project type	Poverty reduction
Project ID	1464
Approval date	4 November 2009
Implementation period	2010 - 2017
Total cost	US\$55.30 million
IFAD loan	US\$6.69 million
IFAD grant	US\$6.69 million
Total cost benefiting indigenous peoples	US\$0.26 million (US\$ 0.13 from IFAD loan and US\$ 0.13 from IFAD grant)
Executive agencies	Ministry of Agriculture, Forestry and Fisheries
Indigenous beneficiaries	Kuoy

¹⁶ Source: President's Report [EB 2009/98/R.31]; Project Design Document 2009; IFAD's Report to the IX Session of the UN Permanent Forum on Indigenous Issues (UNPFII)

Background

The project is designed to assist local communities in: (i) establishing livelihood improvement strategies for resource-poor farming households; (ii) enhancing the productivity of these households and diversifying household economic activities through improved productive service delivery and integrated farming systems; (iii) creating on- and off-farm livelihood opportunities; and (iv) developing access to markets through improved rural infrastructure.

Project area

The project covers 196 communes in 28 districts in four provinces in the Tonle Sap Basin, namely Banteay Meanchey, Kampong Cham, Kampong Thom and Siem Reap provinces.

Beneficiaries

The project is expected to benefit 630,000 households (or approximately 2.5 million people) in the 196 communes. Ethnic minorities are considered to be 2–3 per cent of the total population of the project area. The ethnic Kuoy have derived their livelihoods from upland farming, hunting and gathering. Moreover, to a greater extent than the lowland ethnic Khmer, they also rely on the sustainable management of natural resources.

Project objective

The overall goal of the project is to improve the livelihoods of the resource-poor households in the four target provinces by 2020. The objective is to increase agricultural productivity and improve access to markets in these four provinces. Expected improvements include: better agricultural support and improved access to rural financial services, increased diversification of household economic activities, the creation of on- and off-farm livelihood opportunities and enhanced rural infrastructure.

Project components and activities

The project has three components:

- **commune development.** The Commune Development Component, includes (i) additional rural infrastructure to improve agricultural production, market access and quality of life in rural communities; (ii) strengthened capacity of resource-poor smallholder farmers and other poor groups to access rural financial services; and (iii) agricultural productivity improvement and diversification through improved local planning and provision of agricultural support services, including empowerment of local communities, research, extension and information delivery services to support increased agricultural productivity and diversification by smallholder farmers, including expansion of the use of information and communication technology to support market access and future commercialization.
- **improved agricultural policy environment.** The Improved Agricultural Policy Environment Component is designed to strengthen the enabling policy environment that supports smallholder and farming communities, including development of decrees, sub-decrees, implementing guidelines and preparation of training materials. Policy studies on Genetically Modified Organisms (GMO) and hybrid seeds will be undertaken.
- **effective project management.** The Effective Project Management Component provides technical assistance, capacity-building and necessary vehicles and equipment to enable the completion of project activities on time and within the agreed budget.

Strategy

The project is designed to trigger broad-ranging development with beneficiaries participating directly in planning and executing growth and poverty reduction initiatives. It will also strengthen deconcentrated agricultural support service functions particularly at the commune and district levels. The project will finance eligible investments in physical assets and capacity development activities in the commune development plans.

Moreover, IFAD, through the **Indigenous Peoples' Assistance Facility (IPAF)**, has supported a small project implemented by an indigenous peoples' organization, the Organization to Promote Kui Culture (OPKC):

District level networking of Kui Communities in northern Cambodia for livelihoods development, 2007

Indigenous peoples group: Kui communities of the Chhep, Chey Sen, Rovieng, Tbeng Meanchey, and Choam Khsan districts, Preah Vihear province and Sandan and Prasath Ballang districts, Kompong Thom province

Project area: Chhep, Chey Sen, Rovieng, Tbeng Meanchey, and Choam Khsan districts, Preah Vihear province and Sandan and Prasath Ballang districts, Kompong Thom province

Grant amount: US\$ 21,800

Most Kui communities depended heavily on natural resources, including water, land, forestry, and fisheries. This project helped to improve the management of natural resources through training in seven districts, as well as building the capacity of Kui women to become community leaders and leaders within the networks. It also supported district-level networking¹⁷. Furthermore, the organization mobilized the participation of Kui communities in the activities and also encouraged communities to mobilize their own funds at different levels.

The design structure was grounded on four strategic pillars:

- a) strengthening self-government capacity through raising awareness on indigenous peoples' rights and mainstreaming the role of women as leaders in their communities, promoting a participative approach to decision making processes and the development of their own strategies and solutions;
- b) fostering the economic development through the setting-up of rural financial services and the establishment of village-based seed banks;
- c) increasing the communication through the organization of district-level meetings and the formation of district consultation institutions;
- d) fostering the understanding of the targeted communities on land issues and enabling them to collectively respond to challenges related to the management of natural resources.

Although the implementation area was too extended for such a small project, it represented an example of multi-sectoral community self-empowerment that could be replicated, beyond its area and with other indigenous communities.

The District Network in Rovieng district has been very active in fighting land encroachment and grabbing by outsiders. It has also campaigned against the use by outside traders of poisonous chemicals (e.g. mercury) to extract gold from the sand left behind by the Kui villagers, who do panning as part of traditional Kui gold extraction activities in the area. Households have committed not to sell land by putting their thumbprints on a village declaration.

¹⁷ Andersen, Kirsten Ewers, Report on Monitoring Visit 2 May to 5 May 2008

6.1 IFAD's potential partners at the national and grass-roots levels

Indigenous peoples' organizations

Potential partners include OPKC, HA, NGO Forum on Cambodia, ICSO and IRAM:

- OPKC is working within 12 Kui communities in Preah Vihear and Kompong Thom provinces. It focuses on land rights, community organizing, biodiversity and livelihoods in Prey Lang Area and indigenous scholarship.
- HA (Highlanders' Association) is working in 95 communities in Ratanakiri province. It is mainly focused on land rights, community organizing and promoting traditional culture and registration of communal land title.
- IADC (Indigenous Peoples for Agriculture Development in Cambodia) was trained by CEDAC for agricultural technology development. They now have the ability to run their own organization in Ratanakiri province. IADC is an indigenous organization with knowledge and skills on agricultural technology and development.
- CIYA (Cambodian Indigenous Youth Association) is a group of indigenous youth who study at university about law, agriculture, management, accounting and technology in Phnom Penh. CIYA is voluntarily working with the IPNN and IRAM. (define acronyms)
- IRAM (Indigenous Rights Active Members) aims mainly to bring indigenous voices and build space for engagement at the national level to claim indigenous peoples' right to land and natural resources. Some of them have greater involvement and representation in the UN Permanent Forum on Indigenous Issues.
- NGO Forum on Cambodia and ICSO (Indigenous Communities Support Organization) are playing important roles in coordinating with IRAM and Indigenous Peoples' NGO network at the national level. They have the capacity to do policy analysis, monitoring and lobbying with policy-makers to demand respect for indigenous peoples' rights.

International organizations

There are a few international organizations working within indigenous communities on biodiversity conservation, community forest management and land-use planning in Mondulakiri, Ratanakiri, Kratie and Preah Vihear. These organizations include the World Wildlife Fund for Nature (WWF), WCS and Birdlife International. At the policy level, ILO works through partners in the field with DANIDA (Danish Association for International Cooperation) funding.

7. International organizations' work with indigenous peoples in Cambodia

7.1. UN organizations working with indigenous peoples

A 2007 WB report¹⁸ stated that besides the International Labour Organization (ILO), other UN agencies, such as the Office of the High Commission on Human Rights (OHCHR) and the UNDP, work on indigenous peoples' issues in Cambodia through their country offices. A UNDP Regional Indigenous Peoples Programme (RIPP), started in Bangkok in 2004, aimed at promoting dialogue among indigenous peoples, governments and other relevant parties throughout the Asia-Pacific region. Key partners in the region include regional and national indigenous peoples' organizations, bilateral donors and the ADB. Within the UN system, the partners include the UN Permanent Forum on Indigenous Issues (UNPFII), the OHCHR for pioneering the human rights-based approach, the ILO for regional programmes and the United Nations Development Fund (UNIFEM) for women's empowerment.

¹⁸ Andersen, Kirsten Ewers *Indigenous Communities' Communal Rights to Land and Natural Resources in Cambodia, WB 2007*

7.2. International organizations working with indigenous peoples

International organizations, such as WWF and WCS, are supporting MAFF (with the Forestry Administration as secretariat) and the Ministry of Environment (MoE) to conserve protected forests and protected areas. The two organizations are also carrying out four complementary project components relevant to indigenous peoples' development in the north-eastern provinces of Cambodia. They are generally concentrating on principles of forest conservation, sustainable non-timber forest products by improving traditional techniques, equity in community livelihood and community empowerment.

Three organizations are working on forest and wildlife conservation and law enforcement in the provinces of Koh Kong, Kratie, Kamong Thom, Kampot, Monduliri, Preah Vihear and Stung Treng: Fauna Flora International, Conservation International and Bird Life International.

ILO is presently supporting a project to incorporate indigenous communities as legal entities eligible for collective title with the Ministry of Interior under DANIDA funding. The idea is to have as many communities as possible incorporated legally to make a claim on the Ministry of Land Management to start the process of ensuring land titles to indigenous peoples' communities. Besides ILO, there are not many donors directly supporting indigenous peoples except at the policy level where indigenous peoples' land rights feature prominently in government-donor coordination meetings. The implementation of titling constitutes a "joint monitoring indicator" for the Government's promises to the donor community with a deadline. It also features as an indicator for releasing *tranches* of the WB's Poverty Reduction and Growth Operation Support Programme, which is still running in 2010.

Other international organizations working within indigenous communities are CARE-Cambodia and Health Unlimited (HU). They are mostly based in the north and north-eastern provinces of Cambodia.

8. Good practices of United Nations and international organizations

8.1. ILO project on indigenous community registration

The ILO presence in Cambodia is a part of a DANIDA-funded Project to Promote ILO Convention No. 169 on Indigenous and Tribal Peoples (No. 169). The project started in May 2005 following five needs and priorities: (1) Land, (2) Forest, wildlife and fishery (3) Culture and tradition, (4) Health and (5) Education and vocational training. It aims to reinforce the claims of indigenous community rights to land and natural resources into the practices of national laws, policies and international instruments. It supports the communal land registration process in Cambodia through realizing article 23 of the Land Law 2001, which recognizes the indigenous peoples' rights to land and natural resources, ("indigenous community is recognized by the law and prior to their legal status"). The Organic Law 2008, article 39, provides important roles and responsibilities to the provincial and district councils to administer the territory and administration affairs. Also, it is based upon the Prakas 474 Sor, Chhor, Nor/Mor Phor dated 06 July 1994 for registration of association, NPDIP and UNDRIP.

The ILO project has successfully coordinated with the local NGOs (NTFP, DPA, HA, ICSO in Ratanakiri and MVI, DPA, Vigilance, WCS in Monduliri), and the Government ministries (MoI, MRD and MLMUPC), which recognized the indigenous communities as a legal entity. It also supported the participation of indigenous communities in the registration process for them to be registered as legal entities, including 1) Andong Krangleung, Phnong community in Monduliri, 2) O'Rana, Phnong community in Monduliri, 3) Kati, Phnong community in Monduliri, 4) Srei Ktum, Phnong community,

in Mondulkiri, 5) La'En, Tampuong community in Ratanakiri, and 6) La'Eun Kren, Tampuong community in Ratanakiri. They are now awaiting title from the MLMUPC.

8.2. Indigenous peoples in local development plans

A mechanism for NGOs' and indigenous organizations' operations should be included when planning a Commune Investment Programme (CIP) process. For instance, WWF and WCS developed methods on community participation in the CIP process for a pilot stage at Mondulkiri province. The pilot can be expanded into other target provinces. The established indigenous peoples or Natural Resource Management (NRM) communities are to be invited by the Commune Council to join the Commune Planning and Budgeting Committee so that they can integrate their problems and needs into the CIP process. A report by ILO on Including Indigenous Peoples in National Strategic Development Plan in Cambodia¹⁹ also recognized that indigenous community participation in the CIP process is necessary to mobilize support from government agencies, NGOs and the private sector, including humanitarians. The report also proposed to insure the implementation of existing provisions for registering and titling indigenous peoples' communities and lands and to adequately reflect indigenous peoples' needs and priorities in the CIP. Awareness raising, training, and capacity-building should be undertaken at a subnational level.



Community leaders attend a workshop to develop their strategic plan for 2010 in O'Yadoa, Ratanakiri.

9. Relevant information for indigenous peoples' development

9.1. Climate change

Several reports by UNDP relevant to climate change show that Cambodia is facing immediate threats to its agricultural production and food security because of changes in rainfall, temperatures and availability of water. Climate change is one of the most urgent issues in the world and the Cambodian Government is paying more attention to

¹⁹ Andersen, Kirsten Ewers with Seng Sovathana *Entry points for indigenous peoples' issues in the NDSP process of Cambodia*, May 2007 (ILO study).

climate change mitigation. For example, in 2009, CRG's Council of Ministers declared the creation of the Seima Protection Forest, and the 1,100 square miles (2,849 square kilometres) park that is home to tigers, elephants and endangered primates was officially declared as an additional corridor of the protected forests/areas in Monduliri and Kratie provinces by the Cambodian Prime Minister. The park's creation was developed in part by the WCS "Carbon for Conservation" programme, which intends to protect high-biodiversity ecosystems while raising funds through carbon sequestration schemes such as Reducing Emission from Deforestation and Degradation (REDD).

Also, the NGO PACT has supported REDD initiatives among local communities. In a ceremony held in 2009, the Forestry Administration, in partnership with PACT's Community Forestry Initiative and Terra Global Capital, signed agreements with nine community forestry groups to develop and market carbon credits for a REDD project in Oddar Meanchey province. The project builds on the commitment of the RGC to support community forestry through their Community Forestry Sub-decree, and the commitment of nine community forestry groups, comprised of over 50 villages, whose members have agreed to protect over 60,000 hectares of forestland in the north-western province of Oddar Meanchey.

9.2. UN Special Rapporteur report

The situation of the rights of indigenous peoples is mentioned in the report of Miloon Kothari, the UN Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living (March 2006). At the conclusion of his mission to Cambodia, his report highlighted the main issues of indigenous peoples, which are included in paragraphs 67-71:

- Indigenous peoples' livelihoods have been affected by the impact of logging, mining and other large-scale development projects.
- Problems regarding land include: illegal individual land sales; sale of indigenous property by community members or commune chiefs without prior consultation with the community; and properties irregularly acquired from indigenous communities used for logging activities.
- Indigenous communities deprived of their traditional sustainable livelihood as a result of logging activities, military concessions and major tourism enhancement projects are now increasingly forced to leave their traditional homes and move elsewhere. These operations have often been carried out in the absence of proper informed participation of indigenous communities.

In his concluding remarks, the Rapporteur recommended that measures aimed at the realization of the indigenous peoples' right to adequate housing should include respect for their traditional lands and elaboration of culturally sensitive land and housing policies. Until the adoption of the sub-decree on collective ownership of indigenous lands, a moratorium on land sales affecting indigenous peoples should be considered by relevant authorities.²⁰

²⁰ see <http://www.unhcr.org/refworld/country,MISSION,KHM,,45377b230,0.html>

Annexes

Annex 1: Current data for Indigenous population in Cambodia

Table 2: Current data for Indigenous population in Cambodia

No.	Indigenous groups	Ratanakiri (RAT)	Kratie (KRT)	Steung Treng (STG)	Mondulkiri (MKR)	Kampong Speu (KSP)	Preah Vihear (PVR)	Total
1	Tumpoung	27 239	0	4	382	0	0	27 625
2	Kreung	17 683	0	278	598	0	0	18 559
3	Jarai	20 312	0	12	93	0	0	20 417
4	Brao/Brou	8 560	0	444	0	0	8	9 012
5	Kavet	2 620	0	2 710	0	0	0	5 330
6	Kachak	3 383	0	1	0	0	0	3 384
7	Lun	267	0	251	0	0	0	518
8	Phnong	270	8 306	430	23 964	0	39	33 009
9	Kraol/Kroy	0	2 389	0	597	0	0	2 986
10	Stieng	0	3 311	0	1 335	0	1	4 647
11	Thmun/Thmoon	0	669	0	147	0	0	816
12	Kuoy	0	5 216	1 644	2	0	4 536	11 398
13	Knoung	0	544	0	0	0	0	544
14	Roong	0	0	0	0	0	0	0
15	Radaer	3	0	0	0	0	0	3
16	Suoy	0	0	0	0	1 833	0	1 833
17	Pear	0	0	0	0	0	316	316
	Total	80 337	20 435	5 774	27 118	1 833	4 900	140 397

Sources: Statistic of indigenous peoples of MRD (Ratanakiri, Mondulkiri, Kampong Speu, Kratie, Steung Treng, and Preah Vihear).

Annex 2: Case study of rubber plantation in Kratie Province: Living in fear

Life has never been easy in this hard-scrabble corner of Kratie province near Viet Nam, but until last year Saren Keth, 48, and his wife had about everything an indigenous farming family would expect: a wood home, fruit trees, a river nearby and lots of communal land to ensure a future for their five children and their village.

Now he lives in fear of arrest or murder over a land dispute that is becoming increasingly frightening to him and his family.



Village residents were surprised in July 2008 when they found their farmland in Savan district was being cleared for a rubber plantation they knew nothing about. They protested and company workers dismantled the site. The case is now at the provincial criminal court.

Everything changed in his village in the 2008 rainy season, when Mr. Keth and his neighbours found a big surprise in one of their fields: large yellow excavators clearing their cassava.

Without their knowledge, 769 hectares of their forest and farmland had been leased in May 2008 by the provincial governor to an agro-industrial company planning a rubber plantation. The governor signed away their livelihoods and their future in an economic land concession without informing the 270 families in four villages with legal rights to the land.

Mr. Keth sat cross-legged on the wood bed beneath the home he and his wife had built two decades earlier and explained the community strategy. He became the leader because he had been aware of Cambodia's Land Law while working as a community forestry activist. When the residents saw the bulldozers, he moved quickly to plan a strategy to regain control of their lands and called a meeting of four Stiem villages. He believed that if they stuck together they could fight the concession and win. He said one of the provincial officials offered him money to stop his activities. "The powerful people will try to break our solidarity one by one. Our struggle is for the benefit of the people, not money."



Source: CHRAC - Losing Ground: Forced Evictions and Intimidation in Cambodia, 2009

Annex 3: Technical working groups (TWG) in Cambodia

One of the tasks of the TWGs is to coordinate external support with an agreed set of sector priorities. The TWGs are co-chaired by a senior RGC official, and a lead donor serves as coordinator/facilitator. Some TWGs are fairly large and comprise government and donors as well as NGOs and development banks.²¹

1. Legal and Judicial Reform
2. Partnership
3. Public Administration Reform
4. Public Financial Management Reform
5. Land
6. Decentralization and Deconcentration
7. Gender
8. Health
9. Education
10. Food Security and Nutrition
11. Mine Action
12. Agriculture and Water
13. Fisheries
14. Forestry and Environment
15. Private Sector Development
16. HIV/AIDS
17. Infrastructure and Regional Integration
18. Planning and Poverty Reduction

²¹ Andersen, Kirsten Ewers with Seng Sovathana *Entry points for indigenous peoples' issues in the NDSP process of Cambodia*, May 2007 (ILO study).

Annex 4: Legal instruments on land and natural resources management

1. Laws relevant to natural resource management and policies

The Constitution of Cambodia in article 59 states that, “the State shall protect the environment and balance of abundant natural resources and establish *a precise plan of management* of land, water, air, wind, geology, ecological systems, mines, energy, petrol and gas, rocks and sand, gems, forests and forestry products, wildlife, fish and aquatic resources”.

The RGC established a number of mechanisms for local development at commune and village levels through a decentralization programme. In addition, a number of laws for supporting effective performance are: Land Law of 2001, the Forest Law of 2002, Law on Commune/*Sangkat* Administrative Management of 2002, Fishery Law of 2006, and Law on Natural Protected Area. Some laws that have significance for indigenous peoples and natural resource management are apart from some Royal Decrees, Sub-Decrees and Instructions. The national strategies for development and planning are: Rectangular Strategy, ten-year national programmes (under drafting by NCDD), and National Strategic Development Plans 2006-2010 and extending to 2013.

2. Land Law

Article 25 seeks to identify which lands are those of indigenous communities. It provides that they are “lands where the said communities have established their residences and where they carry out traditional agriculture” and include “not only lands actually cultivated but also (...) reserve necessary for the shifting of cultivation” as per their traditional agricultural practice. In many cases where land is owned by the community and where traditional shifting cultivation is practiced, land may be left fallow for a number of years. Conflicts often arise because such land-use patterns are not recognized and there is an inclination towards the concept of individual property ownership and use.

As such, this article is particularly significant for its recognition that community lands include lands for shifting cultivation apart from residential and other agricultural lands. However the qualification in the provision that such lands should be those “recognized by the administrative authorities” weakens the provision immensely as it gives the administrative authorities the final say in demarcating land as belonging to a community. The third paragraph of the same article gives indigenous communities the right to assert their own claim for land necessary to register for collective title based on negotiations with neighbouring villages and authorities “according to the factual situation as asserted by the communities”. Communities can exercise the rights under this provision collectively or through their traditional authorities. Once boundaries are agreed upon, the Cadastral Department all coordinate with other authorities to verify a community’s claim and determine what lands to register for title.

Article 26 then goes on to provide for collective ownership to have “all the rights and protections of ownership as are enjoyed by private owners” except the right to “dispose of any collective ownership that is State public property to any person or group.” Article 26 then goes on to emphasize and recognize the role of traditional authorities, mechanisms and customs in decision-making and exercising the ownership rights of immovable properties of the community. In the event that an individual wants to leave the community, an adequate share has to be provided to her/him (article 27). However, a share that is allotted to such person cannot be from lands that fall under state public property. Read together with article 26, collective title may

be claimed even over state public property.

Article 28 reiterates the absolute right of indigenous highland peoples to immovable property stating that "No authority outside the community may acquire any rights to immovable properties belonging to an indigenous community".

3. Forestry Law

The Forestry Law came into force in August 2002 seeking to define "the framework for management, harvesting, use, development and preservation of the forests and to ensure the sustainable management of forests for their social, economic and environmental benefits, including conservation of biological diversity and cultural heritage. The Forestry Law came on the heels of the Statement of the Royal Government on National Forest Policy, an important policy document issued in 2002 which outlines the Government's commitment to conservation and sustainable management goals.

It is "one of the most important existing pieces of legislation that links to Community-Based Natural Resource Management(CBNRM) issues. This law contains important provisions on traditional use and access rights to forest resources, though these do not include management rights. More important are the provisions that allow for the creation and management of community forests, whereby communities are granted an area of the Permanent Forest Reserve to manage and derive benefits from".

Article 2 ensures traditional user rights of timber products and non-timber forest products for local communities. Article 4 is remarkable in its recognition of "full public participation in all government decisions that have the potential impact on concerned communities, livelihoods of local communities and forest resources". Forest management is under the jurisdiction of the Ministry of Agriculture, Forestry and Fisheries (MAFF) under which the Forest Administration (FA) is the government institution for implementing the management of forest and forest resources. One of the duties of the FA is to "assess boundaries, classify and demarcate forests in order to establish a land-use map of the Permanent Forest Estate in coordination with MLMUPC, local authorities and communities". This provision is significant for its mandating of coordination between the two governmental agencies as it would reduce competing interests between them which has happened in the past. Similar mandates within the law can be found also in other provisions and are improvements on the Land Law where such provisions are not specifically mentioned. The FA is also required under the law to "prepare a National Forest Management Plan (Example: Protected Forest Management Plans for Seima Protected Forest and Mondulkiri Protected Forest in Mondulkiri province) with broad public participation of all authorities and communities concerned".

4. Law on Environmental Protection and Natural Resource Management

The first Law on Environmental Protection and Natural Resources Management was prepared by the Ministry of Environment (MoE) from 1993 to 1995 and was passed by the National Assembly on 24 December 1996. In the legal hierarchy, the law is the supreme legal instrument governing environmental protection and natural resources management.²² However, the law is very general and does not specify anything in detail, except to set out some basic overall framework based on sustainable and natural resources management.

Among other things, the law provides for the formulation of a National and Regional

²² *Environment: ETAP Reference Guide Book*, p.491

Environmental Plan (article 2) for protection and sustainable natural resource management (article 3). The law requires that an environmental impact assessment be conducted for any projects, for which the procedures are to be determined by a sub-decree (article 6). The law defines natural resources of the Kingdom of Cambodia (i.e. land, water, air space, air, geology, ecological systems, mines, energy, petroleum and gas, rocks and sand, precious stones, forests and forest products, wildlife, fish and aquatic resources) and provides that they shall be conserved, developed, managed and used in a rational and sustainable manner. Activities related to the conservation, development, management or use of natural resources must be sustainable (article 10) and if it is found that such activities are not, then the MoE shall inform the concerned ministries undertaking the activities (article 11). In addition, the Law on Natural Protected Area, approved on 15 February 2008, is general and does not focus on advantages of indigenous peoples. But the key interesting point of the law (article 11, Chapter 4) is that it identifies management areas with four zones: core zone, conservation zone, sustainable use zone and community zone.

Annex 5: Rural poverty portal²³

1. Rural poverty in Cambodia

Although the Kingdom of Cambodia is rich in natural resources, decades of war and internal conflict have left it one of the world's poorest countries. The legacy of strife includes social and economic scars. Many millions of land mines were sowed throughout the countryside, where millions of them still lie, hidden and unexploded. Mines are an enduring menace to the eight out of ten Cambodians who live in rural areas, and they are an obstacle to agricultural development.

Cambodia's poor people number almost 4.8 million and 90 per cent of them are in rural areas. Most of them depend on agriculture for their livelihood, but at least 12 per cent of poor people are landless. Small-scale farmers practice agriculture at the subsistence level, using traditional methods. Productivity is low.

Two thirds of the country's 1.6 million rural households face seasonal food shortages each year. Rice alone accounts for as much as 30 per cent of household expenditures. Rural people are constantly looking for work or other income-generating activities, which are mainly temporary and poorly paid.

Landlessness is one of the causes of a strong trend of internal migration that is also driven by the pressures of rapid population growth and the desire to evade recurring floods and drought in lowland areas. People are moving from the more densely populated provinces in the south and west to the more sparsely populated provinces in the north-east, which include some of the country's poorest districts.

2. Who are Cambodia's poor rural people?

The country's poor people include subsistence farmers, members of poor fishing communities, landless people and rural youth, as well as internally displaced persons and mine victims. Tribal peoples and women are generally the most disadvantaged.

Women in particular do not have equal access to education, paid employment, land ownership and other property rights. For many women, reproductive health services are inadequate or non-existent. Many women had to assume the responsibility of heading their households after male family members were killed in conflict.

3. Where are they?

Poverty rates are highest in upland areas. The poorest people live in the districts close to the borders with Thailand and Laos in the north and north-east, and with Viet Nam in the east. Poverty is less severe in the districts around Tonle Sap Lake and those in the Mekong River basin in the south.

Cambodia's poorest people are isolated. They live in remote villages, far from basic social services and facilities. Many have to travel more than 5 km to reach a health clinic, and still others live more than 5 km from the nearest road.

4. Why are they poor?

The pressures of a fast-growing population contribute to poverty. Because of a lack of education and skills training, people have inadequate employment opportunities and low capabilities. They are insecure, excluded and vulnerable. They have limited access to natural resources. Poor health, lack of education, poor infrastructure and low

²³ <http://www.ruralpovertyportal.org/it>

productivity lead to deeper poverty. The cycle of poverty, ill health and high health care expenditure cripples poor Cambodian families economically.

Rural poverty and lack of opportunity in rural areas have contributed to the spread of HIV/AIDS, as young women migrate to urban factories and become sex workers in neighbouring countries. Although HIV prevalence rates have shown a decrease, the impact of the infection continues to be strong.

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