



NGO Position Papers on Cambodia's Development in 2007-08

**Monitoring the Implementation of
2007 CDCF Joint Monitoring Indicators
and the National Strategic Development Plan 2006-10**



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Preface

NGOs have been active in Cambodia since the fall of the Khmer Rouge in 1979. Once stability was achieved, from 1992 onwards, international donor-government assistance to support the reconstruction and development of Cambodia was restored. Initially, until 1995, only these organisations contributed to the annual International Committee on the Reconstruction of Cambodia (ICORC) meetings. However, since 1996, NGOs (initially international, but now only local organisations) have participated in the annual Consultative Group meetings that were replaced by meetings of the Cambodia Development Cooperation Forum (CDCF) in 2007. Each year, Cambodian local and international NGOs use this opportunity to present their detailed statements on issues and recommendations for the development of Cambodia as seen from the national and grassroots perspective.

This publication is a collation of information from local and international NGOs working in a wide variety of sectors in Cambodia. It presents their observations and recommendations regarding the progress made during 2007 and 2008 in terms of implementation of the National Strategic Development Plan (NSDP), achieving the Joint Monitoring Indicators (JMIs) and other development strategies.

Building on the day-to-day operations of many of these local and international NGOs working at Cambodia's grassroots level, these NGOs are able to make genuine observations of the impacts of development and bring the voice of these poor and vulnerable communities to the attention of decision makers.

The NGO community would therefore like to show their appreciation of their inclusion in the assessment process by sharing their observations and subsequent recommendations for each associated policy development. The NGO community strives to ensure its inputs are presented in a positive, supportive manner, and would like to incorporate shared ideas which will achieve poverty reduction within their own work agenda.

This publication, along with the NGO Statement to the 2008 CDCF, is intended to contribute to this policy dialogue and inform the discussions that will take place during the CDCF to be held in Phnom Penh from 3-5 December 2008. The NGO community in Cambodia hopes that this publication will be used as an important reference tool for all stakeholders, whether they are from NGOs, the Royal Government of Cambodia (RGC), donors or development agencies, working to reduce poverty in Cambodia.

Acknowledgements

The NGO sectoral and issues papers were prepared voluntarily by local and international NGOs, their network members and working groups. The development of this work would not be possible without the assistance of numerous individuals and organisations. Information presented in these papers is based on their experiences of development work in Cambodia. Drafting and editing of this publication and the NGO statement to the CDCF was coordinated by the Cooperation Committee for Cambodia (CCC), MEDiCAM, and the NGO Forum on Cambodia (NGOF).

The table of List of Contributors below only shows the organisations who took the lead in coordinating, collating and drafting each of the sectoral papers. CCC, MEDiCAM and NGO Forum would like to formally recognise the time, energy and input that was given by all contributors to the development of these papers and express our deepest appreciation to you all for your valuable inputs.

Introduction

The work of NGOs and civil society organizations (CSOs) in Cambodia spans a broad range of development issues and involves close engagement with Cambodians from all walks of life and socioeconomic status. The common ground of our organizations is the shared objective of advancing the position of poor and vulnerable groups in Cambodian society. Through our combined knowledge of the grassroots, civil society is well placed to assist the Government in its policymaking by sharing and providing valuable feedback and suggestions regarding development policy and implementation.

As in previous years, the NGO community has produced sectoral and issue papers on topics ranging from agriculture to good governance, to be submitted to the annual high-level Government-Donor meeting. This year, the NGO community has brought together 25 sectoral and issues papers, prepared by sectoral NGOs/groups with contributions from individual NGOs. In July 2008, sectoral NGOs/groups gathered to discuss the preparation of the statement. The groups agreed that the 2008 NGO Position Papers should focus on the monitoring of the JMIs, implementation of the NSDP 2006-2010 and also raise other critical issues, based on observation. These Position Papers also provide recommendations and case studies so as to be able to reflect on real events happening at ground level.

These papers present NGOs' views regarding the current situation of Cambodia's development, with the aim of providing constructive feedback on progress made on the implementation of the NSDP and JMIs since the meeting of the Cambodia Development Cooperation Forum in June 2007.

This publication serves as the background document to the "NGO Statement to the 2008 CDCF" which has been published separately and will be submitted, together with these Position Papers, to the CDCF meeting.

The NGO Statement to the 2008 CDCF identifies three priority issues – agriculture, land and natural resource management; good governance; and human development – sectors in which NGOs believe implementation of appropriate policies and reform programs have the potential to improve the lives of millions of poor and vulnerable Cambodians.

Acronyms and Abbreviations

AAA	Accra Agenda for Action
ACB	Anti-Corruption Body
ACL	Anti-Corruption Law
ADB	Asian Development Bank
AER	Aid Effectiveness Report
AFD	Agence Française de Développement
AGM	Annual General Assembly Meeting
AIDS	Acquired Immune Deficiency Syndrome
AIPO	ASEAN Inter-Parliamentary Organisation
ANC	Antenatal Care
APR	Annual Progress Report
ASEAN	Association of Southeast Asian Nations
ARV	Anti-Retro Viral
AusAID	Australian Agency for International Development
CBR	Community Based Rehabilitation
CC	Commune Council
CCC	Cooperation Committee for Cambodia
CCFiN	Cambodian Community Foundation Networks
CCSP	Commune Council Support Project
CD	Compact Disk
CDC	Council for the Development of Cambodia
CDCF	Cambodia Development Cooperation Forum
CDHS	Cambodia Demographic and Health Survey
CDP	Cambodian Defenders Project
CDRI	Cambodian Resource Development Institute
CEDAC	Centre d'Étude et de Développement Agricole Cambodgien
CED	Customs and Excise Department
CEPA	Culture and Environment Preservation Association
CF	Community Forestry
CFA	Community Finance Association
CFO	Community Finance Organisation
CG	Consultative Group
CHRAC	Cambodian Human Rights Action Committee
CMAA	Cambodian Mine Action and Victims Assistance Authority
CMAC	Cambodian Mine Action Center
CNDG	Cambodian Millennium Development Goals
CNCC	Cambodian National Council for Children
CNMC	Cambodia National Mekong Committee
CNPA	Cambodian National Petroleum Authority
CPI	Consumer Price Index
CPP	Cambodian People's Party
CoM	Council of Ministers
COMFREL	Committee for Free and Fair Elections in Cambodia
CRC	Convention on the Rights of the Child
CRPD&OP'	Convention on the Rights of Person with Disabilities and the Operation Protocol
CRRT	Cambodians for Resource Revenue Transparency
CSD	Center for Social Development
CSES	Cambodia Socio-Economic Survey
CSO	Civil Society Organisation
CU	Credit Union
CYD	Cambodia Youth Development
D&D	Decentralization and Deconcentration
DAC	Disability Action Council

DIP	Development Issues Programme
DPA	Development Partnership in Action
DPO	Disabled People's Organisations
DoLA	Department of Local Administration
DTWG	Donor Technical Working Group
ECCC	Extraordinary Chambers in the Court of Cambodia
ECCD	Early Childhood Care and Development
EDC	Electricity Du Cambodge
EDN	Economic Development Network
EFA	Education For All
EI	Extractive Industry
EIA	Environmental Impact Assessment
EIC	Economic Institute of Cambodia
EITI	Extractive Industries Transparency Initiative
ELC	Economic Land Concession
EMIS	Education Management Information System
EMO	Electric Monitoring Organisation
ERPA	Emissions Reduction Purchase Agreement
ERW	Explosive Remnant of War
ESIA	Environmental and Social Impact Assessment
ESP	Education Strategic Plan
FA	Forestry Administration
Fia	Fisheries Administration
FPCS	Family Planning Commodity Security
FSC	Forest Stewardship Council
FOI	Freedom of Information
FTI	Fast Track Initiative
FTA	Free Trade Agreement
G78	Group 78
GAD/C	Gender and Development for Cambodia
GDCC	Government Donor Coordinating Committee
GDP	Gross Domestic Product
GIS	Geographic Information System
GMO	Genetic Modified Organisms
GS-CLP	General Secretariat of the Council of Land Policy
H-A-R	Harmonization-Alignment-Result
HC	Health Centre
HEF	Health Equity Fund
HIV	Human Immunodeficiency Virus
HSP	Health Strategic Plan
HSSP	Health Sector Strategic Plan
IBRD	International Bank for Reconstruction and Development
ICMM	International Council on Mining and Metals
ICORC	International Committee on the Reconstruction of Cambodia
IEIA	Initial Environment Impact Assessment
IFSR	Independent Forest Sector Review
ILO	International Labour Organisation
IMC	Inter-Ministerial Committee
IMF	International Monetary Fund
IMR	Infant Mortality Rates
JMIs	Joint Monitoring Indicators
KCD	Khmer Community for Development
KHA	Khmer Heirs Association
KIND	Khmer Institute for National Development
KRDA	Khmer Rural Development Association
KSA	Khmer Students Association
KYA	Khmer Youth Association

KYSD	Khmer Youth and Social Development
LASED	Land Allocation for Social and Economic Development
LAND	Land Action Network for Development
LJR	Law and Justice Reform
LJRS	Law and Justice Reform Strategy
MAFF	Ministry of Agriculture, Forestry and Fisheries
MAG	Mine Action Group
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MDG	Millennium Development Goal
MEDiCAM	Membership Organisation for NGO Active in the Health Sector in Cambodia
MEF	Ministry of Economy and Finance
MFIs	Micro Finance Institutions
MNCH	Maternal Newborn and Child Health
MoC	Ministry of Commerce
MoD	Ministry of Defense
MoE	Ministry of Environment
MoE/ANCP	Ministry of Environment Administration of Nature Conservation and Protection
MoEYS	Ministry of Education Youth and Sports
MIME	Ministry of Industry, Mine and Energy
MoH	Ministry of Health
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoWA	Ministry of Women's Affairs
MPF	Mondulkiri Protected Forest
MPSP	Ministry of Planning Strategic Plan
MNCH	Maternal Newborn and Child Health
MoLVT	Ministry of Labour and Vocational Training
MoNASRI	Ministry of National Assembly Senate Relation and Inspection
MoP	Ministry of Planning
MoU	Memorandum of Understanding
MoSVY	Ministry of Social Welfare, Veterans and Youth Rehabilitation
MRC	Mekong River Commission
MRD	Ministry of Rural Development
MTR	Mid-Term Review
NAA	National Audit Authority
NA	National Assembly
NACD	National Authority for Combating Drugs
NARLD	National Authority for the Resolution of Land Disputes
NBC	National Bank of Cambodia
NCDD	National Committee for the Management of Decentralization and Deconcentration
NCDP	National Centre for Disabled People
NCFP	National Community Forestry Programme
NEC	National Election
NEP	NGO Education Partnership
NFP	National Forest Programme
NGO	Non-Governmental Organisation
NGOF	NGO Forum on Cambodia
NGOCRC	NGO Committee on the Rights of the Child
NICFEC	Neutral and Impartial Committee for Free and Fair Elections in Cambodia
NPD	Norwegian Petroleum Directorate
NPRS	National Poverty Reduction Strategy
NSDP	National Strategic Development Plan
NYP-NET	National Youth Policy Network

OD	Operation District
OECD	Organisation for Economic Cooperation and Development
ORT	Oral Rehydration Therapy
PA	Protected Area
PA/F	Protected Area and Protected Forest
PEC	Provincial Election Commission
PDRD	Provincial Department of Rural Development
PFMRP	Public Financial Management Reform Programme
PHD	Provincial Health Department
PIP	Public Investment Programme
PLAWD	People Living With Disabilities
PLUP	Participatory Land Use Planning
PNLWS	Phnom Nam Lyr Wildlife Sanctuary
PPRPD	Protection and Promotion of the Rights of People with Disabilities
PRGO	Poverty Reduction and Growth Operation
PRSP	Poverty Reduction Strategy Paper
PSD4	Project to Support Democratic Development through Decentralization and Deconcentration
PWD	People Living With Disability
RDB	Rural Development Bank
REDD	Reduced Emissions from Deforestation and Degradation
RH	Referral Hospital
RGC	Royal Government of Cambodia
RWSS	Rural Water Supply and Sanitation
SAD	Single Administrative Document
SCM	Supreme Council of Magistracy
SFMP	Strategic Forest Management Plan
SIA	Social Impact Assessment
SLC	Social Land Concession
SNEC	Supreme National Economic Council
SRI	System of Rice Intensification
SWOT	Strengths, Weaknesses, Opportunities, Threats
SWS	Snoul Wildlife Sanctuary
TEDN	Trade and Economic Development Network
TEDP	Trade and Economic Development Project
TOFE	Table of Operations Financial and Economic
TSBA	Tonle Sap Basin Authority
TWGAW	Technical Working Group on Agriculture and Water
TWG D&D	Technical Working Group on Decentralization and Deconcentration
TWG-F&E	Technical Working Group on Forestry and Environment
TWGFS	Technical Working Group on Food Security
TWGH	Technical Working Group on Health
TWG PFR	Technical Working Group on Public Financial Reform
TWG-PPR	Technical Working Group on Planning and Poverty Reduction
UK DFID	United Kingdom Department for International Development
UN	United Nations
UNDP	United Nations Development Programme
UN ESCAP	UN Economic Social Commission for Asia and the Pacific
UNICEF	United Nations Children Fund
USAID	United States Agency for International Development
VAT	Value Added Tax
VOA	Voice Of America
VSO	Volunteer Service Oversea
WB	World Bank
WCD	World Commission on Dams

WGPD	Working Group on Partnership in Decentralization
WHO	World Health Organisation
WTO	World Trade Organisation
WVC	World Vision Cambodia
WWD	Women with Disabilities
YCC	Youth Council of Cambodia
YFP	Youth for Peace
YRDP	Youth Resource Development Programme

List of Contributors

No	Sectoral Papers	Contributors
1	Access to Information Policy Framework	Freedom of Information Working Group / Advocacy and Policy Institute (API)
2	Agriculture Development and Irrigation & Water Management	Centre d'Étude et de Développement Agricole Cambodgien (CEDAC)
3	Child Rights	NGO Committee on the Rights of the Child (NGOCRC)
4	Combat Corruption	Coalition of Civil Society Organisations against Corruption/PACT Cambodia
5	Community Financial Sector	Cambodia Community Foundation Network (CCFiN)
6	Decentralization & Deconcentration Reforms	Working Group on Partnership in Decentralization (WGPD)/ Commune Council Support Project (CCSP) / PACT Cambodia
7	Disability and Development	Disability Action Council (DAC) and Handicap International – France
8	Donor Harmonization and Aid Effectiveness	Aid Effectiveness Forum / NGO Forum on Cambodia and Cooperation Committee for Cambodia (CCC)
9	Education	NGO Education Partnership (NEP)
10	Election Reform and Democracy	Committee for Free and Fair Elections in Cambodia (COMFREL)
11	Employment and Working Conditions	World Vision Cambodia (WVC)
12	Environmental and Social Impacts of Expansion of the Extractive Industries Sector	Land and Livelihoods Programme / The NGO Forum on Cambodia
13	Fisheries Issues	Fisheries Action Coalition Team (FACT)
14	Forests, Plantations and Concessions	Forestry and Plantation Network / NGO Forum on Cambodia
15	Gender Equality in Poverty Reduction	Gender and Development for Cambodia (GAD/C) and Gender Network / NGO Forum on Cambodia
16	Health	MEDiCAM
17	Hydropower Development	River Coalition in Cambodia / The NGO Forum on Cambodia
18	Land Reform	Land Action Network for Development (LAND) / The NGO Forum on Cambodia
19	Legal and Judicial Reform	Cambodian Human Rights Action Committee (CHRAC)
20	Management of the National Petroleum Sector	Cambodians for Resource Revenue Transparency (CRRT)
21	National Youth Policy	National Youth Policy Network (NYP-NET)
22	NSDP and Its Implementation	Development Policy Project / The NGO Forum on Cambodia
23	NSDP Financing	National Budget Project / The NGO Forum on Cambodia
24	Rising Food Prices: Impacts – Opportunities – Challenges	Trade and Economic Development Network (TEDN) / The NGO Forum on Cambodia
25	Rural Water Supply and Sanitation	Development and Partnership in Action (DPA)

Good Governance

Combat Corruption

Introduction

Since the Consultative Group (CG) meeting in December 2004, when the anti-corruption Joint Monitoring Indicators (JMIs) were developed, civil society, especially through the Coalition of Civil Society Organisations against Corruption which has been growing and now consists of close to 50 major international, national, and provincial NGOs, have closely monitored the implementation by the Government of these JMIs on an annual basis. The Coalition meets several times a year for regular updates on possible development of the Anti-Corruption Law (ACL) legislative process, to discuss different advocacy approaches, and to take action. These approaches have included: writing and submitting position papers to and/or seeking meetings with the Royal Government of Cambodia (RGC) and/or the Parliament to express their position towards corruption issues and particularly to the development of the draft anti-corruption Law; taking the lead on the "Clean Hand Symbolic Treaties"; providing public awareness raising on corruption such as speaking up through the media about corruption issues and the ACL; holding dozens of public forums and meetings on corruption issues and the ACL; and implementing dozens of anti-corruption initiatives all across the country.

Civil society has been playing an active role in public awareness raising around the issues of the impact of corruption, forms of corruption, and measures to prevent corruption etc. all around the country. One of the major highlights of the Coalition's activities has been the well-known Million Signature Campaign that started in December 2007. This aims to collect at least a million signatures in support of the demand for the immediate passage of an anti-corruption law that meets international standard without any further delay, and to expand the outreach of public awareness on the cost and impact of corruption to local communities all across the country.

Some progress has been made, especially on the public awareness raising around how corruption affects people's daily life and what is the impact on the society as a whole at present and in the future, which has been done mainly by the civil society. It remains a deep concern that, since 2006, there has been no further progress on development of the anti-corruption draft law. This lack of progress does not seem to be based on acceptable reasons, rather on a lack of interest on the part of the RGC in following through on its JMI commitments. The explanation by the RGC that the ACL should follow the Criminal Procedure Codes and then the Criminal Code respectively, about which experts do not see serious technical linkage, strongly cast doubt on the RGC's real political will to move forward on the ACL.

Joint Monitoring Indicators

The relevant JMIs for this sector are as follows:

Target	Actions Needed	Responsible Government Institution	Concerned TWG
17. Combat corruption	1. Finalize and approve Anti-Corruption Law, based on best international practices	Ministry of National Assembly	LJR-TWG
	2. Prepare an implementation plan to enforce and manage the implementation of the Anti-Corruption Law	Senate Relations and	

	<p>3. Disseminate information on reported cases on corruption and conviction on semi-annual basis</p>	<p>Inspection (MoNASRI) Council of Ministers (COM)</p>	
	<p>4. Develop a clear policy framework on Access to Information</p>		

NGOs have the following comments to make on the above **JMIs**:

JMI 17.1: Finalizing and approving the Anti-Corruption Law

After missing the deadlines of 2005 and then June 2006 for the finalization and approval of the draft ACL, to date, there has been no progress at all in the legislation process. NGOs have learned that the draft ACL has been sitting on the desk of the Council of Ministers (CoM) ever since September 2006 after it had been reviewed by the Ministry of National Assembly - Senate Relation and Inspection (MoNASRI) in cooperation with the Ministry of Justice (MoJ), particularly to ensure that it was consistent with the Penal Procedure Code. However, there has been no report on any further progress, neither on the process nor on the content of the draft, which is seen as still below international standard.

During the pre-general election period, the Coalition of Civil Society Organisations against Corruption made efforts to meet with the RGC. They attempted to hand over the petitions with over 1 million signatures demanding the immediate passage of the Anti-Corruption Law that meets international best practices, and to express their opinion and concern about the delay in the ACL legislation process. Unfortunately, they were never given the opportunity by the RGC to do so with many excuses one after another. In June 2008 the Coalition wrote to all the eleven political parties competing in the general election, asking them to promise that, if they win the election, they would pass the ACL within six months of the formation of the new Government. The ruling party was the only one that failed to reply in writing to the Coalition.

Encouragingly, a senior member of the ruling party that won the election, stated at least three times in his interviews with the media, prior to the election taking place (two times in the *Cambodia Daily* and once on Voice of America (VOA) radio) that his party would definitely pass the anti-corruption law by the end of 2008, since it was one of the priorities in the party's platform. Further more, in August, at a post-election press conference, a Government spokesperson announced that the draft Penal Code was ready for the submission to the National Assembly and it would be immediately followed by the draft ACL as soon as the new Government was formed in September.

If the RGC is really serious in its announcement on the ACL, it would be applauded by civil society and hopefully other stakeholders as well. However, more remains to be done before the draft can be sent to the National Assembly. The current draft still does not meet the international standard to which the RGC agreed with donors at the CG meeting in 2004. Although NGOs have been allowed for the first time to be partly involved in such a crucial legislation process, many NGO comments or suggestions that have been made repeatedly ever since 2005, have not been seen to be incorporated into the draft and, as a result, the draft falls short of the international standard. NGOs have learned that a Government official told a donor member early September that there had not been any change to the current draft of the ACL. This could make the seriousness of the Government's announcement questionable and/or the Government would just go ahead with the current draft without reviewing it to bring it to international best practices. Outstanding issues related to the ACL are: independence of the Anti-Corruption Body (ACB) to be established under the ACL; the procedures on asset declaration and how it is used; and the lack of witness/whistle-blower protection. These issues have neither been addressed nor reviewed to allow the law to be brought up to international best practices, and therefore constitutes a major concern for NGOs.

JMI 17.2: Implementation plan for the Anti Corruption Law

MoNASRI, assisted by UNDP, brought in two overseas experts in March 2007 to help in drafting the ACL implementation plan. This involved developing practical steps for the full operational set-up of the ACB (to be established under the ACL), including planning for the operation and support of the ACB's staff and their training, office equipment, formulation of a budget for initial set-up, and operational costs. According to the UNDP consultants, the Plan suggested mechanisms necessary for implementing a three-pronged anti-corruption measures (on education, prevention and investigation). It was stated last year by MoNASRI that the draft implementation plan would be translated into Khmer and then submitted to the CoM for review and approval as soon as it was completed. However, to date, there is no information available on whether the draft has been submitted to the CoM and already approved or it is still at the MoNASRI. Without this information, it is impossible for NGOs to say whether this JMI has been completed or not.

JMI 17.3: Dissemination of information on reported cases

NGOs acknowledge the RGC's attempts early last year to report a few corruption cases involving public officials. However, since then there has been no more reports by the Government on any cases. Corruption reports in the media on cases in which public officials were allegedly involved have sharply increased, as can be seen in the monthly publication called "Corruption Monitor" produced by PACT Cambodia. NGOs have observed that in this reporting period, this indicator has been missed even further compared with the previous period when reporting was not considered as carried out systematically and in a structured way. It has been observed also that serious actions such as court conviction of corruption cases remain selective or limited to within certain political considerations. Ideally, corruption cases should be brought against all offending actors, no matter their political affiliation, in order to increase public confidence in the RGC's anti-corruption strategy and to ensure that all potential offenders are fearful of being caught. Generally, the few actions taken by the rehabilitated Anti-Corruption Unit under the CoM to crack down on what it claims "Corruption" were seen as selective acts and/or a one-off activity without a serious follow-up. Anyway, tracking of these cases has been lost owing to lack of systematic reporting.

JMI 17.4: Develop a clear policy framework on Access to Information

Civil society congratulated the RGC's MoNASRI for taking action in the drafting of an Access to Information Policy Paper which will be the foundation of a future Access to Information Law, despite a delay in the previous period. NGOs appreciate that the development of the draft Policy Paper was conducted in a participatory approach with consultation among different stakeholders including NGOs, and that the draft is a good document. However, since the draft Freedom of Information (FOI) Policy Paper was completed by MoNASRI in August 2007, there has been no further progress reported. As of today, it remains unknown whether draft FOI Policy Paper has been submitted to the Council of Ministers or it is still at the MoNASRI. The NGO FOI Working Group sent a letter to MoNASRI in April 2008 to enquire about the status of the Policy Paper, but the MoNASRI has never replied. This has led to the assumption that the Policy Paper is still with the MoNASRI and has never gone to the Council of Ministers. Therefore it becomes questionable again about the real political will of the Government to move forward with the Access to Information legal framework. Civil society would therefore like to call on the Government to take the issue seriously by finalizing and approving the draft FOI Policy Paper, which is seen by civil society as well as international experts as a very good paper, as soon as possible.

Key Actions/Strategies from the NSDP

The relevant sections of the National Strategic Development Plan (NSDP) for this sector are as follows:

Section	Message
4.11	"Reduce corruption significantly by 2010."
4.11	"Strengthen education, publication, and dissemination of legal and related material"
4.09	"Good governance is the most important pre-condition for achieving sustainable socio-economic development with equity, equal opportunity, and social justice. It needs wide participation, sharing of information, openness and transparency, accountability, equality, inclusiveness, and strict rule of law."

4.11: Reducing corruption

NGOs have noticed a few actions that have been taken by the RGC as apparently a move to address corruption-related acts. However, these have not been clearly presented as actions to curb corruption, nor have they been reported on sufficiently, openly, and systematically to the public. It remains unclear what is going on in terms of initially reported cases of corruption, what has happened to the people involved, and what might be the next steps. Apart from a few measures at the national level such as guidelines on public procurement, which is only applied to certain cases, no other serious measures have been developed or introduced to prevent corruption. As reflected in the report on the performance of the Municipal/Provincial/Communal Accountability Funds Working Group, the accountability monitoring mechanism set up at the commune level as a tool to track the use of the Communal Funds, has not proved to be effective. This is for a number of reasons including how complaints and complaint boxes are handled. Based on this and on close monitoring, NGOs feel that corruption has so far not been reduced, and that it will not be reduced significantly by 2010 as targeted, unless the RGC shows real political will to address the issue. The result of a recent survey by Transparency International in which Cambodia was ranked 166th out of 179 countries with a score of 1.8, compared with a score of 2 in 207, suggests that corruption in Cambodia worsened since the previous index was produced. Therefore, NGOs would like to urge the RGC to do the following:

- Finalize and approve the draft ACL to meet international standards as set up under the JMIs for the CG meeting of December 2004 and carried over to the previous CDCF.
- On a temporary basis, go after corruption cases, using the existing mechanism, and then report on these cases systematically to the public.

4.11: Strengthening education

It is observed by NGOs that no substantial actions have been taken so far by the RGC towards this target. Public education/awareness campaigns on anti-corruption tend to be organized largely by non-governmental actors; these are sometimes even challenged by local authorities. It is, therefore, strongly recommended by NGOs that the RGC take the following actions:

- Allocate resources and develop a clear plan of action towards achieving the goal of public education and awareness on anti-corruption.
- Given that the RGC has limited resources and that partnership with non-governmental sectors is important, consider and approve a joint effort by means of which both the RGC and NGOs can work together and support each other towards the common goal.

4.09: Good governance

While appreciating the RGC's principles on good governance as presented in the NSDP, NGOs have observed that reforms in these four areas are very slow, and some do not seem to have made any progress at all. NGOs would like to urge that the RGC set up a stronger mechanism to expedite this process. With regard to wide participation, sharing of information, openness, and transparency, which fall within good governance, NGOs

would like to recommend strongly that the RGC move fast with JMI 17.4 by developing and approving a clear policy framework on access to information, to be followed by the development of a Freedom of Information Law at a later stage.

Recommendations

Recommendations to the Royal Government of Cambodia

- The RGC should not delay any further the finalization of the draft ACL. Now that the draft Penal Code is completed by the Government and is expected to be passed by the National Assembly shortly, as announced by the Government's spokesperson at a press conference, there should be no more reason for any further delay to the passage of the ACL.
- The draft ACL needs to be reviewed and improved to ensure that it meets international standards before it is submitted to the National Assembly (NA) for enactment. The RGC should accept recommendations made by NGOs and donors on this point and incorporate these into the draft ACL in order for it to meet international best practices and for it to be acceptable to the public. A failure to do so could be perceived as non-participation by the public, since NGOs work closely with the people of different backgrounds and represent different communities. NGOs have noticed that only various words need to be changed in the draft law for it to be brought up to international standards. This should not be a serious challenge as long as the RGC has the political will to do it.
- While appreciating the fact that steps have been taken toward JMI 17.2, despite some delays, NGOs would like to recommend strongly that the draft implementation plan be shared and discussed with as many stakeholders as possible before it is officially approved, especially with NGOs. The draft implementation plan should be designed strictly as a tool for enforcement and implementation of the ACL, once it is passed. Therefore, it should be designed in such a way as not to cause any problems related to the principle of adopting international best practices in the ACL.
- The RGC should develop a systematic mechanism of reporting by which it will report regularly to the NA and the public on progress made in the fight against corruption. Actions against corruption must be taken systematically and regularly. Data to be reported through a public information mechanism should include (but not necessarily be limited to): number of corruption investigations conducted; number of arrests; number of administrative actions taken; number of convictions and/or administrative dismissals; length of administrative suspension or sentence of convicted criminals; and estimated monetary impact of the crime committed.
- The RGC should finalize and approve the Policy Paper on Freedom of Information and then further actions be taken to develop a Freedom of Information Law by the end of 2009.

Recommendations to the Development Partners

The development partners should continue to be unified to hold the Government more seriously accountable to its promise and obligation as reflected in the agreement with international donor community ever since the CG meeting in 2004 with regard to the following outstanding issues:

- Finalizing the draft ACL and pass it to the NA for debate and adoption.

- If it has to follow the passage of the Penal Code, then the same mechanism and procedures should be used so that the Penal Code can be passed as quickly as the passage of the Criminal Procedure Codes. This will enable the ACL to follow without much more delay.
- Pending the passage of the Criminal Code, donors should get the Government to review the current draft of the ACL to bring it up to international standard, taking into consideration comments and recommendations by civil society.

- Donors should strongly recommend to the Government that, before the ALC is passed, and even after it is passed but when the operational mechanism has yet been in place, the Government should strictly use the existing mechanism to track and prosecute any exposed corruption acts and report systematically to the public.

- Donors should press for the expedition and finalization of the Implementation Plan to be ready before the eventual passage of the ACL.

- Donors should also get the Government to move further with establishment of the legal framework for Access to Information.

- Donors should show strong support to the civil society's position and encourage a constructive partnership between the Government and civil society particularly on the anti-corruption front.

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Access to Information Policy Framework

Introduction

Access to information is a necessary component in fostering a culture of human rights and increasing democratic space throughout Cambodia. It allows people to acquire Government held information and for the Government to operate with more transparency. The Access to Information Policy Framework is fundamental to guide and support Government institutions as they draft a Rights Access to Information Law to an international standard. A Rights Access to Information Law is crucial to pave the way to promote transparency and accountability in the Government and to reduce corruption. Such a law would help to encourage trust and confidence between the Government and Cambodian people. It would empower and encourage more people to engage with the political and development process and enable the Government to become increasingly approachable and sustainable. This Law is instrumental in safeguarding democratic growth and maintaining development.

The Freedom of Information Working Group, which was formed in 2003 with eighteen national and international organisations, has cooperated with MoNASRI to produce the Rights Access to Information Policy Framework and has been working with the eleven political parties to integrate the access to information concept into their political platforms. While some progress has been observed in the development of the Policy Framework there have not been any steps forward towards its approval even though access to information is a part of the Anti-Corruption JMIs.

Civil society organisations, appreciate the opportunity offered by the Cambodia Development Cooperation Forum, to share their observations and concerns as outlined below.

Joint Monitoring Indicators

The relevant joint monitoring indicator for this sector is as follows:

Target	Actions needed	Responsible Government Institutions	Relevant TWG
17. Access to Information	4 Develop a clear policy framework on Access to Information	MoNASRI, CoM	TWG-LJR

JMI 17.4: Develop a clear policy framework on Access to Information.

A Rights to Access to Information Policy Framework has been drafted through the cooperation of MoNASRI and Freedom of Information Working Group. NGOs appreciate that the drafting of this valuable Policy Framework was conducted in a participatory manner through consultation with various stakeholders and NGOs recognise that the RGC intends at some stage to approve on this policy framework. However, it is noted that, to date this draft remains with MoNASRI. The Freedom of Information Working Group sent a letter to MoNASRI on 7 July 2008 enquiring about the status of the Policy Framework and received a phone call acknowledgement and information that the Framework still required to be reviewed by the technical group. As yet there has not been any indication when the Framework will be submitted to the CoM for approval. It becomes questionable if there is any real political will in the Government to move forward with this Access to Information Legal Framework. There is also a very real concern that key principles in the Framework will be altered or excluded resulting in a final law that is not consistent with international standards.

Key Actions/Strategies from NSDP

Section	Message
4.02	Protection of individual and human rights, including full freedom of expression.
4.09	Good governance is the most important pre-condition for achieving sustainable socio-economic development with equity, equal opportunity and social justice. It needs wide participation, sharing of information, openness and transparency, accountability, equality, inclusiveness and strict rule of law

4.02: Protection of individual and human rights

Throughout 2008 the Freedom of Information Working Group conducted consultative meetings on Access to Information in the provinces and discovered that many hundreds of participants at the meetings did not know about crucial government information about their livelihoods or were unable to access this information. Communities have started to call for mechanisms to access public information and for the approval of the Access to information Policy Framework. Communities and NGOs realise that the lack of access to information threatens people's livelihoods and wellbeing.

4.09: Good governance

NGOs appreciate the Royal Government of Cambodia's stated commitment to good governance as portrayed in the NSDP. However, unfortunately, it has been observed that certain reforms are incredibly slow while others remain static. The 2007 report, 'Cambodian Human Development' by the Ministry of Planning and UNDP states: *"...especially important is the need for much greater transparency, equal access to relevant information, and genuine participation by rural people and communities in land-related decisions that affect their livelihood, security and well-being"*. Through provincial consultative meetings and commune assessments, the Freedom of Information Working Group has identified what appears to be serious information mismanagement in rural areas. There is evidence of the deliberate withholding of information from and by such bodies as the public administrative service and there is no uniformity in the administration of such vital papers as birth and marriage certificates, vehicle number plates and land titles. People are being overcharged while different prices apply in different geographical areas. Such inconsistencies are also affecting public health services.

Additionally, information on public procurement is scanty and conflicting, and Land Concession agreements are not transparent; information is not available. However, people would like to know about Government land agreements (length of lease, use of land, etc) and are concerned about the effects of the Government agreements on their community's. These agreements are of vital importance as they particularly affect rural areas and the people living there. The provincial consultative meetings and commune assessments have also come to understand that, while it is despicable that this information is being withheld from poor people unable to understand their rights, some information is also unavailable to commune councillors who should be in the position to help them.

Recommendations

Recommendations to the Royal Government of Cambodia

- NGOs urge MoNASRI to submit The Rights to Access to Information Policy Framework consistent with international standards to the CoM as soon as possible.

- NGOs ask that a draft of the Rights to Access to Information Policy Framework is approved and circulated to the designated ministry to draft a law in order to strengthen the civic engagement and set this step towards increased transparency.
- The Government publishes (and makes publicly accessible) information about Cambodia's existing laws, sub-decrees, regulations and land concessions and gives an indication of their importance/relevance to the Cambodian people.
- A joint Government and NGO working party is convened to formulate strategies, procedures and mechanisms enabling effective implementation of the Rights Access to Information Law once it is enacted.

Recommendations to development partners

- Allocate resources to promote people's awareness of their right to access to public information and the need for a law in Cambodia to endorse this in order to broaden transparency and accountability.
- Encourage their partners to focus and integrate access to public information concepts into their projects/programmes as a cross-cutting issue.

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Legal and Judicial Framework

Introduction

The Cambodian Human Rights Action Committee (CHRAC) is a coalition of 21 NGO members working in Cambodia and promoting respect for human rights. CHRAC is interested in monitoring the legal and judicial framework that is being implemented by the RGC. Legal and judicial issues are very significant in ensuring proper functioning of the rule of law and respect for human rights in Cambodia. CHRAC, in collaboration with other NGOs, is working on these issues very closely by monitoring the progress as specified in the Action Needed for the JMIs and also in the NSDP.

For details regarding comments made on these issues below, please contact CHRAC's contact persons as listed in the last page of this statement.

Joint Monitoring Indicators

The relevant joint monitoring indicator for this sector is as follows:

Target	Actions Needed	Responsible government Institution	Concerned TWG
16. Establish a well functioning, transparent and accountable legal and judicial system that protects individual rights as defined in the Constitution	<p>1. LJRS Strategic Objective 2. Complete the drafting and approval of the remaining fundamental Laws (Penal Procedure Code, Penal Code, Civil Code, Law on the Statute of the Judges, Law on Court Organisation and Functioning, Law on the Amendment of the Law on the Organisation and Functioning of the Supreme Council of the Magistracy).</p> <p>2. LJRS Strategic Objectives 2 & 7. Review and finalise guidelines for the legislative drafting process that draws on lessons from past experience. Guidelines should seek to inform externally mobilised Technical Assistance (TA), with an emphasis on building the capacity and ownership of the relevant Ministry's legal unit.</p> <p>3. LJRS Strategic Objectives 7 & 4. Ongoing training and transparent selection of judicial professionals to improve the supply of judicial services and the functioning of the courts.</p>	MoJ Leads	LJR-TWG

JMI 16.1: Complete the drafting and approval of the remaining fundamental laws

Penal Procedure Code: This has already been approved by the National Assembly of the third legislature and the code has been put into force. According to observations made by NGOs working in this relevant field, they have found that capacity building and awareness raising on this fundamental law amongst legal enforcement officials still remains limited.

Penal Code: This has not been passed by the NA and the state of progress of the draft penal code is now in the CoM. The jurist council of the CoM with the participation of legal officials from such as Ministry of Justice (MoJ) is holding a technical meeting one day per week to discuss this draft penal code. The progress of discussion is that 230 articles of the code has been discussed and generally accepted by the technical meeting. There is no clear plan on when the technical meeting will finish their discussions. The proposed process is that when the technical meeting in the CoM has finished their task, the draft code will be discussed at the inter-ministerial meeting and then finally submitted to the meeting of CoM for final discussion and approval.

Civil Procedure Code: This has already been adopted by the NA of the third legislature and put into force. Regarding awareness raisings of this fundamental law amongst legal enforcement officials, as for the penal procedure code, this still remains limited.

Law on the Statute of Judges: This draft law is still in the Office of CoM. The draft law has been reviewed by the CoM's jurist council. For the current status of the draft law, due to the existence of the political decision of the new government that the office of prosecution will put under the guidance of MoJ and Judges, of course, put under the guidance of Supreme Council of Magistracy (SCM) as usual. With this political decision, the Deputy Prime Minister/Minister of Council of Ministers and as Chairman of Legal and Judicial Reform Council, has created another small team of legal experts to further review of the draft law so as to harmonize it with the political decision. This draft law will be put into the inter-ministerial meeting soon and then to the CoM for adoption.

Law on the organisation and functioning of court: At present, there is still no progress on this draft law. So far, it has remained with the responsible governmental institution namely MoJ. The main reasons that the draft law remains with the MoJ is because of MoJ's Technical Working Group have not finalized their tough deliberation on technical aspects regarding the establishments of expertise courts or called chambers e.g. Labour Chamber and Commercial Chamber. At present, there is no clear plan as to when the draft law will be ready to be submitted to CoM.

Law on the Amendment of law on the organisation and functioning of Supreme Council of Magistracy: There is also no progress on this important draft law. To date, this draft law remains with the MoJ. With the current new government, there is consideration that the secretariat of the SCM will be put under the inspection of Inspection Department of MoJ. To some degree, there is political consideration on this aspect and therefore, with this trend, it is expected that this draft law will be able to be sent to the CoM in the near future to continue proceedings. Civil society organisations especially those who work in the field of legal and judicial aspects, are looking forward to seeing the progress on this draft law because under this law the SCM is the national institution responsible for strictly monitoring the conducts of all Judges and Prosecutors in performing their judicial tasks, to monitor judicial systems, and to respond to all kinds of complaints such as corruption and any other irregularity in courts.

JMI 16.2: Review and finalize guidelines for legislative drafting process

The draft guideline is currently at the CoM. The Jurist Council of CoM is going to finalize soon the discussion of the draft guidelines and will submit this to the inter-ministerial meeting under the presidency of HE. Sok An, Deputy Prime Minister and Minister of CoM. According to a Legal Expert Official of CoM, it is clearly expected that the draft guideline will be adopted by a CoM meeting in the beginning of the new mandate. Guidelines for legislative drafting process will be considered as instrumental practice direction and generally implemented by legal unit of every governmental institution for purpose of legislative process.

JMI 16.3: Ongoing training and transparent selection of judicial professionals to improve the supply of judicial services and functioning of the courts

With its clear political will for the reform of judiciaries, the RGC has established a Royal Academy of Judicial Professions; an opening opportunity for those who have legal education background to sit for annual examination for the pursuit of their skills/specialization trainings to become judge, prosecutors and other court officials.

Since its establishment, the Royal Academy has been running a programme of four training promotions. The training promotions and student judges are presented as follows:

- Promotion one: 55 graduated student judges
- Promotion two: 55 graduated student judges
- Promotion three: 63 student judges are doing internship in various judicial institutions
- Promotion four: 63 student judges are studying theories

The process of progression within these promotions is that: graduated student judges of promotion one and two have taken oaths recently and started their jobs in judicial institutions; student judges of promotion three are doing their internship in various judicial institutions; and for the student judges of promotion four are studying legal and judicial theories. Furthermore, within the framework of Royal Academy of Judicial Profession and with the aim of improvement of justice services for people, the government has additionally established other schools of judicial specialties such as:

- School of Bailiff
- School of Notary
- School of Clerk
- School of Lawyer (formerly under the guidance of Cambodian Bar Association).

To oversee progression process with these schools of specialties, the government has just appointed the leaderships of schools of Bailiff, Clerk and of Notary. For the school of Lawyer, the government has reformed this by transforming the Lawyer Training Centre of Cambodian Bar Association to be the School of Lawyer which is part of Royal Academy.

Recommendations

JMI 16.1: Complete the drafting and approval of the remaining fundamental laws:

- The government must continue to increase a wider range of publication and dissemination on the basic skill knowledge on these new **Penal Procedure Code and Civil Procedure Code and including the new civil code** to ensure that the Cambodian general public and especially legal enforcement officials are able to apply and enforce these laws properly and effectively.
- Although, there has been some progress on these two laws: **Law on the Statute of Judges** and the **Law on the organisation and functioning of the court**, there is still a need for the government to accelerate the adoption of these two laws to ensure the effectiveness, impartiality, competence and independence of the courts throughout Cambodia.
- To ensure the independent functioning of the judiciary and to punish judicial officials who commit wrongdoings, the government must accelerate the adoption of **Law on the Amendment of law on the organisation and functioning of Supreme Council of Magistracy**. On the other hand, with the current legislative process, the government should not be willing to put the secretariat of SCM to be under the inspection of Inspection Department of Ministry of Justice. The government should facilitate that the SCM will stay independence with its own autonomous budget package.

JMI 16.2: Review and finalize guidelines for legislative drafting process:

- It is fair to applaud the government in its commitment to finalize in the near future the **Guidelines for Legislative Drafting Process** so that each legal unit of all governmental ministries will have guidelines in place and they will receive capacity building on the due process for legislative drafting as well. It is expected that the guidelines will be approved by the council of ministers in the beginning of 2009.

JMI 16.3: Ongoing training and transparent selection of judicial professionals to improve the supply of judicial services and functioning of the courts:

- With current efforts through the establishment of Royal Academy of Judicial Profession, the government must continue the facilitation, further encouragement and widening of opportunities for all persons with legal backgrounds both from provinces and in Phnom Penh to have their education continued in legal and judicial skills at the Royal Academy of Judicial Professions. In addition, the government should provide sufficient scholarships to those poor students with legal education backgrounds and who passed the admission examination to pursue their legal education in this Royal Academy.
- The government must keep fighting against all forms of corruptions or any other irregularities occurred during the selection of persons with legal backgrounds for their further education in the Royal Academy of Judicial profession and during the selections of judicial professionals to serve in judicial services in the judicial institutions.

Key Actions/Strategies from the NSDP

Section	Message
4.13	"With considerable progress so far, it is evident that the RGC is committed to accelerate legal and judicial reforms which are clearly considered as crucial elements in its Political Platform ... "

4.13: Not so much progresses have been observed for the implementation of key actions specified under NSDP. Examples are: the eight key laws have not all been passed; the planned establishments of specialized courts e.g. Labour tribunal, Commercial tribunal, Administrative tribunal and Juvenile tribunal have not yet been achieved; and some laws for establishment of these specialized courts are still in the process of drafting. It is hard to see the activities of government in carrying out a programme to increase community awareness about their rights and freedom. It is visible that the government has established mechanisms for conflict resolution outside of the courts. This can especially be seen in responses to the current widespread land issues. The government's response was to create the National Authority for the Resolution of Land Disputes, but it is fair to report that the land mechanisms are not working effectively due to the facts that the land issues remain and are happening countrywide.

Recommendations

- The RGC should ensure the independency of Judicial Power by adopting as soon as possible all of the eight key laws which were agreed upon between the Cambodian government itself and donor countries.
- As soon as possible, the government should create and get the relevant laws which will be used as a basis for the establishment of specialized courts passed as soon as possible. For example, Commercial and Labour courts which are the

requirements of World Trade Organisation (WTO) in which Cambodia is a country member.

- The government should visibly conduct the awareness raising programmes related to rights and freedom. If such a programme cannot be implemented on the ground, it can be done widely on both government's and private sectors' electronic media.
- The government should improve the quality of works of land dispute resolution mechanisms and give them clear competencies so that they will not overlap their authorities.

Important Issues not covered by JMIs and NSDP

NGOs appreciate the many sections raised in the NSDP. However, we are concerned about some other interesting issues which are not covered by the JMIs and NSDP. Two main issues which are notified as important for consideration by the RGC:

- The government and donor communities should ensure the smooth functioning of the Extraordinary Chambers in the Court of Cambodia (ECCC) which is being supported by UN, to go forward for proper justice for Cambodian people for the crimes committed during the Democratic Kampuchea regime (17 April 1975 to 6 January 1979). Currently, ECCC is not moving forwards smoothly due to financial insufficiency. In addition, the court is generally known most often on commission of corruption by Cambodia side.
- As part of legal and judicial reforms, in the long run, establishment or enlargement of appeal courts is needed for interests of justice and case resolution speeding up for all parties.

Recommendations

- The Government should, by all possible means, help the ECCC to move forwards smoothly without any disruption especially as a result of financial issues.
- The government should help the court's administration office to fight against corruption which is disrupting the court operations in seeking justice and creates mistrusts amongst donor communities who provide financially support.
- In the short-term, NGOs urge for an increase in the number of judicial officials in the Appeal Court as part of the legal and judicial reforms.

Keys issues for Disability sector about Governance / Legislation

Achievements

The RGC signed the UN Convention on the Rights of Persons with Disability and the Optional Protocol ('the CRPD & OP') in October 2007.

In 2007 the RGC provided the final draft *Law on The Protection and Promotion of the Rights of People with disabilities* ('the PPRPD'), to the National Assembly for voting into national law.

The Domestic Education Law, inclusive of children with disabilities, was passed in 2007.

The Ministry of Social Welfare, Veterans & Youth Rehabilitation (MoSVY) agreed to ensure non-discrimination of people with disabilities in the recruitment of civil servants by reviewing application of Common Statute of Civil Servants Chap. II Article 11; 5.

Recommendations

The RGC having taken the initiative with the CRPD & OP is now encouraged to work

towards the full ratification of both.

The RGC is encouraged to bring into law the PRRPD and to fully implement the Education Law.

In view of the impending domestic and international disability laws that are to be become part of the Cambodian legal system, the RGC is encouraged to:

- o Undertake a review of the compatibility of the CRDP with the PRRDP and all other domestic laws removing any discriminatory practices identified and;
- o Facilitate the dissemination information to people on their rights under CRPD and PRRPD.

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Decentralization and Deconcentration Reforms

Introduction

The promulgation of the much awaited "Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans" in May 2008 represents a significant milestone in the decentralization and deconcentration reform process in Cambodia. This "Organic Law" further defines the legal framework for sub-national governance, complementing the existing "Law on Commune/Sangkat Administration and Management" (2001), by defining the legal mandates of governance structures at Provincial and District level. A variety of subsidiary laws and regulations must be developed and adopted prior to the election of provincial and district Councils in mid-2009. Preparatory work on these is under way within the newly-established Policy Unit of the National Committee for the Management of Decentralization and Deconcentration Reform (NCDD). It is hoped that this process will be a consultative one and will result in a clear delineation of authority between the councils and board of governors, and working procedures that underscore the accountability of Boards of Governors to elected sub-national councils.

While the election of sub-national councils will be an important step in strengthening sub-national governance, the assignment of functions, authority and resources to sub-national councils is essential and will entail difficult analytical judgments and political decisions over the coming years. The adoption of the Organic Law provides a starting point for a process of reviewing governance and sectoral service delivery functions, and their allocation between levels of national and sub-national authority. It is critical that the process of National Programme Design and the implementation of the National Programme itself, be transparent and inclusive of a broad range of stakeholders if it is to achieve the desired consensus.

Dialogue on Decentralization and Deconcentration (D&D) issues between the RGC and development partners over the past year remained largely focused on bringing out the organic law, its implementation plan, and the design of donor support mechanisms. The JMI's discussed below were developed to facilitate the assessment of progress against these goals.

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institution	Relevant TWG
18. Preparation made for full Implementation of the RGC's Strategic Framework for Decentralization and Deconcentration (D&D) reforms.	<ol style="list-style-type: none"> 1. Continue preparation and initiate broad stakeholder consultations on the organic laws on democratic development at sub-national level during Q4 of 2007. 2. National programme design process and modalities developed, agreed, and resourced for implementation to begin in 2nd quarter of 2008. 3. RGC and development partners design the principles of engagement in support of D&D reform in Cambodia. 	<p>NCDD</p> <p>NCDD</p> <p>NCDD</p>	TWG D&D

JMI 18.1: Broad Stakeholder Consultations on Organic Law

The "Law on Administrative Management of Capital, Provinces, Municipalities, Districts and Khans," was promulgated in May 2008. It provides a legal basis for both elected councils and "unified administration", at Provincial and District levels, complementing the Law on the administration of the Commune/Sangkat, adopted in 2001. Also promulgated at the same time was the "Law on Elections of Phnom Penh Capital Council, Provincial Council, Municipal Council, District Council, & Khan Council," which establishes that members of Provincial and District Councils will be indirectly elected on the basis of proportional representation from party lists. Preparations for district and provincial council elections which must be held within 12 months, including the preparation of subsidiary regulations further defining council and administrative structures and procedures, are now under way. Taken together, these laws contribute to the further elaboration of administrative structures and authorities at the sub-national level, but reflect very weak accountability relationships between the electorate and sub-national institutions.

The adoption of the Organic Law provides the basis for a process of reviewing and potentially reassigning to levels of sub-national government, a wider range of functional roles across government ministries and agencies. This process will likely be complex and difficult, since it will involve the reassignment of control over budget, personnel and assets, and can be expected to be protracted. To oversee this process, a National Committee for Sub-national Democratic Development (to be known as the "National Committee,") will replace the present decentralization management body, the NCDD. The composition of the new body is expected to include representatives of a somewhat wider range of ministries than at present. The drafting of a law on sub-national finance is also reportedly in progress within the Ministry of Economy and Finance (MEF). Such a law will be necessary, if significant functions are to be transferred to sub-national councils.

Consultations with stakeholders during the process of Organic Law formulation were perfunctory. NGOs urge the RGC to allow for consistent and broad stakeholder engagement throughout the process of defining the subsidiary regulations and procedures necessary to the implementation of the Organic Law, and during the process of functional review.

JMI 18.2: National Programme Design

After some delay, contracting for a consultancy team to assist with the formulation of a National Programme for Sub National Democratic Development has been completed, and work commenced in early September 2008, and will extend over a 9 month period. The National Programme itself is expected to cover a period of approximately ten years, from 2009-2018.

JMI 18.3: Principles of Engagement

Following the launching of the Project to Support Democratic Development through Decentralization and Deconcentration [PSD4] during the 1st quarter of 2007, the NCDD is expected to bring out the programming framework for the project that will provide basis for multi-donor support for D&D implementation. As mentioned earlier, the consultancy contracting work is now complete and the work is supposed to commence in early September 2008.

Key Actions/ Strategies from the NSDP

Section	Message
4.18 [bullet 1]	"Draft and pass Organic Laws to clearly delineate the basic concepts of <i>subsidiarity</i> in order to provide clear guidelines for the devolution process and to specify functions, roles and responsibilities at various levels of the administration".
4.18	"Systematize and better institutionalize the allocation mechanism to

[bullet 4]	ensure full and timely transfer of funds and strengthen the block grant system (.....) from the national budget to the commune councils, and develop block grant and sectoral allocations for provincial and other sub-national levels to ensure accountability and transparency of revenue collection and expenditures to the citizens and other stakeholders”.
4.18 [bullet 6]	“Explore appropriate avenues for provincial and other sub-national levels including commune/sangkats to develop their own resources including revenue generation from taxes to be collected at local levels, service charges and tax sharing for local budgets”.
4.18 [bullet 8]	“Build up institutional capacity at all sub-national levels”.

As with observed progress against the JMIs, progress against NSDP targets has been largely limited to passage of the organic law during the reporting period. The lack of visible progress against other targets noted above is related mainly to delays in the passage of the Organic Law on D&D. However, with its passage, the process of making progress against other targets has also begun.

Recommendations

- Reformulate JMI 18.1 to stress the need for development of a transparent and participatory process for defining the legal and regulatory framework for sub-national councils defined by the Organic Law, and for making decisions on the allocation of functions and resources to those councils.
- JMI 18.2 should be replaced by one focused on the nature of the consultative process accompanying National Programme design and its implementation. The process of developing National Programme Design should be transparent and involve broad participation of multiple stakeholders. Care must be taken to avoid undermining progress made to date in developing the legitimacy and capacity of sub-national governance at the commune level, and to balance concerns for efficiency with a concern for primary democratic accountability.
- Reformulate the JMI 18.3 to specify that prior to the seating of district and provincial councils, the RGC engage a transparent and consultative process for adopting a law on sub-national finance.

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Environment for the Implementation of the Rectangular Strategy

Election Reform and Democracy

Introduction

Committee for Free and Fair Election in Cambodia (COMFREL) has been playing a critical role in contributing to the overall improvement of Cambodia's elections. COMFREL focuses on not only election process regarding legal and regulatory framework but also community education, and monitoring political platform of the elected officials. By doing so, COMFREL has developed lobby and advocacy tools for election authorities, relevant stakeholders, and the public.

Currently, two major organisations, COMFREL and NICFEC, play respective roles as election observational organisations prior, during, and following elections. COMFREL and other leagues will continue during intervals between elections so as to enhance election reform and democracy process. COMFREL and its league have collaborated with National Election Committee (NEC) and Ministry of Interior (MoI) to improve electoral regulations and election process reform. A great deal of comments and recommendations has been submitted to the relevant authorities.

Joint Monitoring Indicators

No JMIs relate to the election process.

Key Actions/Strategies from the NSDP

Section	Message
4.02	"upholding democracy in governance that all citizens are able to vote for their representatives freely so that they lead the society at national and sub-national levels"
4.22	"An important aspect of political stability and solidarity is to hold a general election every five years to elect national institutions such as senate (to be held on 2006), national assembly (to be held in 2008) and Commune/Sangkat Council (to be held in 2007). Sine national budget alone cannot meet the needs of substantial expenses in holding such elections, additional resources remain necessary as usual."

Looking at the joint statement of civil society organisations in 2006 regarding the section of election reform and democracy mentioned in NSDP, several issues and recommendations have made some progress while others have done very little. The issues include:

Controversy over quality of voter lists (informing all voters about polling stations for all voters, data adjustment/Voter Information Notes after receiving suggestions from voters and irregular voter list revision etc.)

Election system has not been changed to encourage independent candidates.

Women are constantly encouraged to get involved in politics, yet their participation has not reached the approved quota of 30%.

No actions have been taken relating to capacity building and empowerment of an independent court to deal with abuse of electoral law.

Observation of Election and Democracy Processes

For the past Commune/Sangkat Council Election 2007, and especially the general election 2008, civil society league including COMFREL NICFEC and other organisations

found that the overall security atmosphere during the polling day and thereafter was peaceful except for some prior cases where there was intimidation and threats to freedoms of political participation and expression.

Assassinations, threats, and intimidation toward the candidates, political party activists, journalists, and voters occurred in almost all provinces/cities. The perpetrators committing various violations during the election have not been brought to the court (increased impunity).

Civil society league continues to call on the competent authorities to take actions to investigate the cases and to bring the criminals, who abused the electoral law, like criminal law, on trial.

Civil society league has called for NEC and the Constitution Council to continue to carefully address the conflicts and complaints of the political parties. Furthermore, civil society league has called for the local authorities supporting any political party and any politician not to take revenge against, intimidate or discriminate villagers with different political tendency after the election result in each polling station was released.

Civil society league has found that there were many irregularities in the election process. Particularly, we regret that a number of voters went to their polling station, yet they were not able to vote due to some barriers, resulting in a greater loss of voters' rights than the previous elections. The loss of voters' rights was caused by technical procedures which are suspected to be of political intention as well. The gap of responsibility of NEC and local authorities at commune level also attributed to such incident regarding voter registration, updating voter list, voter list revision, distribution of voter information note, and helplessness of polling station staff in searching for voters' names on the displayed voter list.

The loss of voters' rights has resulted in great impact on the process and the result of the election and it has been seen as a form of human right violation "*right to voting, right to candidacy, and right to participating in political activities*". At the same time, issuing form 1018 (alternative Identification Document for voters without legitimate document or national ID) against the procedures, was a critical issue which led to a number of irregularities and complaints. Regarding this depravation, civil society league has commented that "*voter lists should be remade and procedures should be facilitated by ensuring sufficient legal documents and election-related information especially on permanent polling stations so that voters' rights are fully respected*".

The environment and process of election has not ensured neutrality and fairness yet due to the use of state-owned resources, participation of government staffs, local authorities and armed force, overwhelmingly dominant coverage of mass media (worse than the previous elections) in favour of the ruling party and lack of effective mechanisms for dealing with conflicts, irregularities, and complaints. Such issues have led all stakeholders and especially political parties not to trust NEC or local authorities. Civil society league therefore commented that "*Reform in NEC and mechanism for conflict and complaint resolution are obviously needed to restore trust and to ensure fair election*".

Civil society league is also concerned about conflict of power sharing and leadership structure in the national assembly because there have never been any clear-cut policy framework but political compromises. Civil society league would comment that "*to strengthen democratic principles and good governance, the establishment of leadership structure of the national assembly should be based on a principle of check-and-balance between the ruling parties and the opposition parties. Therefore, all of political parties with seats in the national assembly should be placed in leadership and membership of various committees of the national assembly.*"

The same formula and indirect electoral system are to apply for the "next elections" of senate and provincial /district councils, with the party list system and the constituency consisting of members based largely on the share by parties of seats in the commune councils (CC) and the NA which suggest to use this constituency to "elect" political party then the outcome is totally predictable. These elections are meaningless.

Recommendations

Civil society league would like to make some prioritized recommendations for the reform in next elections as follows:

- All election-related stakeholders should discuss the reform in voter registration procedures and voter lists and should consider abolishing the use and issue of form 1018.
- Adopt reform within the NEC and a mechanism for conflict and complaint resolution to ensure neutrality, in order to develop trust from all stakeholders and voters.
- There should be a law on political party's budget delineating disbursement and/or ban on national budget in benefiting political parties in order to increase transparency of budget used in election campaigns.
- Strengthen the implementation of laws and statutes to effectively increase neutrality of judges authorities, armed force and police officers who should be forbidden from engaging in any action in favour of political parties and election campaigns (within and after office hours).
- Strengthen the legal framework for media to ensure compliance with equal, and equitable principles and balance of information for election competition of all political parties.
- The election system should be reviewed to encourage independent candidates. The election system should adopt a multi ballot system (integration of direct and representative systems and independent candidates from political parties and from non-political parties should be allowed to join the election competition in all polling stations).
- To promote women' participation, the minimum quota 30% should be prioritised by all government institutions and included in membership regulations of all political parties, by the end of 2009.

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Donor Harmonization and Aid Effectiveness

Introduction

This position paper outlines the NGO comments on aid effectiveness in Cambodia, particularly in relation to the JMIs, the NSDP and Harmonization Action Plan. The opinion reflected in this position paper is drawn from the discussion among participants in the Aid Effectiveness Forum which was held on 10 September 2008 as well as discussions among NGO representatives at the Training on Development and Aid, which was held on 13-14 August 2008.

Poverty reduction efforts in Cambodia are largely dependent on resources from the donor community. Of the required US\$3,500 million for public investment to implement the NSDP 2006-10, more than 70% will be financed by the donors. Therefore, it is extremely important that official donor aid works as effectively as possible for Cambodia's development.

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institution	Concerned TWG
2. National aid effectiveness priorities are implemented and monitored in the context of a partnership-based approach to the NSDP	1. Strengthening Ownership, Managing for Results and Mutual Accountability. Development partners: (i) report to CDC on details of all new and on-going support; (ii) provide up-dated information in the CDC Database; and (iii) hold periodic consultations with CDC to validate data and to assess progress in implementing H-A-R priority actions;	CRDB/CDC	P+H TWG
	2. Promoting Harmonisation and Alignment. Progress in implementing the H-A-R Action Plan and TWG Guideline is reported by TWGs and consolidated as a background document for each GDCC meeting;	CRDB/CDC	All TWGs
	3. Managing for Results. The H-A-R Action Plan is augmented with a set of indicators, the Aid Effectiveness Report assesses progress in H-A-R Action Plan implementation and is presented to CDCF.	CRDB/CDC	P+H TWG

JMI 2.1: Following the Paris Declaration on Aid Effectiveness in 2005, the RGC endorsed the declaration and together with its development partners agreed on the Declaration on Enhancing Aid Effectiveness in Cambodia. NGOs appreciate the commitment to move the aid effectiveness agenda forward in Cambodia. However, apart from limited CSO participation and influence at Paris High Level Forum in 2005, the development of Declaration on Enhancing Aid Effectiveness and RGC's Action Plan on Harmonization, Alignment, and Results occurred completely without consultation with NGOs/CSOs.

JMI 2.2: NGOs welcome the government's efforts to organize the GDCC meetings and to consolidate reports from TWGs to serve as background document for discussion at these meetings. We also appreciate the government as being capable to lead and facilitate the meeting. However, NGOs find the proceeding of the GDCC has not been consultative since insufficient time and space is allocated for dialogue, especially in the areas of implementation challenges and future directions. Making the process of GDCC more consultative would reflect the role and functioning of the GDCC *"to discuss matters specifically brought up by TWGs for resolution and/or advice; and to serve as a forum for advocacy matters, including the representation of invited NGOs and civil society representatives"* described in the review of the GDCC and TWGs in Cambodia (CDC, Oct 2006).

JMI 2.3: Development of indicators to track progresses of the Harmonization-Alignment-Result (H-A-R) Action Plan implementation is crucial since they are means to measure the achievement as well as the effective use of aid. To the NGO's understanding, these indicators have still not yet been developed. NGOs sincerely express our strong belief that the Royal Government and development partners will extend the consultation to NGOs/CSOs working in this field. We also hope that while the Paris Declaration indicators measure a deeper picture of aid effectiveness, at the country level the attention will be given to sub-indicators that would allow the measurement of declared commitments.

Recommendations

Given the progress and challenges mentioned above, NGOs would like to suggest the following:

- For the GDCC to better adhere to its role and function offered in the review of the GDCC and TWGs, the GDCC should try to balance the time allocation for reports by TWGs and for dialogues with development partners and NGOs on challenges and future directions of specific issues.
- Both the Royal Government and its development partners should do more to promote the awareness of the Paris Declaration and the Accra Agenda for Action (AAA) among NGOs/CSOs and the general public. A regular public forum organized by civil society should then be promoted in order to provide opportunities for civil society and the public to voice their issues and concerns regarding the effectiveness of aid to their respective government and donor agencies.
- The indicators to track progresses of the H-A-R Action Plan should be developed with involvement from NGOs/CSOs through proper consultation process.

Key Actions / Strategies from the NSDP

Section	Message
4.28-4.30	Technical assistance currently represents a high share of official aid. The NSDP states that "it is time now to ensure that resources are redirected to make available 'additional funds' for concrete and tangible actions to accelerate progress in the lives of Cambodian people ... Through various co-operation mechanisms outlined in [the Strategic Framework for Development Cooperation Management] donors would be encouraged to move increasingly away from stand alone as well as TA projects and to start providing support through sector wide approaches."
5.25	... RGC will request EDPs, starting from the aid-mobilisation meeting of March 2006, not only to indicate the bulk amount they would pledge as assistance to Cambodia, but also to specify: (a) the amounts they would earmark for each sector in conformity with NSDP allocations; (b) to the

	extent possible, the kind of programmes or projects that they would support along with financial allocations for each; (c) the amounts to be spent on ongoing programmes or projects; (d) freshfunds available for new ones; and (e) the free standing technical assistance component of the total.
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4.28: Of the resources needed for NSDP's five-year public investment, the RGC emphasizes that though the entire amount of US\$3,500 million is made available according to the priorities of Table 5.2, the implementation of the NSDP would still be challenging if spending on freestanding external assistance exceeds US\$500 million (NSDP 2006-10). Recently, we note that the Royal Government and its development partners have undertaken the review of the technical assistance in Cambodia. NGOs greatly appreciate this effort and hope this will further lead to better direction and efficient use of aid to improve the lives of Cambodian poor.

5.25: NGOs strongly support the suggestion made by the Royal Government in paragraph 5.25 in the NSDP requiring further details of the aid pledge made at the CDCF. However, to the observation so far, this suggestion has not yet been adopted as no reflection appeared in the pledge committed by thirty donor agencies at the 2007 CDCF beyond stating the aggregate aid amount of US\$690 million.

An additional concern of NGOs is that Cambodia's development financing has been largely dependent on external aid; usually, in the form of grants, loans or technical assistance. However, proportional allocation of aid to these sub-components are not articulated in the annual aid pledge (except the total amount which is known by the public) limiting understanding of the loans or debts that this particular nation will bear the obligation to repay in the future. To be accountable to the aid recipients/beneficiaries, the disaggregate amount of the grant, loan, and technical assistance should be presented in the pledge. This will also help the government to track aid trend to Cambodia against its request to development partners that aid should be more as grant and that technical assistance should be reduced (NSDP 2006-10).

Recommendations

In order to improve the effectiveness and accountability of aid, the following are recommendations that NGOs would like to suggest.

- NGOs support the proposal made by the RGC in paragraph 5.25 of the NSDP and would like to strongly suggest all development partners to provide a detailed break-down of their pledge at the CDCF in order to facilitate the better aid coordination and effective use of development aid.
- To respond to the RGC's proposal (para. 5.25), development partners should work together with government counterparts so that common issues and challenges can be understood and future directions can be agreed upon and taken on.
- In its pledge at the CDCF, development partners should detail the amount of aid given within each separate sub-components (grants, loans and technical assistance).

Important Issues not covered by JMI's and NSDP

Issues and challenges

The RGC expects to finance the NSDP through a number of funding sources including: surplus from its annual current budget; grant-aid from traditional development partners; concessional loans; resources from non-traditional sources (including the

World Bank's (WB) IBRD and Asian Development Bank's (ADB's) OCR); and debt relief. Through these sources of funds, the estimated amount of US\$3,275 million is likely to be secured for financing the NSDP, leaving a gap of US\$225 million over five years. The RGC clearly demonstrates that the gap would widen further if the allocation and use of resources, are not in-line with the NSDP's priorities (NSDP 2006-10, p. 5.13). Further, to ensure better coordination and alignment of the resources, the RGC suggests that support from development partners should come through methodologies like SWAP in order to achieve cohesion and synergy and to avoid duplication efforts.

Until now, the sector wide approach has begun to be implemented in Education and Health (SWAP and SWIM prior to the start of the NSDP in 2006) whilst only a few sectors (Economy and Finance, Commerce, and Planning) are in the process of applying the SWAP; others are unknown by civil society. Lack of progress in this area can be explained by lack of donors' willingness and/or the absence of good sector plans. Because sector plans are the baseline for SWAP as well as for donor harmonization and alignment, it's important that this aspect is reviewed and reported to see how many sectors have plans, the progress of applying SWAP and what the challenges are.

There are also non-traditional donors giving aid to Cambodia, in particular China and South Korea, and recently Kuwait. This shows that there are more resources that can be mobilized and available for the NSDP implementation. In this regard, NSDP should not be constrained by availability of resources, but efficient use of these resources. Therefore, critical to the implementation of the NSDP is the harmonization and alignment of these additional resources with the NSDP and the sector plan.

Recommendations

To help address the above issues, NGOs would suggest:

- The RGC should review the status of the sector plan development and the SWAP and identify the challenges of moving toward SWAP application.
- Both the government and its traditional development partners must invite non-traditional ones into the aid harmonization and alignment process in order to improve the efficient and effective use of the available resources to achieve the goals and targets of the NSDP and of the CMDGs in a longer term.

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Rising Food Prices Impacts – Opportunities – Challenges

Introduction

Cambodia has suffered from high inflation as food prices increased by 24.2 percent between January 2007 and January 2008. High inflation and particularly an increase in food prices are recently serious and complex issues for Cambodia, as it creates potentially significant challenges to socioeconomic stability that could undermine prospects for restoring the combination of solid growth and low inflation that Cambodia has enjoyed in the past years.

Observations, concerns, and recommendations outlined below have been gathered during a number of meetings by NGOs on the topic of rising food prices as preparations for the Discussion Forum on Inflation and Poverty in Cambodia held on 6 May 2008 where representatives from the Royal Government of Cambodia (RGC), research organisations, donors and civil society organisations exchanged views on the topic and where NGOs presented their statement on rising food prices. The views reflected in this paper are also drawn from various discussions among NGOs who are members and non-members of the NGO Forum's Trade and Economic Development Network.

Joint Monitoring Indicators

There are no joint monitoring indicators (JMIs) related to Inflation.

Key Actions / Strategies from the NSDP

Section	Message
Table 4.1	Forecast CPI Inflation (% change): 3.5% for 2006 forecast and 3% per annual for 2007-2010 forecast
4.31	The goal of RGC is to ensure macroeconomic stability and growth process with containing inflation rate under 5%

The NSDP 2006-10 recognizes while the growth angles are crucial to reducing poverty in Cambodia, stable social, economic and political environments are enabling factors underpinning growth and development. To ensure favourable macroeconomic and financial environment to achieve stable economic growth in Cambodia, RGC recognises the importance of maintaining the inflation rate at below 5% per annum from 2006 to 2010.

Despite RGC's efforts to keep the inflation rate low, Cambodia was exposed to similar rises in commodity and oil prices as other countries and experienced an increase in inflation from 4.7% in 2006, to 18.7% between January 2007 to January 2008, and further peaking during the first half of 2008 to 25.1%, which then declined to 22% in July and August this year¹. This phenomenon of high inflation has been driven by rising local and world food demands and increasing fuel costs. The phenomenon of rising food prices in Cambodia has created both negative impacts and opportunities.

¹ Consumer Price Index (CPI) data of Ministry of Planning and statements from the National Bank of Cambodia.

Impacts of Rising Food Prices and Its Implication

Statistically, the 40% poorest of Cambodians spend 70% of their total expenditure on food (CSES 2004) and 65% of rural households (including 20% landless and 23% land-poor²) can produce just enough rice, or insufficient rice for their year-round consumption. This means a considerably large number of rural households have to buy more food to meet their consumption needs. However, the price of food items has dramatically increased. The prices of all varieties of rice have jumped by approximately 100% between May 2007 and May 2008. Meat prices increased by 50-70% and the price of fish and vegetables rose by 20-30% in the same period.

Consequently, groups of net food consumers such as fixed salary workers, landless and land poor are observed to be hard affected by soaring food prices. Fishing communities are suffering in particular since their fish-catch has declined and fish prices have increased by only 20-30% relatively to other products on the market. This verifies the findings from MOPS (CDRI, 2007) which alerts that the poverty increased between 2001 and 2004 in three of nine surveyed villages that are dependent on common property resources – fisheries and forestry. This should at large receive particular attention from policy makers.

Soaring food prices forces the poor to apply coping strategies like reducing the food-intake, consuming less nutritious food, reduced spending on education and health, migration, and sale of assets. Moreover, to accommodate such difficult circumstance of high food prices, poor households started to take loans. Of the 32% of the households engaged new loans in the first half 2008, more than 60% of them used the loans to buy food, cover health expenses, and buy agricultural inputs.

This facet of explanation informs that escalated food prices threaten poverty reduction effort and make Cambodia less capable to achieve the goals and targets set by its Poverty Reduction Strategy and Cambodia Millennium Development Goals.

Opportunities and Remaining Challenges

Although soaring food prices result in some negative impacts, it also allows Cambodia to benefit - if appropriate policies, strategies and actions are employed to enhance agricultural development.

Though high inflation has largely been explained by soaring food prices, agriculture production costs have also escalated. While the costs of gasoline and day labour increased 50% and 40-50% respectively from May 2007 to May 2008, the 80% increased cost of diesel has caused the land preparation costs to increase by 35%. In addition, the cost of chemical fertilizers rose by 80-200% over the same period³. Nevertheless, despite such increase in production cost, farmers can still gain about 32% from their agriculture (CDRI, Policy Brief 2008). Alternatively, high production costs including cost of chemical fertilizers offer a chance for Cambodian agriculture to adopt quickly the low-tech methods such as organic farming and System of Rice Intensification (SRI) initiatives committed to by the NSDP 2006-10.

Given the condition that Cambodia is an agrarian society and a net exporter of agricultural products (rice and others), soaring food prices is viewed as a golden opportunity for the country to improve the livelihoods of rural Cambodia where 91% of the poor live and depend on agriculture, forestry and fisheries. On the other hand, small-farms have proven to be more productive than large farms (WB, 2007). This then implies that small-scale farmers are likely to contribute more to Cambodia's economic growth than large-scale farming. However, this opportunity can be realized only if it is facilitated by sound public policies and actions that would remove crucial challenges to the agriculture sector.

² Households that own less than 0.5 hectare of farm land

³ CDRI (Aug, 2008). Final draft of national survey on impact of soaring food prices

The remaining challenges include landlessness and land-poor, low productivity, rainfall-dependence, being vulnerable to disasters, and markets. While 46% of the rural households are landless and land-poor (WB, 2006), only 35% rural households can produce rice surplus (CDRI, forthcoming). And as the land issue is critical in Cambodia, only 16% of the poorest quintile households own land which is secured by a title and other 37% are secured by papers (MoP, Feb 2006).

The productivity of rice cultivation in Cambodia has improved from 1.3 tonnes per hectare in 1993 to about 2 tonnes per hectare in 2004-05 (NSDP 2006-10). The RGC recognizes that this increase primarily results from the introduction of high yielding varieties and agricultural techniques, and that it is still low compared to that in neighbouring countries which share similar agro-climatic conditions. This implies that there are potentials and a lot more to do to improve Cambodia's agricultural productivity.

Rain-fall dependency is also of critical concern and a limiting factor to Cambodia's agriculture production. Most Cambodian farmers can only harvest once per year and often are vulnerable to drought, flood and pest infestation. A Poverty Profile of Cambodia (MoP, Feb 2004) explains that more than 90% of the Cambodia's 40% poorest households are living in villages that have experienced natural disasters during the past five years. Low frequency of rice production is also explained by lack of irrigation system. In 2005, only 20% of Cambodia's agricultural land was adequately irrigated.

All of these factors are crucial to Cambodia's agriculture. Though farmers foresee the potential to earn more from their farming, being dependent on rainfalls which increases their vulnerability to disasters reduces the incentives for small-scale farmers, and also potential large-scale ones, to invest in high-yield seeds and other high-cost inputs. Therefore, opportunity created by high food prices will only be realized and benefit Cambodia if these challenges are properly addressed. However, public investment in agriculture, rural development and water management has been minimal and under-spent. The Ministry of Agriculture, Forestry and Fisheries (MAFF) and the Ministry of Rural Development (MRD) were able to spend only 50% and 74% respectively of their capital budgets in 2007 (NGOF, Budget Brief, Sept 2008).

Mr. Chhay Sarath and his brother live in Phnom Penh and own rice farm in kampong Preang, Sangke District, Battambang. 'On our ten-hectare land we earned a net profit of US\$ 2,000 from the sale of paddy rice upon the harvest last year,' Sarath says.

'Given high price of rice, we expand our farming on 40 hectares this year, but may make very little or no profit at all due to prolonged drought followed our sowing,' he continues.

Interview with Mr. Chhay Sarath, 27 Oct. 2008

Government Responses and Implication

In response to inflation and soaring food prices, the Royal Government of Cambodia has taken immediate actions, namely⁴:

- *Fiscal policy responses*: exempt VAT and reduce import duty on imported agricultural inputs; limit pass-through of high world market oil prices; reduce tax on petroleum imports thereby foregoing US\$ 240 million of Government revenues; subsidy to EDC of US\$ 41 million;
- *Action programme to fight rising inflationary pressures*: prohibit exports of rice for two months and provide low interest loans for traders/millers to purchase

⁴ Keynote Address by Dr. Hang Chuon Naron delivered at the National Workshop on Rising Food Prices and Responses on 25 September 2008, at CJCC and Impacts of Soaring Food Prices (CDRI, forthcoming)

- more rice to stock for domestic markets, sell rice at subsidized prices to urban people;
- *Monetary policy responses:* double reserve requirement and stabilize exchange rate;
- *Administrative measures:* base salary and family allowance has been increased for government officials and retirees; increase in salary of garment workers.

In general, NGOs highly appreciate the RGC's attention and response to high inflation and rising food prices in particular. The measure to increase the base salary and family allowance for civil servants is particularly welcome since their current salary is low and around 12% of this population group are poor (MoP, Feb 2006). This measure additionally reflects the RGC's commitment to increase salary for civil servant as part of its reform programme. Though the US\$6 per-month top-up for garment workers was not comparable to the rate of inflation, NGOs again appreciate the government's intervention. They regret however, that the government did not employ mechanisms to ensure that garment factories actually applied this top-up amount. Measures to exempt VAT and reduce import duty on imported agricultural inputs are of value to assist farmers. However, these measures are intended to satisfy all farmers and the rich or large-scale farmers tend to benefit more as they consume more of these inputs. From the NGOs perspective given limited resources the government has and because poor suffer most from inflation, it would be more effective if such interventions targeted the poor specifically. Support could be provided to small-scale farmers through mechanisms such as farmer associations, farmer cooperatives, and other community groups which are recognized to be important and effective by the NSDP 2006-10.

However, to enhance farmers' profits and to avoid overuse of pesticides, the RGC sees the need to promote low-input and low-cost methods of agricultural production such as System of Rice Intensification (SRI). Given the potential of Cambodia's organic farming, the RGC also recognizes the need to promote the export for its niche product such as organic farm products (NSDP 2006-10). As such, the increased cost of chemical fertilizers would give Cambodia and its farmers a chance to focus on SRI and organic farming. This would allow them to avoid high cost and increase profitability while soil and environmental sustainability can at the same time be maintained. It is therefore concluded that interventions to reduce the cost of chemical fertilizers are not the best option, but removal of other constraints in agriculture would be worthwhile such as small irrigation, expansion of SRI and organic farming, strengthening and expanding community groups such as farmer associations and cooperatives, saving groups, rice banks, water user groups, and so forth.

Because rising fuel price is a factor of inflation, the government's measure to reduce tax on petroleum imports is at least one option which will help to curb high inflation. Of course, the increased fuel cost drives up prices across other items including agricultural production costs. However, NGOs find that tax reductions on fuel tends to benefit the rich more than the poor since the richest quintile spend 12.4% of their expenditure on transportation and communication which is 20 times more than the poorest quintile (CSES 2004).

The subsidy of US\$ 41 million to Electricité Du Cambodge (EDC) is also very much rich- and urban-bias. Statistically, only 1% of the poor are living in Phnom Penh (MoP, Feb 2006) and their electricity consumption is far too little compared to the rich. Though the claim may refer that subsidy would help maintain industry competitiveness, transportation and utility costs are not the only factors for Cambodia's cost competitiveness. On the other hand, the sale of milled rice at subsidized price was also meant to benefit urban poor.

Conclusion and Recommendations

In general, NGOs welcome the government's consideration and responses to address the issues of high inflation in general and increasing food prices in particular. However, we observe that while some measures address macroeconomic management as a whole, others tend to benefit urban and rich people more than the rural poor that were most affected by inflation and increasing food prices. This means the government's responses have not yet been effective in reaching the most affected groups.

In principle, rising food prices appear to be an opportunity for rural poverty reduction. To ensure realization of such potentials, NGOs would recommend the following:

- Though the rice yield has been increased, the current level of productivity can still be further improved. While productivity could be enhanced through selection of high-yield seeds and improving agriculture techniques, attention should also focus on agriculture intensification and diversification. This requires increased investment in agricultural research and extension.
- As small farms have proven to be more productive than large ones and given large number of landless rural households, provision of social land concessions under land reform programme should continue to be high priority agenda of the Royal Government and its development partners. Additionally, due to ongoing insecurity of land tenure, accelerating land-titling for rural people must remain a high priority for the government and development partners.
- Reducing dependency on rainfall as well as intensifying the use of agricultural land clearly requires attention from both the Royal Government and its development partners to actually increase investment in water management and expansion of irrigation system. Increasing investment in rural development is also another priority for rural roads and small-scale irrigation.
- Being vulnerable to natural disasters such as floods and droughts in particular calls for strengthening disaster management through developing mechanisms to reduce or mitigate the risks, for instance, the preparedness programme. On the other hand, vulnerability can be reduced through increased social protection programmes.
- As the government has undertaken a number of measures to tackle the inflation phenomenon, NGOs would like to suggest that the Royal Government reviews all measures employed so far in order to learn whether they are effective for the economic growth and poverty reduction. NGOs call on the Royal Government and development partners to further employ target measures that would directly address the issues and concerns of the poor, especially through community group mechanisms such as farmer associations and cooperatives, rice banks, water user groups, saving groups, fishery folks and so forth.

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Enhancement of Agricultural Sector

Agriculture Development, Irrigation and Water Management

Introduction

Agriculture is the main source of food for Cambodian people and provides employment for more than 80% of the population. Approximately 300,000 people join the national workforce annually and most of these are absorbed into the agricultural and agriculture related sectors. Crop and livestock farming is a major contributor to the economy, sharing 21% of the overall GDP in 2006. Rice fields, fisheries and aquaculture contribute approximately an additional 3-4% of GDP. A significant proportion of production is consumed by farming households themselves, so assuring food security is critically important to them. However, any surpluses - especially when value is added - provide cash income to pay for education, health care and other amenities. Poverty is concentrated among the rural poor and urban poor who have migrated from rural areas to seek work. Therefore, increasing agricultural productivity and total value-added production offers an effective and potentially rapid means to alleviate poverty and enhance the quality of rural life. To improve the socio-economic situation in rural areas of Cambodia, the following key issues should be addressed in rural development policies and strategies.

Key Actions / Strategies from the NSDP

Section	Message
4.32	... For ensuring increasing allocations and timely disbursements to priority pro-poor sector, mechanisms will be set in place through which predictable, assured and increasing annual budgetary amounts are made available to Agriculture, Rural Development,...
4.39 It's well recognized that, with immense but as yet unrealized potential both for boosting GDP and for uplifting the poor especially in the rural areas, quickest and high returns are possible at fairly low costs, especially in crops and more particularly in rice production and by diversification into cash and other crops...
Table 4.2	<ul style="list-style-type: none"> • Rice production (million tons): 5.5 for 2010 targets • Rice yield per hectare (tons): 2.4 for 2010 targets • Irrigated area (% of rice area), including supplemental irrigation: 25 for 2010 targets...
4.40	Increase production of rice for export in preference or in addition to production of crops with special 'niche' value.
4.41	... RGC will pursue action for enhancement on the following fronts: <ul style="list-style-type: none"> • Food Security, productivity and diversification...
4.42	Vastly increase yields of all crops by use of better inputs (seeds, fertilizers, proper practices), improved and extended water management and crop protection; at the same time, also promote low-input, low-cost methods of increasing agricultural production, including System of Rice Intensification (SRI) as appropriate, so as to enhance farmer profits and to avoid over-use of pesticides.
4.43	<ul style="list-style-type: none"> • Promote smallholder rubber cultivation and promote privatization of state owned rubber plantations. • Adopt and implement innovative measures to provide direct grant assistance to poor farmers for increased production of crops of their choice.
4.44	... Improve the quality and welfare of livestock by introducing better and faster maturing species, and by extending enhanced animal husbandry and

	veterinary services to be within easy reach of the poor...
4.54	Promote water management -- storage, drainage, and irrigation -- to achieve increased and more stable yields of crops and fish...
4.64	Rehabilitate and reconstruct the existing irrigation and drainage systems particularly in high poverty incidence areas and along the border areas;
4.73	To enhance export-led, pro-poor growth through diversification, RGC will continue to encourage, facilitate and provide support to private sector investment...
4.81	Encourage domestic and foreign direct investments in priority sectors, especially agriculture, agro-industry, labour-intensive industries and projects, and tourism.

4.32: Predictable, assured and increasing annual budgetary amounts are made available to Agriculture and Rural Development.

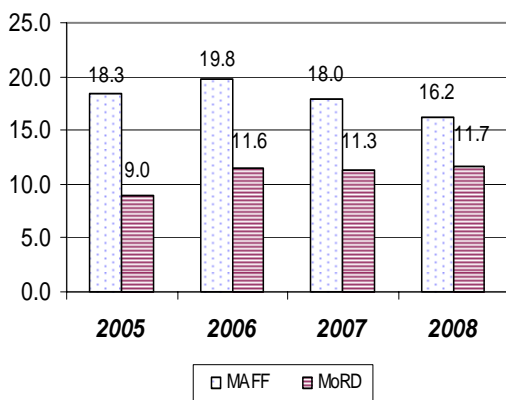
Budget Increase

Despite the stated commitments in the NSDP, budgetary amounts to agriculture and rural development have not increased in real terms (as shown in figure 1 and figure 2 below) since the beginning of NSDP implementation in 2006.

Budget Predictability

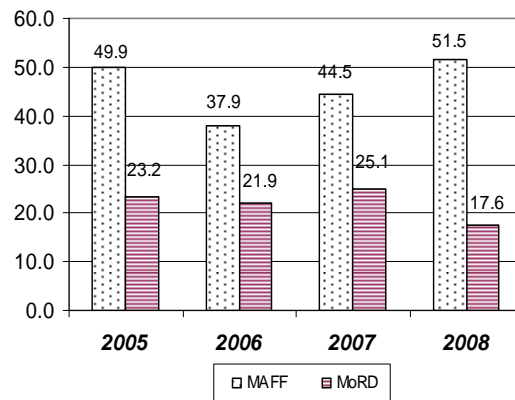
Figure 1 and figure 2 in combination shows that recurrent and capital budgets given to Ministry of Agriculture, Forestry and Fisheries (MAFF) and Ministry of Rural Development (MRD) have not been predictable due to large fluctuations in the annual allocations of budget. Figure 3 also shows that the actual disbursement of budget has not been predictable.

Fig 1: Allocated recurrent budget, US\$ million, 2008 prices



Source: RGC, National Budget Law

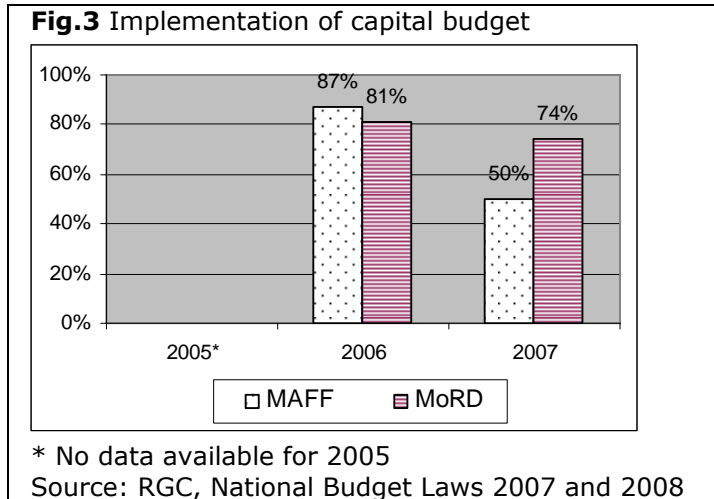
Fig 2: Allocated capital budget, US\$ million, 2008 prices



Source: RGC, National Budget Law

Assured Budgets

The actual disbursed recurrent budgets for the MAFF and the MRD are close to the allocated budgets (for 2007 this was respectively 97% and 93%). The capital budgets approved by the NA for both ministries are significantly higher than actual disbursement.



4.39: Improving and diversifying agricultural sector:

Farmers still have limited access to technical and market information and agricultural resource materials and/or inputs, especially piglets, seeds, seedlings, fingerlings and market information, etc. These limitations pose important constraints to agricultural diversification and the development of more market-oriented family agriculture.

NSDP Table 4.2: According to agricultural statistics 2006-2007 produced by MAFF, the average rice yield is nearly 2.5 t per ha (2.27 for wet season and 3.9 for dry season). This shows that the average rice yields for the last three years (2005 to 2007) had not increased.

4.40: Increase production of rice for export:

According to MAFF, milled rice surplus in 2007 is 1,433,88 tonnes, which is a slight increase compared to the 2006 figure (1,319,571 tonnes). However there are still many constraints and problems limiting access of Cambodian agricultural produce to local and international markets. These constraints and problems are: low quality of agricultural produce; undeveloped food processing; poor transportation system; inadequacy of information on local and international trade and marketing; lack of producer associations; limited credit services; export issues; and lack of marketing extension services. In Cambodia, most crops grown are rain-fall and climate dependent. As a result, every year, crop production in Cambodia is usually affected by natural disasters; particularly floods and droughts. Among the crops growing in Cambodia, rice is the most severely affected by natural disaster. This limits the increase of rice production.

4.41: Enhancement of food security, productivity and diversification:

Despite these problems of production, nationally Cambodia has a rice surplus for export but problems related to food insecurity and malnutrition are still widespread in the country. These include: low rice productivity and access to rice; limited options for agricultural diversification; insufficient income to buy food among poor and landless farmers; lack of access to land resources to produce food; as well as limited awareness on how best to maintain nutrition and health.

4.42: Increase yields of all crops by use of better inputs (seeds, fertilizers, proper practices):

Agrochemical use in Cambodia, especially pesticides, is still widespread in many parts of the country, due to uneven law enforcement including loose control on the import of illegal pesticide, lack of adequate general public education and awareness programme, as well as limited research and outreach on environment- and health-friendly agriculture. This poses potential food safety hazards for consumers and producers themselves. The promotion of good quality seeds production among farmers is still

limited. More and more hybrid and GMO seeds seem to be being introduced into Cambodia, which is increasing farmer dependency on multi-national companies responsible for producing this type of agricultural seeds.

4.54: Promote water management -- storage, drainage, and irrigation:

Access to water supplies is very limited and unreliable in farming communities which is mainly due to lack of investment in small and medium-scale irrigation and limited capacity of the community in operation and maintenance of irrigation systems. The national agricultural sector development plan 2006-2010 expects that irrigated agriculture will cover up to 20 to 25% between 2005 – 2010. This target remains low in terms of increasing agricultural production for enhancement of food security and export.

4.81: Encourage domestic and foreign direct investments:

The problems of domestic insecurity at community level is widespread, especially due to theft of animals, changes in land use, land titling and land speculation, all issues that are making farmers feel uncertain about making investments in agricultural development. These effects also have a negative impact on communal solidarity and trust. Unclear land use management and policy is leading to improper foreign investments on agriculture (e.g. land concession on former forestry areas).

Important Issues not covered by JMI's and NSDP

- Increasing numbers of the rural youth population are facing an uncertain future as they are not equipped with necessary basic skills and knowledge to take up and manage rural economies while there is limited non-agriculture employment opportunity in the countryside and in the urban areas.
- Farmer organisations have slowly emerged, especially with support from NGOs, Government, bilateral projects, but they are still fragmented. Also, they have not developed very coherently in terms of collective action for the economic benefits of the farmers, especially in the field of marketing and credit.

Recommendations

The following recommendations focus on strategy and approaches to address food security, poverty, small and medium scale agri-business development and social issues among farmers in rural areas of Cambodia:

- In order to solve the problem of rice food insecurity, we strongly recommend that agriculture development programmes should focus on disseminating the principles of the System of Rice Intensification (SRI) throughout rice farming communities in Cambodia⁵, especially to support farmer training and farmer-to-farmer extension. In addition, crop diversification within integrated farming system should be encouraged as a strategy to improve nutrition and income for small farm-based households.
- Cambodia has many traditional agricultural specialties that potentially stand to benefit from a Geographical Indications System. Producer expertise has led to many popular food items. These are resources to be enhanced for the national market and export market alike, to showcase Cambodia's rich agriculture and food heritage for tourists. Geographical Indication enables producers of traditional specialties to protect the name of their products, similar to the way in which a trademark enables a company to protect the brand or quality symbol of

⁵ As of 2006, around 80,000 farmers are using SRI methods to improve rice productivity. With increased rice productivity (50 to 150 % increase), they are able to diversify part of their rice fields to other crops and species.

its product. It is an opportunity offered to producers in rural communities to increase the value of traditionally acquired expertise in a world undergoing globalization. The Geographical Indication concept is now recognized by the World Trade Organisation (WTO).

- Rural education should be improved to respond to the needs of the rural youth, especially in term of agricultural skills, environmental conservation, and community development and rural youth organisation leadership. In addition, community-based professional and vocational training programmes and training centres for rural youth should be supported.
- Existing experiences has shown that self-help and community-based producer organisations (farmer associations or cooperatives, saving groups etc.) are key to rural development in Cambodia as they bring economic benefits to small farmers and enable farmers to play effective roles in overall community development and the local economy. Thus, existing experiences with participatory approaches in assisting farmers to organize themselves (e.g., Farmer and Nature Net) should be assessed and further developed to be used for nationwide support to farmers' organisations. In this regard, training centres run by farmers' organisations with NGO support to provide responsible and practical training services to representatives of farmers' organisations should be established
- Wide public awareness and education programmes on sanitation, health and nutrition, especially on vegetable production and consumption and on animal raising to prevent diseases including bird flu and mad cow disease should be supported. This requires strong cooperation among the agriculture, health and education sectors.
- Resources for agricultural research and extension should not be organized in terms of 'transfer of packages of technology' to farmers, but rather how to support farmer experimentation and farmer-to-farmer sharing and learning as well as the establishment of community-based input supply enterprises (seeds, piglets, fingerlings, etc.).
- The subsidization of fertilizers and pesticides with donor money should be stopped as this practice does not help to improve the lives of small-scale farmers in the long run; instead it will make farmers dependent on external aid and external inputs, while also having some adverse impacts on the environment. The content of agricultural extension should include some training in basic business management, marketing, saving/credit, and organisational skills. Donors should support the implementation of law to eliminate illegal pesticide and the research on the impact of pesticide and chemical fertilizers.
- At this stage of rural development in Cambodia, external financial resources could be used productively in investments in small and medium-scale irrigation which are manageable by farmers themselves, and a lot of focus should put on building capacity of the water user community by using a genuine participatory approach.

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Fisheries Issues

Background

Cambodia is a fish eating country (Amhed et al., 1998). Fish constitutes a major element in the daily food consumption of many households and provides more than 75 percent of protein in the food diet (Degen et al., 2000; Van Zalinge et al., 2000). It has been considered as a major source of food, income and employment of many fishing communities (FACT, 2005). Many people living in Tonle Sap region as well as along the Mekong River and coastal provinces depend on fisheries for their living directly and indirectly (ADB, 2005).

Therefore, fisheries have been prioritized as an important sector in terms of contributing to poverty reduction for rural Cambodians. It has been prioritized in the NSDP, which recognizes the crucial role of fish in the lives of millions of Cambodians with regard to food, nutrition, income and livelihoods. However, fisheries resources, both inland and marine fisheries, are under threat. The dependence of fishing communities on fisheries resources has been under pressure, and there has been the case that the household's fish-catch is declining, posing a major threat to the livelihoods of fishing communities. The recent food crisis, increased fuel prices and inflation has further deteriorated the poor living condition of fisherman. Thus, all efforts from government, donors and NGOs are needed to address the issues and problems challenging fishermen.

Therefore, fisheries sector reform continues to remain one of the Government top priorities: to improve fisheries management and livelihoods of local fishing dependent communities. Given this importance, Fisheries Action Coalition Team (FACT), which is a coalition of NGOs working on fisheries-related issues and a member of the Technical Working Group on "Fisheries", monitors the commitment made by the Royal Government of Cambodia as stated in the "Joint Monitoring Indicators" below.

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institutions
10. Take appropriate action to reflect the priorities of the Fisheries sector to improve the livelihoods of rural communities in commune, district and provincial development plans as well as donor funding levels.	<ol style="list-style-type: none"> 1. Cambodian Code of Conduct for Responsible Fisheries (CamCode) drafted by the end of 2007 2. Work with the government agencies/ revenue authorities and donors to ensure the FiA is adequately funded including the revenue from the sector to carry out its mandate with reference to Article 14 of the Fisheries Law. 3. Donors in fisheries use the planning, accounting and monitoring systems of the Fisheries Administration to be in line with MTEF and MBPI by the end of 2007. 	MAFF

JMI 10.1: The Fisheries Administration (FiA) has drafted the "Cambodian Code of Conduct for Responsible Fisheries" (CamCode) and the draft was supposed to be finished by the end of 2007. However, the drafting process had been delayed beyond

the proposed deadline and extended into mid 2008. The consulting process over the CamCode has been poorly conducted because the CamCode was sent only by email for comments and it is not known whether NGO comments have been incorporated. Till now, NGOs and civil society have not known whether the drafting process is completed. At the same time, the draft has been prepared without consulting affected communities.

The progress in developing the "Cambodian Code of Conduct for Responsible Fisheries" seems to be slow in terms of engaging the civil society in developing this "code of conduct". Despite the request of civil society for a public consultation on this code few months ago, a little has been done by FiA in addressing this and donors supporting this initiative have been very slow in ensuring the public participation in consulting this draft "code". Given lack of consultation with concerned communities, it is doubtful whether this "code" is likely to contribute to poverty reduction and improved fisheries management. Civil society organizations and NGOs are concerned that the "Code of Conduct" is just another form of policy document, overlapping many existing laws and regulations. This, similar with other fisheries laws and regulations, would only make an insignificant contribution to poverty reduction. To reduce poverty in fishing communities and improve fisheries management, the "code" should be consulted with fishing communities; otherwise it will serve the interests of the FiA only.

For civil society, the "Code of Conduct" itself is a purely technical paper, drafted based on a motive driven by an external capacity, contributing to empowering the FiA, but the fishing communities affected by this code have so far given little input. The "Code of Conduct" does not only pay less attention to local fishing communities as well as NGOs, but also technical and local agencies such as "Ministry of Environment" and "Commune Councils".

JMI 10.2: The FiA has made its effort to improve cooperation and coordination with the government and donor agencies as part of their campaign to find more funds to implement their plan. But cooperation with civil society, especially NGOs and fishing communities will remain an issue unless the FiA could decentralize its "power" and "authority".

More importantly, the "cooperation and coordination" between FiA and the MoE in the Tonle Sap area continues to remain an issue over the release of fishing areas under the FiA management to the MoE as Protected Preas. Some fishing areas in Tonle Sap in Pursat Province have been declared by MoE at the provincial level as a "Protected Areas", but this is opposed by the FiA. In Phat Sanday commune in Kampong Thom Province, the area allocated for Community Fishery released by the FiA overlaps with the areas allocated for Protected Areas proposed by MoE. This has posed a major constraint for the cooperation and the coordination between the FiA and MoE at the provincial levels.

The Tonle Sap Basin Authority (TSBA) was established in late 2007, consisting of many government agencies as members including FiA, MAFF, MoE, Ministry of Industry, Mining and Energy (MIME) and is chaired by the CoM. The Asian Development Bank (ADB) provides financial supports to the TSBA to coordinate the government line agencies in Tonle Sap. Although FiA plays a role in the newly established organization for Tonle Sap, the whole process leading to the formation of the TSBA has raised many challenges for FiA. Although FiA does not publicly discussed the formation of TSBA, the FiA is discouraged by the fact that their roles and responsibility in Tonle Sap is limited under the new system of management.

JMI 10.3: Donors financing the fisheries sector under the framework of the "donor harmonizing strategy" and the Donor Technical Working Group (DTWG) served as arm of donor countries to consolidate donor activities in fisheries. DFID, DANIDA and others have been active in fisheries sector financing the FiA in carrying out their activities while

ADB has recently targeted the Tonle Sap as an important area for financial support. However, the degree of donor support in reducing poverty within rural fishing communities seem to be inadequately spelled out.

Many fishing communities all over the country are facing encroachment of their community fishery areas by outsiders. Fishing conflicts in the Tonle Sap and in coastal area are now transforming into land conflicts, for instance those in Poy Tasek in Thmor Koal District in Battambang and in Prek Thnoat in Kampot Province. These conflicts have impoverished fishing communities along the coast and around Tonle Sap, and the solutions to address these conflicts have so far been limited. Thus, it is important for donors to address these issues by targeting their supports toward communities.

Recommendations

- NGOs and fishing communities call on the FiA to consult fishing communities during the drafting of the Cambodia Code of Conduct for Responsible Fisheries, if this code is going to be used for improving fisheries governance and poverty reduction.
- NGOs and civil society organizations call on RGC to revise the "actions needed" presented in the JMIs if the fisheries sector aims to contribute to the improvement of livelihoods and poverty reduction of fishing communities, because the current "actions needed" address interests of FiA rather than poverty reduction.
- Given the increased donor activities such as ADB in Tonle Sap, NGOs call on donors and funding agencies to increase their supports in monitoring the ADB projects in the Tonle Sap in order to ensure that their projects contribute to poverty reduction in fishing communities.
- Given the increased food prices and the price of consumable products, NGOs and fishing communities call on donors and funding agencies to support fishing communities in overcoming these problems in order for them to continue their living in their communities.

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Forests, Plantations and Concessions

Introduction

Since the 2007 CDCF Meeting, some significant areas of progress have been made by the Government in the forestry sector. However, uncoordinated management of forests, plantations and concessions continue to negatively impact rural poor communities and bring into focus key obstacles to good governance, accountability and poverty reduction in Cambodia, the founding priorities of the NSDP.

There are 28 local and international NGOs working together in the forestry sector through the Forest Livelihoods and Plantations Network, coordinated by the NGO Forum on Cambodia. Each of these NGOs is working with local communities, provincial or local authorities, central government, or a combination of these. In addition, many other development and human rights NGOs have closely observed the impacts of forestry and economic concessions on rural livelihoods and human rights. These organisations have jointly contributed to this paper on Forests, Plantations and Concessions.

The NGO Forum on Cambodia had their request to join the Technical Working Group on Forestry and Environment (TWG-F&E) rejected in August 2007. NGO Forum and its members still consider that expanding the NGO membership of the TWG-F&E would strongly benefit its operations and strengthen its relationship with local communities. NGOs nevertheless appreciate all chances to share their observations and concerns, as provided below.

Joint Monitoring Indicators

The relevant joint monitoring indicators (JMIs) for this sector are as follows:

Target	Actions Needed	Responsible Government Institution
9. With the aim of stopping the loss of Cambodia's forest resources, the legal frameworks established by the Forestry Law and in particular the Sub-decree on Economic Land Concessions (ELCs) must be fully implemented at all levels of Government agencies.	1. Implement all provisions of the Sub-decree on ELCs, including establishing and making public log book of ELCs, including those issued at provincial level, and review a minimum of 5 economic land concessions over 10,000 hectares, taking appropriate action consistent with Chapter 6 of the Sub-decree on ELCs.	MAFF TWG-F&E TWG-Land
	2. Rapid implementation across Cambodia of forest demarcation in accordance with the Sub-decree No. 53, dated 1 April 2005.	MAFF

NGOs have the following comments to make on the above JMIs:

JMI 9.1: Implement all provisions of the Sub-decree on ELCs, including establishing and making public log book of ELCs, including those issued at provincial level, and review a minimum of 5 economic land concessions over 10,000 hectares, taking appropriate action consistent with Chapter 6 of the Sub-decree on ELCs.

NGOs in the forest sector were greatly encouraged when JMI 9.1 was approved prioritizing the implementation of the Sub-decree for Economic Land Concessions (ELCs) at all levels of Government. They believed this was recognition by the RGC and its Development Partners of the importance of taking steps to mitigate the negative impacts on rural communities caused by the illegal operations of these agro-industrial plantations. They are disappointed by the continued failure to fully implement relevant laws as required by this JMI, or sanction those breaking the law.

As of the 24th October 2008, the MAFF website had last been updated in March 2008 and provided some information on 51 ELCs larger than 1,000 ha and allocated a total of 811,851 ha of land. Additional information has been circulated by the TWG-F&E relating to 7 ELCs cancelled in September 2007 but this does not fulfil information disclosure as provided by the Sub-decree on ELCs, and is not included on the MAFF website itself. Regarding ELCs issued at the provincial level (under 1,000ha in size) 31 ELCs in 8 provinces are currently listed on the MAFF website. Information submitted by MAFF to the GDCC in February 2008, named a further 16 ELCs in 7 provinces for approximately 24,800 ha. However, the full profiles of these ELCs under 1,000 ha have not yet been provided. NGOs would like to highlight that the summary of progress report most recently distributed by the TWG-F&E reported that only 27 ELCs have been granted in 6 provinces⁶. These three differing reports of the number of ELCs granted by provincial authorities indicate the completely inadequate way in which information relating to these concessions is being reported within the Government or being made available to the public.

NGOs therefore welcome the passing of Sub-decree #131 on Adjustment to Economic Land Concessions (15th September 2008) which withdraws the authority granted in the ELC Sub-decree to provincial authorities to grant ELCs under 1,000 ha. We hope that details will be urgently released about how "pending" ELCs under 1,000 ha will be dealt with. There is concern that some companies in the process of application may be tempted to backdate their authorization to before Sub-decree #131 was approved.

The review of at least 5 oversize ELCs and appropriate action being taken, consistent with the Sub-decree on ELCs (as described by JMI 9.1) has not been fulfilled. The MAFF log-book states that nine ELCs are currently over the 10,000 ha size limit. Of these, five have been selected for review. However, only two have been reduced so far. The progress report provided by the TWG-F&E (October 2008) reported that 4 of these ELCs had agreed to reduce their concessions (although some provisions of the ELC Sub-decree had not yet been completed) and one was cancelled. It additionally states that the remaining three are refusing to re-negotiate their contracts: Pheapimex in Pursat / Kampong Chhnang of 315,028 ha, Greensea Industry Company Ltd in Stung Treng of 100,852 ha and Cambodia-Haining Group Co Ltd. in Kampong Speu of 23,000 ha. Members of the Forest Livelihood and Plantation Network have submitted requests to the ELC Technical Secretariat for further details about the status of these remaining ELCs, but no response has so far been received. NGOs are therefore very concerned by reports from the media and concessionaires that the RGC has continued in 2008 to approve ELCs larger than the maximum size limit:

On 28th April 2008, the Council for the Development of Cambodia (CDC) agreed to give a South Korean Company "Kenertec" a 60,000ha ELC for agrofuel production and processing, six times the maximum legal size limit⁷;

On 23rd September 2008 the owner of the Greensea Industry Company Ltd ELC, with the support of the Provincial Governor of Stung Treng, announced its

⁶ TWG Forest and Environment, Joint Monitoring Indicator Reporting 2007-2008: summary analysis based on detailed report (draft), TWG F&E Meeting, 6th October 2008.

⁷ http://www.kenertec.co.kr/english/relations/whatsnew_read.asp?page=2&num=12 See also the Position Paper on the Impacts of Extractive Industries for more details of this concession.

intention to expand *Jatropha curcas* production throughout its ELC which is more than ten times the maximum legal size limit⁸.

An additional aspect of failure to achieve JMI 8.1 is the difference between the status of ELCs on the MAFF log-book and the situation on the ground. Reports are regularly received that ELC concessionaires and local government agencies are not complying with provisions of the Law. Specific examples here are indicative of the nation-wide escalation of these concerning trends:

1. During 2008 complaints from nine communities relating to more than 519,369 ha of land in dispute with ELC companies were submitted to MAFF and the Technical Secretariat for ELCs. These coordinated complaints documented numerous instances where concessionaires are non-compliant with the legal framework and are committing human rights violations. The affected communities state that complaints had already been submitted to Commune, District and Provincial authorities, but were been ignored.
2. NGOs supporting the registration of Community Forestry (CF) groups reported a number of instances where CF registration is being delayed or rejected because of overlap with granted or pending ELC applications. In Kratie Province 5 potential CF areas were removed from the proposed list for approval submitted by the Forestry Administration (FA) Cantonment for these reasons. In Kampong Thom approval of 50 potential CF areas is being delayed because 3 are unable to obtain written agreements with an ELC company in the same area. In Pursat 14 potential CF areas were removed from the FA Cantonment submission because they overlap with the Pheaphimex ELC. In Ratanakiri the Chea Chanrith ELC has been granted over 3 CF sites which were facilitated by the FA through support from the SEILA programme.
3. Numerous reports have highlighted the illegal operations of ELCs and non-compliance with requirements in the ELC Sub-decree and other legal frameworks⁹:

Contracts are issued by MAFF before the land has been registered and classified as state private land (Sub-decrees on ELCs; State Land Management; Procedures for Establishing Cadastral Maps and Land Register; and Sporadic Registration). As a result, many ELC areas include land lawfully possessed based on possession rights prescribed (2001 Land Law);

In virtually all ELCs, local authorities and people potentially affected are not consulted before the proposed ELC is granted, nor is the required 28-day display period of the proposed ELC complied with (Art 4 and 35 of Sub-decree on ELCs); In virtually all ELCs, there has been no Environmental and Social Impact Assessment undertaken before the ELC is granted (and for those that have, the results have not been made public) nor has there been any solutions agreed upon to resolve disputes or for resettlement issues (Art 4 of Sub-decree on ELCs, Forestry Law Arts. 4 and 5);

Significant violations of Forestry Law Articles 11, 15, 16 and 37 that guarantee indigenous peoples traditional use of forests, and Land Law Articles 23 to 28 that protect and provide for the registration of immovable property of indigenous peoples. One ELC with a pending application for a 10,000 ha rubber plantation in

⁸<http://www.phnompenhpost.com/index.php/2008092321789/Business/Pilot-jatropha-project-successful-company.html>

⁹ UNOHCHR (2007) Economic Land Concessions in Cambodia: a human rights perspective. United Nations Cambodia Office of the High Commissioner for Human Rights. June 2007; 'Fast-wood Plantations, Economic Concessions, and Local Livelihoods in Cambodia: Field Investigations in Koh Kong, Kampong Speu, Pursat, Mondolkiri, Prey Veng, and Svay Rieng Provinces', Environmental Forum Core Team, NGO Forum on Cambodia, August 2005; CLEC (2007) Legal Memo: Legal analysis of ORYUNG Concession in Andoung Meas, Ratanakiri, Community Legal Education Centre, June 2008; CLEC/PILAP, Legal Memo: Memorandum on Economic Land Concession in Sre Ambil District, Koh Kong Province, Community Legal Education Centre (no date); Forest Livelihood and Plantations Project, field research in Kampong Cham and Kampong Speu, 2007, unpublished.

Mondulkiri has been reported to be forcing indigenous community members in the neighbouring commune to "rent" their land to the company for between \$25 and \$250 for up to 99 years (some reported "sales"). The transactions are arranged by local policemen who informed villagers that if they didn't agree to this offer, the company would take the land anyway¹⁰;

ELCs are not fulfilling the commitment to offering local employment opportunities; in one case study more than half of households living near 6 plantations in Kampong Cham and Kampong Speu had not been offered employment opportunities.

Case study of cumulative impact of ELCs, Mining and Hydropower Dams in Mondulkiri and Ratanakiri

The magnitude of (potential) forest loss as a *combined* result of ELCs, mining, and (proposed) hydro power dams is illustrated by the situation in Mondulkiri and Ratanakiri. This case illustrates two issues: 1) death-by-a-thousand-cuts: single sources can combine for massive forest loss, and 2) the dearth in publicly available and reliable information.

Mondulkiri has (part of) six protected areas, totalling over 1.3 million ha in 2007 (see table below). A large number of mining concessions/tenements have been issued in the province; no less than 282,700 ha of those mining concessions are inside Protected Areas and Protected Forests (PA/F) (21% of the total PA/F area) and likely to contribute to forest loss¹¹. In 2007, 76,000 ha were excised from three PA/Fs (15% of those PA/Fs, mostly Mondulkiri Protected Forest) for the purpose of social and economic land concessions. The MAFF website lists only 2 ELCs in Mondulkiri (one of which has been cancelled), however, at least 24 ELCs have been applied for in the province totalling 126,700 ha. For only a few of those applications is the geographic location publicly known; of the applications with known location, 22,239 ha are inside PA/Fs. It is likely that a significant number of the applications for which the geographical location is not publicly known will have a portion inside PA/Fs too. Moreover, although Snuol Wildlife Sanctuary (WS) does not appear to have any ELCs inside its boundaries, a large portion of the Protected Area (PA) has been illegally cleared (not reflected in the table). Therefore, the above 22,239 ha is only a minimum estimate for the area under risk of forest loss due to ELCs. Finally, two proposed hydropower dams are in the feasibility phase ('Lower Srepok 3' and 'Srepok 4', see Sectoral Paper on Hydropower Dams for further information). Very little information is publicly available, but the two dams, if actually constructed, seem to flood at least an estimated 65,000 ha - but likely more - inside two PA/Fs (Lomphat Wildlife Sanctuary, Mondulkiri Protected Forest (MPF), thus contributing to forest loss, not to mention other impacts beyond the current context.

Based on currently publicly available information, it seems that *one-third* of the six PA/F's combined area is at severe risk of suffering damage and forest loss (or has already lost forest cover). Two PAs are particularly hard hit: Phnom Nam Lyr WS` ($\geq 91\%$) and Phnom Prich WS ($\geq 41\%$). Full details are provided in the table below.

¹⁰ Diokno, M (2008) The Importance of Community: Issues and Perceptions of Land Ownership and Future Options in 5 Communes in Mondulkiri Province, Cambodia; NTFP- Exchange Programme and NGO Forum on Cambodia, p51.

PROTECTED AREA / FOREST ¹²	PA AREA	MINING CONCESSION	ELCs (or excised)	PROPOSED DAM	TOTAL (Mine, ELC, Dam)	
	(ha)	(ha)	(ha)	(ha)	(ha)	(%)
1) Lomphat WS	250,000	23,487	-	est. ≥ 50,000	≥ 73,487	≥ 29%
2) Mondulkiri PF	372,971	23,322	3,000	est. ≥ 15,000	≥ 41,322	≥ 11%
3) Phnom Prich WS	222,500	90,618	-	?	90,618	≥ 41%
4) Phnom Nam Lyr WS	47,500	42,866	7,616	?	50,482	≥ 91%
5) Seima BCA	298,851	102,407	11,623	?	114,030	≥ 38%
6) Snoul WS	75,500	-	-	?	-	≥ 0%
TOTAL 2008	1,267,322	282,700	≥ 22,239	est. ≥ 65,000	≥ 369,939	≥ 29%
Excised in 2007 (MPF, SWS, PNLWS)	76,000	n/a	76,000	n/a	n/a	n/a
TOTAL 2007	1,343,322	282,700	≥ 98,239	est. ≥ 65,000	≥ 445,938	≥ 33%

JMI 9.2: Rapid implementation across Cambodia of forest demarcation in accordance with the Sub-decree No. 53, dated 1 April 2005.

NGOs involved in forest demarcation report generally good progress towards JMI 9.2 within PA/Fs. The TWG-F&E's most recent update states that 3,111 poles have been permanently fixed by the FA, totalling 592km. NGOs report that an additional 40km or forest boundary has been temporarily demarcated in Preah Vihear Protected Forest, in Seima Biodiversity Conservation Area nearly 40km has been temporarily demarcated and in Kulen Promtep Wildlife Sanctuary at least 30km is expected to be temporarily demarcated by the end of 2008. A range of stakeholders have been involved in this demarcation process so far and NGOs are not aware of any serious complaints arising from demarcation activities. The major constraint reported relates to difficulties in the definition of the Permanent Forest Estate: large towns located in areas classified as forest by the 2002 forest cover assessment and local farmers occupying the land since 2002 who face possible dispossession. So far these issues have been resolved; however in this first phase, demarcation has focused on "easier" PA/Fs. Ambiguity remains over boundaries of the Forest Estate beyond these areas and forest conversion, especially in relation to plantation and mining developments, as the case study above reveals.

Key Actions/Strategies from the NSDP

The relevant sections of the National Strategic Development Plan (NSDP) for the forestry sector are as follows:

Section	Message
4.47	Every effort will be made to maintain total forest coverage at 60% of land

¹¹ See Position Paper on Environmental and Social Impacts of Expansion of the Extractive Industries Sector for further details.

¹² Namely: Lomphat Wildlife Sanctuary, Mondulkiri Protected Forest, Phnom Prich Wildlife Sanctuary, Phnom Nam Lyr Wildlife Sanctuary, Seima Biodiversity Conservation Area and Snoul Wildlife Sanctuary.

	<p>area and to continue reforestation..... The challenge is to spell out a clear strategy to address management of concessions, annual coupes, community forests, and protected areas in a sustainable manner based on the following three pillars:</p> <ul style="list-style-type: none"> a) Sustainable forest management policy to ensure the rational and strict monitoring of forest exploitation according to international best practices in forest management, to provide adequate forest reserves for domestic consumption, protection against drought and floods as well as preservation of wetlands, which serve as fish sanctuaries. b) Protected area system to protect biodiversity and endangered species. c) Community forestry as a sound, transparent and locally managed programme.
4.48	<p>The RGC is committed to implement a National Forest Programme with the following priorities:</p> <ul style="list-style-type: none"> ▪ Strengthening of forestry management and conservation. ▪ Promoting man-made plantations to substitute for national forest demands by encouraging private investment and public participation. ▪ Promoting forestry contribution to social and economic development. ▪ Promoting forestry contribution to poverty reduction by strengthening community forestry initiatives and by involving local communities in forest exploitation plans. ▪ Creating public awareness to add to, replant and use community plantations for firewood and charcoal needs and not destroy forests.

Section 4.47: Sustainable Forest Management

In 2008, Cambodia's Forest Estate is threatened by increasing external demands ranging from land conversion for agriculture, extractive industries, illegal logging and infrastructure development. NGOs congratulate the FA and MAFF for the progress made to address these threats but significant concerns remain.

The status of forest concessions remains unclear. FA and MAFF have provided full backing to the Commercial Community Forest pilot activities in an ex-forest concession in Mondulkiri and Kratie. These have now reached the implementation phase but a number of obstacles remain depending on the legal framework chosen, specifically, the statutory 5-year cooling off period between management plan approval and timber harvesting (Community Forestry Sub-decree). Encouragingly, FA has stated its determination to resolve these issues and ensure success of the trial. Whilst this pilot is welcomed, it is disappointing that despite the Independent Forest Sector Review (IFSR) recommending alternative management models, partnership forestry pilots in other ex-concession areas have not progressed. Many CF sites are now being proposed inside suspended forestry concessions, but their legal basis and options for negotiation with concessionaires are not clear. Additionally, ELCs continue to be granted inside cancelled forestry concessions (for example Kingwood and GAT) in contravention of the Sub-decree on Forest Concession Management. NGOs hope that the annual coupe system will provide a more appropriate alternative. They welcome the Forest Management Plans prepared for four of these and hope they will soon be publicly released. However, information is currently lacking regarding the long-term plans for these systems, where future coups may be granted and how the current coups will be protected or managed in the post-harvest phase.

Reforestation, using a variety of local species, may have an important impact on forest cover, but only a few thousand hectares have been replanted to date. NGOs would like to take this opportunity to reiterate that reforestation should not be confused with industrial plantations, which involves mono-cropping of fast-growing introduced species which often have a detrimental effect on soil acidity, water table levels and local livelihoods. Plantations are **not** forests and do not contribute positively to biodiversity.

Numerous studies have proven that small-holder agricultural production is the most economically effective way to achieve both growth and poverty reduction; NGOs are therefore concerned by the Government's continued promotion of large-scale and intensive agro-industry¹³.

Protected area management: NGOs welcome the final adoption of the Protected Area Law in early 2008. However, the protection of biodiversity and natural resources that they offer is being undermined by illegal extraction of natural resources, as described in the Mondulkiri and Ratanakiri case study above and the Position Paper on the Impacts of Extractive Industries. This prioritization of mineral resource exploitation over biodiversity conservation is an alarming precedent, works against the NSDP goals and must be reversed.

Community forestry and community involvement in forest management: NGOs would like to congratulate the FA for the recognition of 18 CF sites. Nevertheless, based on the evidence described in JMI 9.1 above, institutional support to CF continues to be tenuous which undermines incentives for communities to protect forests.

Options for community involvement in decision-making regarding forest management are insufficient due to incomplete legal frameworks and weak law enforcement. This reduces opportunities for forestry's contribution to poverty reduction and ensures benefits flow only to a small elite. Given the lack of alternative forest management models and the limitations of the CF programme, it is even more problematic that the rights and options for communities to protect forests on which they traditionally depend outside the CF framework are unclear¹⁴. The role of local FA and enforcement officials to support these initiatives and respond when community groups encounter individuals involved in forest crimes needs urgent consideration. As does the Commune Authority's role to facilitate community involvement in natural resource management planning (2001 Law on Khum/Sangkat Administrative Management).

Section 4.48: National Forest Programme Priorities

The establishment of the National Forest Programme (NFP) Taskforce and its strong membership of non-government stakeholders is welcomed. The current NFP document contains many good ideas; however the process has been slower and less consultative than expected. The majority of discussions have remained within the NFP Taskforce and FA, except the National Community Forestry Programme (NCFP), whilst the political will to implement the strategies is uncertain. Furthermore the opportunity to address the forest sector as a whole, following the recommendations of the IFSR and involving strategies for reform and actions in RGC agencies other than the FA, is being missed. The NFP is being drafted as a National Forest Action Plan with programmes based around the existing FA structure, whereas related components such as Protected Areas are left out altogether. Although the NFP document attempts to align itself closely with the NSDP goal, the link between this and proposed programme strategies is often weak or not explained, except with relation to the NCFP. Strikingly, until now, no alternative sustainable forest management modality to CF (in its broadest sense) has been mentioned in any of the other draft programme documents. Additional gaps are that environmental concerns (such as climate change) are not yet included, neither are issues related to competing land uses such as ELCs and mining. NGOs working with local forest dependent communities hope that sufficient time and resources will be

¹³ UNDP (2007) Raising Rural Incomes in Cambodia: Beyond Sectoral Policy, Towards a Framework for Growth, UNDP Funded Discussion Paper No. 4, in cooperation with Supreme National Economic Council and Harvard University John F. Kennedy School of Government, Second Cambodia Economic Forum, May 2007. UNDP (2007) Land and Human Development in Cambodia, UNDP Funded Discussion Paper No. 5 in cooperation with Supreme National Economic Council and Harvard University John F. Kennedy School of Government, Second Cambodia Economic Forum, May 2007.

¹⁴ NGO Forum (2007) Community-Based Forest Protection: a case study from Krang Skear Commune, Toek Phos District, Kampong Chhnang Province. The NGO Forum on Cambodia, Phnom Penh, 2007.

made available to enable public consultation with these communities during the drafting of the NFP.

Important Issues not covered by JMIs and NSDP

Four additional issues critical to the forestry sector have been selected for special reference.

Reduced Emissions from Deforestation and Degradation (REDD) initiatives

NGOs would like to congratulate the FA for making concerted efforts to develop REDD initiatives such as in Oddar Meanchey and the submission of an R-PIN to the WB FCPF¹⁵. The Oddar Meanchey Community Forestry Carbon Offset Project involves 12 CF groups managing approximately 60,467 ha of forest land. The project is expected to sequester 8.7 million metric tons of CO₂ over 30 years, putting Cambodia at the forefront for REDD carbon financing. Despite this progress, the 12 CF sites are not yet legally recognized, one of the prerequisites for an ERPA (Emissions Reduction Purchase Agreement).

Increasing investments in the agrofuels sector

2007 and 2008 saw a significant increase in investor interest in Cambodia's developing agro-fuel sector, for the export market. Theoretically, agro-fuels present an opportunity for economic development of energy self-sufficiency in rural Cambodia at the same time as combating global warming. International substitution targets to reduce fossil fuel consumption are driving large-scale investment projects in countries such as Cambodia. However, NGOs would like to raise a number of concerns about this new investment trend:

- a) Lack of regulation in the industry and unclear division of jurisdiction between MIME and MAFF;
- b) Agro-fuel investments increase the value and demand for arable land. Combined with increased pressure from growing numbers of land disputes (some from agrofuel developments), this trend reduces incentives for food production which threatens food security. As food production declines and distances to transport agricultural products increases, prices of basic food commodities rise, a considerable concern given the current rate of inflation;
- c) Agro-fuel production in areas converted from forested and degraded forest lands are potentially net carbon positive rather than helping to combat climate change¹⁶.

Wood energy and poverty alleviation

Despite the fact that 85% of the energy consumed in Cambodia is wood-based, the Government is making no effort to look at the sustainability of wood energy use or security of supply. It is estimated that Cambodia needs 4,500,000 tons of wood fuels every year; Phnom Penh requires 100,000 tons of charcoal, whilst brick factories require 145,000m³ and garment factories need 780,000m³ of wood every year respectively. This is unsustainable in terms of timber harvesting and is exacerbated by inflation; charcoal prices increased by 100% in the past 12 months¹⁷. Lack of Government-Private Sector coordination misses potentially lucrative domestic markets

¹⁵ Readiness Plan Idea Note to the World Bank's Forest Carbon Partnership Facility, for more information: www.carbonfinance.org

¹⁶ This production style increases the pollution contributing to global warming despite the attempt to decrease it by substituting agro-fuel for fossil fuel use. In addition, this conversion has a detrimental affect on bio-diversity, land temperatures, and increases run-off and industrial waste (from use of fertilizers).

¹⁷ GERES, MoE, IGES (2006) Wood Energy Baseline Study for Clean Development Mechanism in Cambodia, household woodfuel use and supply in Phnom Penh. UNDP (2007) Energy and Poverty in Cambodia, Challenges and the way forward. Regional Energy Programme for Poverty Reduction. UNDP Regional Centre in Bangkok. GERES (2008) Biomass Baseline Information Study using case studies to compare domestic and regional demand for rubber wood, rice husk and wood chips. 2008. Study undertaken by GERES for the TWG-F&E, Phnom Penh, Cambodia.

and risks increasing poverty amongst the poorest and most vulnerable by increasing demand on forest resources and pushing up wood-fuel prices. Integrated, sustainable and large-scale wood production would reduce pressure on natural forest resources whilst simultaneously boosting employment and income opportunities and securing future wood energy supplies.

Inter-Ministerial harmonization of land and natural resource management

As noted in the NGO Statement to the 2007 CDCF and the Position Papers on Land Reform and the Impacts of Extractive Industries, there continues to be little effective coordination of government ministries managing land and natural resources. This is evident by the lack of progress towards State land mapping and limited areas demarcated as forests so far. Lack of harmonization fundamentally prevents FA, MAFF and other government agencies to respond adequately to chaotic allocation of ELCs, mining concessions, hydropower dams, road and other infrastructure development projects and is the reason why the cumulative impacts of these uncoordinated plans on forests and ecosystem services are unknown. Additionally, mechanisms in place to enable cross-ministerial coordination, such as the Technical Working Groups, are not effectively performing in this role. NGOs are disappointed that many Development Partners supporting across these sectors, have been unable to facilitate improved coordination.

Recommendations

Only two of the recommendations made to the FA / MAFF and forest sector Development Partners in the NGO Statement to the 2007 CDCF have been addressed. Therefore the recommendations below are considered to be additions to those made earlier, all of which remain critical issues in 2008.

ELCs

- Cancel all ELCs which have not met the requirements of the ELC Sub-decree. Disclose the legal basis on which the three remaining oversized ELCs are continuing their operations, release all information relation to the revision procedures (Chapter 6 of ELC Sub-decree) and ensure transparency in public consultations with affected communities.
- Provide quarterly updates to the public logbook on the MAFF website and disseminate this in Khmer language at the Commune level to communities affected by ELCs.
- Approve only pending ELC applications under 1,000 ha which had submitted all documentation to MAFF prior to 15th September 2008.

Forest Demarcation

- Rapidly expand forest demarcation activities in coordination with State land demarcation processes.
- Give a clear public undertaking that forest demarcation will be transparent and ensure public participation, and not override prior claims of indigenous people to forest areas that they use for traditional agricultural practices.

Sustainable forest management and National Forest Programme Priorities

- Hold accountable those responsible for illegal logging and associated crimes.
- Finalize the status of all suspended forest concessions and urgently explore new funding mechanisms for forest protection.

- Legally distinguish between natural forests and plantations. Prioritize the preservation of natural forests to achieve 60% forest cover rather than the promotion of reforestation through plantations.

Broaden the mandate of the NFP to ensure that it adopts the recommendations of the IFSR, is harmonized with strategies of other government agencies and the NSDP, mainstreams environmental concerns within forest sector planning, and includes measures to address ELCs and extractive industries. Provide sufficient time and resources for active public consultation on the NFP.

Protected area and protected forest management

- Immediately place the Prey Lang forest area under comprehensive protection from the extreme threat of imminent destruction described in the Position Paper on the Impacts of Extractive Industries. Develop an alternative management plan, based on consultation with local communities, which prioritizes conservation and safeguards the usage rights of people living in and around the forest.
- Renew high-level Government-Donor commitment to the concept of PA/Fs, as defined by Law, through rapid and comprehensive enforcement of the Protected Area Law. Revoke the decisions that ESIA's are no longer required by exploration licenses within PA/Fs and that mineral resource exploitation should be prioritized over biodiversity conservation.

Community forestry and community involvement in forest management

- Expedite the approval of the remaining 300 CF sites. Establish and roll-out procedures for systematic identification of other potential CF areas which ensure all communities have the opportunity to be involved in CF, if they want.
- Prioritize CF recognition instead of ELC allocation in the case of overlapping claims.
- Include the adoption of procedures for establishing CF sites within processes for finalizing the status of suspended forest concession areas.
- Develop a robust CF framework (in its broadest definition) which empowers communities to engage in sustainable and productive community-commercial forest management, according to their own needs and capacities, and ensures that CF development is not used to deny communities claims to use rights and protection of surrounding forest areas that are protected by the Forestry Law.

Reduced Emissions from Deforestation and Degradation (REDD) initiatives

Prioritize a framework for implementing and monitoring REDD initiatives at the national level which ensures that a) local communities are involved in decision-making, b) benefit sharing schemes are established and functioning, and that c) all REDD initiatives are integrated with the FA framework and aligned with existing law enforcement initiatives.

Agrofuels Sector

Designate one Ministry as coordinator of the agrofuel sector and support them to develop a national policy on agro-fuel sector development with clear production targets indicating end-usage (domestic versus export markets) and addresses land allocation.

Agrofuel sector investments must be analyzed and granted based on their potential contribution to economic growth and poverty reduction, renewable energy and ensure that developments do not lead to increased deforestation.

Declare ELCs wholly or partially dedicated to agro-fuel development on the MAFF log-book.

Wood-Energy Sector

Strengthen the National Wood Energy Working Group to address energy and poverty issues and prioritize the following areas of intervention:

- Energy needs of rural poor through generating sustainable and efficient energy supplies of basic fuels;
- Integrate and mainstream poverty reduction and energy programming within all development plans;
- Develop interventions to simultaneously address the lack of sustainable management and protection of existing forest resources, the promotion of wood production schemes, dissemination of more efficient technology and which secure land tenure for the rural poor.

Inter-Ministerial harmonization of land and natural resource management

All government agencies and Development Partners must support and engage with proposals to "cluster" TWGs into Working Groups to facilitate harmonization of approaches and interventions across the land and natural resource management sectors.

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Environmental and Social Impacts of Expansion of the Extractive Industries Sector¹⁸

Cambodian civil society is disturbed by the escalating number of licenses for mineral resources being allocated to private sector investors in the absence of an adequate legal framework or environmental and social safeguards. Neither the JMIs nor the NSDP refer directly to mining or the extractive industries sector. Nevertheless, civil society groups have prepared this Position Paper to analyze the legal framework, summarize concerns relating to impacts and make recommendations for improved social and environmental responsibility for the RGC, Development Partners and Companies. It has been coordinated by NGO Forum's Land and Livelihoods Programme in consultation members and partners and should be read in conjunction with the Position Paper on "Management of Revenues from Oil, Gas and Mining".

Background

In the 1990s and early 2000s, the mining sector grew steadily in Cambodia. Some negative impacts were reported: displacing small-scale miners, restricting access of local communities to areas they depended on for their livelihoods, violating communities' traditional lands, and poisoning water sources.

Since 2005 the sector has changed drastically; in 2006 alone six licenses for large scale exploration were granted to international companies and medium scale mining continues to expand rapidly. During 2007 and 2008 an unknown number of international companies (suspected to be considerable) have shown interest in, and reached various agreements with the RGC for, large scale exploration. If exploitation on this scale goes ahead, the impact would be unimaginable to most Cambodians, and would inevitably alter local landscape and ecosystems, with impacts likely felt nationally. This growth in investments has not been matched by improvements in accountability or transparency. Civil society suspects that lack of corporate social responsibility evident until now indicates that this investment is unlikely to benefit the majority of Cambodians in terms of resource revenue or employment opportunities.

Legal Framework for Mining

Under Cambodia's Constitution all mineral resources are the property of the State and should be regulated by law.¹⁹ Two laws cover their management and exploitation: the Law on Mineral Resource Management and Exploitation (2001) and the Law on Environmental Protection and Natural Resources Management (1996). In addition to this, some foreign companies are also bound by the legal frameworks of their home countries and OECD social accountability guidelines. Civil Society has a number of concerns about this legal framework:

a. Inadequacy and lack of clarity of existing Mineral Law

The current law on Mineral Resource Management is weak and has a number of gaps. These include a lack of provisions for those displaced by mining operations. The law states that before entering any privately owned land for exploration or mining, the concessionaire must compensate the "private land owner" for any inconvenience and

¹⁸ While this annex deals mostly with mining, there are similar concerns regarding the potential social and environmental impacts of oil and gas extraction.

¹⁹ The Cambodian Constitution, Article 58.

damage to the land.²⁰ This potentially leaves those with out legal title (i.e. most Cambodian households) with little protection.²¹

All operators must obtain licenses from by the MIME before they begin either exploration or exploitation activities. Licenses for exploration or exploitation must be issued following the procedure set out by sub-decrees²². The most important is Circular #001 which lists breaches of contract which will cause the license to be suspended (II) and states that if the licensee does not remedy the problem, then the license will be revoked (III4).

b. Use, Development and Exploitation Concessions

The legal framework for how these companies are being given "mining concessions" is not clear. Council for Development of Cambodia documentation states that Use, Development and Exploitation concessions include mining concessions, to a maximum size of 10,000 ha.²³ However it is not clear how these concessions should be granted, how they can be used, who awards and administers them, and how they relate to mining licenses. At present, concessions are being given during or before the exploration stage, before extraction agreements have been signed and a significant number are larger than the legal maximum size.

c. Lack of enforcement of existing law

As mentioned above, exploitation requires a specific license which can be revoked if breached. However, this law is not being enforced, for example local communities allege that exploitation is being conducted by companies who only have an exploration license, an activity requiring the license to be suspended pending investigation (Circular #001, III10). Many mining operations also breach the rights of Cambodia's indigenous people. The Land Law gives indigenous communities the right to continue to live on and manage their traditional lands according to traditional customs, until they are able to get collective title. Therefore any exploration or mining license granted on traditional indigenous land is unlawful if it impedes the community's ability to continue to manage the land according to their custom.²⁴

d. Access to information

Access to information is a concern as the Mineral Law specifically states that all applications, reports, plans and notices concerning exploration and exploitation are confidential.²⁵ This means that a lack of transparency is actually built into the legal framework. However, the Environment Law provides that all license-holders must conduct an Environmental Impact Assessment (EIA), follow an environmental management plan and to restore and rehabilitate the area once the license expires²⁶. Additionally, on request from the public, the MoE should provide information on its "activities" and encourage public participation in environmental protection and natural

²⁰ 2001 Law on Management and Exploitation of Mineral Resources, Article 7 & 25. Private land ownership (កម្មសិទ្ធិដីកម្រិត) refers to those with title on the land registry. Those with possession rights are normally not interpreted to meet the conditions or Art. 7 of the Law on Mineral Resources until they have transformed their possession rights into a title (based on Article 39 of the Land Law), neither are indigenous communal land titles included in "private land ownership".

²¹ Those without legal title and indigenous communal land title should still be protected because the RGC has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) which includes the obligation to respect citizens' right to adequate housing and forbids the destruction of land necessary for subsistence.

²² For example, Circular #001 on Suspension and Revocation of Mineral Resources (25th May 2004) ; Circular #002 on Preventing Measures Against Anarchic Mineral Exploitation in Provinces / Municipalities in the Kingdom of Cambodia (25th May 2004) and Sub-Decree #08 on Defining Investment Principles for All Kinds of Mineral Resources (31st January 2005).

²³ http://www.cambodiainvestment.gov.kh/?q=ii_land

²⁴ 2001 Land Law, Article 23

²⁵ 2001 Law on Management and Exploitation of Mineral Resources, Article 20.

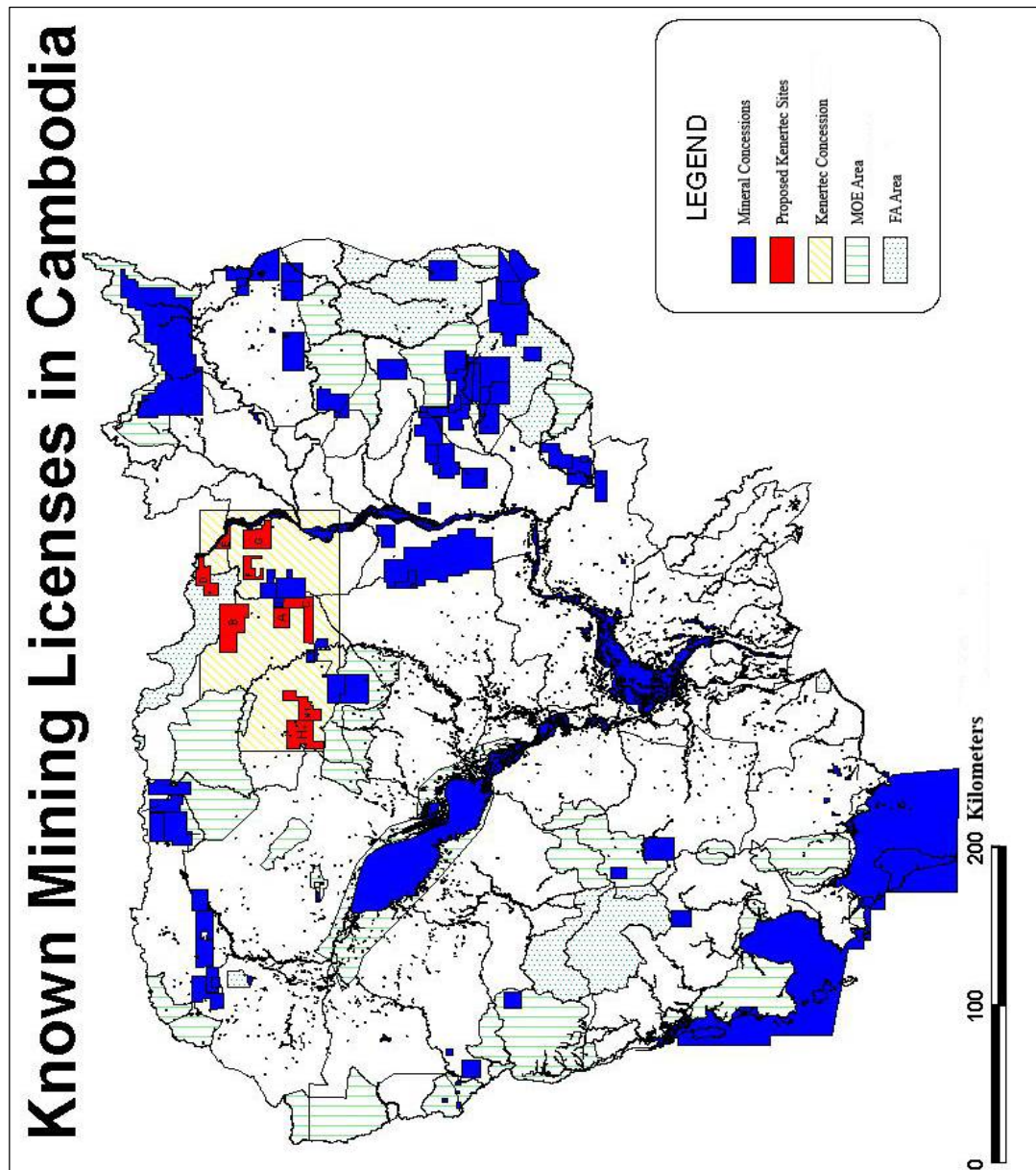
²⁶ 2001 Law on Management and Exploitation of Mineral Resources, Article 21.2.

resource management.²⁷ This is an example of overlapping jurisdiction and a conflict in the law regarding disclosure of these important documents.

Current Trends, Potential Impacts and Implications

Reports from civil society indicate that the granting of concessions is proceeding at an alarming rate across Cambodia. However, almost no information has been made publicly available by MIME, MoE or other relevant ministries, or by the companies themselves. The following analysis is therefore based on secondary sources and allegations from communities affected by concessionaires, which merit further investigation from responsible authorities.

a. Known mining licenses:



Please see Annex 1 for the details of each known mining license per province.

²⁷ 1996 Law on Environment Protection and Natural Resource Management, Article 16.

Mining licenses which are known by civil society groups are shown in the above map. This is incomplete and the operational status of these companies is not clear: in Mondulakiri province, 18 companies have been granted exploration licenses and no exploitation licenses have been granted, but 2 companies are reported to be exploiting already²⁸. The 1,500 km² Kenertec project is described in greater details in the case study below. The concentration of Mining exploration in the NE region is part of the RGC's designation of this area as the "4th Economic Development Zone".

b. Allocation of mining licenses inside protected areas,²⁹ protected forests and ecologically sensitive areas.

The map above suggests that more than half of Cambodia's PA/Fs have exploration licenses granted within their boundaries. An Australian Company, Indochine Resources, was granted an exploration license for mineral resources across 54% of Virachey National Park in mid-2007³⁰. The case study in the Forest, Concessions and Plantations Position Paper estimates that 22% of the area of 6 PA/Fs Mondulakiri and Ratanakiri has been allocated for mining exploration. Sand dredging in coastal areas such as Peam Krasaop National Park, Koh Kong, is reported to be destroying mangrove estuaries. In addition to the impact of concessions on the overall integrity of PA/Fs, organisations working in these areas report secondary problems such as increased illegal wildlife hunting by company staff and guards. Chapter 8 of the 2008 Protected Area Law restricts use of natural resources in the core and conservation zones. However, in December 2007 MoE announced that mining companies no-longer had to undertake EIAs as a pre-condition for receiving an exploration license. From now on, zoning of PAs could only be done once mineral resource "Master Plans" had been developed through collaboration between MoE, MIME and prospective mining companies.

c. Summary of key impacts reported by local communities

Without access to the relevant EIAs, it is not possible to assess the potential impact and to what extent mitigation measures proposed by the companies are adequate. Some negative impacts are already being reported by local communities to NGOs resulting from the exploration or illegal exploitation activities of mining companies. In Preah Vihear, Mondulakiri and Ratanakiri local communities allege that during 2008 large numbers of cattle died as a result of the use of poisonous chemicals in processing, for example leaching to extract gold from ore. In Mondulakiri and Ratanakiri, local communities made numerous allegations of environmental pollution (such as water sources) from illegal small and large-scale mining operations³¹. They also reported a number of deaths (including one child) from accidents in un-safe mines. Affected communities claim that loss of access to agricultural lands and forest resources has already undermined food and water security and they are fearful of the impact of future expansion of extraction activities. Additionally, mining activities increasingly involve the threat of relocation without resettlement plans.

d. Lack of consultation with affected peoples or free, prior or informed consent

These licenses have all been granted without the free, prior, and informed consent of affected communities. Where consultation has occurred, communities report that it has frequently been only done with commune and/or village chiefs (who do not necessarily represent the communities' concerns) and some affected communities allege they were ill-informed and intimidated.

²⁸ Beaumont, P (2008) Extractive Industry "Mining" Study: Social and Environmental Impacts in Ratanakiri and Mondulakiri. Development and Partnership in Action, Phnom Penh, July 2008.

²⁹ Defined in the Protected Area Law (Art. 7) as National Park, Wildlife sanctuary, Protected landscape, Multiple use area, Ramsar site, Biosphere reserve, Natural heritage site and Marine Park.

³⁰ Gillison, D (2007) "After stripping Cambodia of almost all its natural resources, now come the mining invasion ... when will it stop? Cambodia Braces for a Mining Invasion", Asia Sentinel, 21st September 2007.

³¹ Beaumont, P (2008) Extractive Industry "Mining" Study: Social and Environmental Impacts in Ratanakiri and Mondulakiri. Development and Partnership in Action, Phnom Penh, July 2008.

e. Militarization of mining operations leading to threats and intimidation:

Whilst civil society understands the need to protect mining exploration activities with guards, they are very concerned about increased military involvement reported at many of the large mining sites such as Southern Mining, Friendly Nation, Rattanak - Kenertec and Cambodia Iron and Steel. This militarization is consequently associated with other problems for local communities:

Access restrictions: In Preah Vihear, access is already being restricted on some roads surrounding large mining concessions which have reduced movement between adjoining communities. Demarcation of concession boundaries has also restricted community access to forest resources.

Intimidation and threats of displacement: In Anlong Chrey and Anlong Phe communes (Thalla Barivat district, Stung Treng) communities in at least 3 villages (Anlong Chrey, P'Ao and Veal Po) have been given notice to vacate their land without any resettlement plan or the promise of compensation. Community members worry that current occupation by military police would allow easy deployment of forces to aid in village eviction process and may involve aggression. In Chong Plas Commune, Keo Seima District, Mondulkiri, some people have been told they will be relocated, and others have been forced to "sell" their land to mining companies under the threat it "will be mined anyway"³².

f. Secondary impacts

Large-scale mining in Cambodia is expected to require significant infrastructural support. Both iron and bauxite extraction only have economic returns when conducted on a large scale, both require significant sources of electricity and water and cheap transportation. These additional developments will exacerbate impacts such as displacement of local communities, deforestation and impacts on biodiversity, destruction of watersheds and disruption of water supplies, and increasing demand for energy.

g. Lack of institutional capacity to coordinate mineral resource extraction and its implications for management

The growing demand from investors in the extractive industries sector and the increased number of licenses issued has not been matched by an equivalent increase in institutional capacity of the Government. There are significant institutional and capacity gaps within the government agencies responsible for coordination, contracting and monitoring of the extractive industry sector. Additionally, no overall framework guides operations. One implication is lack of coordination of development plans; areas under exploration activities face simultaneous expansion of other projects such as road construction, hydropower dams and agro-industrial plantations. Given the lack of information disclosure described above and the lack of harmonized vertical or horizontal development planning, the cumulative impact of these proposed activities is unknown and it not measurable by any of the environmental or social assessment frameworks currently available.

Case study on Kenertec Co. Ltd

Kenertec Co. Ltd., a South Korean manufacturer of industrial burners and energy-related equipment, was founded in 1997 and listed on the KOSDAQ Stock Exchange in 2003. It has partnered with POSCO (world's 4th largest steel company) on some projects. The Kenertec group has recently expanded into mining and related activities, including coal-mining and liquefaction in Indonesia, Vietnam and Cambodia³³.

³² Ibid.

³³ <http://www.kenertec.co.kr/korean/main/main.asp>

The company operates in Cambodia under the name of Kenertec Resources Co. Ltd (JVA with Rattanak Stone Ltd). Known projects underway in Cambodia include:

1. 1520 km² "concession" north of/overlapping with Prey Lang Forest and its buffer areas (see yellow highlighted concession on map).
2. Take-over of 9 operational mines, including acquisition of Rattanak Stone and its iron mine in Rovieng, Preah Vihear.³⁴ Kenertec estimates iron ore at the Rovieng mine at 200+ million tons, more than 65% described as high quality hematite and magnetite.
3. 60,000 hectare (600 km²) economic land concession for biomass inhabiting "scrubland."³⁵

Kenertec's future plans for the Iron Ore site at Rovieng include extraction by early 2009; transportation by road, 80km, (being constructed currently) to the Mekong, and downstream by 2000 ton barges³⁶. Their anticipated production from this one site is 2 million tons/year, anticipated sales are 160 billion (sold at USD 80/ton) / year; and profits are estimated to be USD 38 million / year. Plans for other sites are unknown. Although there are no known ESIA's, information available points to rapid transformation of the highly sensitive and environmentally critical Prey Lang and upper Mekong areas into an industrial zone. Primary effects include loss of biodiversity, massive population displacements, destruction of important ecological service providers (forests, river systems), and disruptions in Tonle Sap system/threats to regional food and water security. Because their contract was not made public, it is not clear if Kenertec's "concession" license is for exploration or extraction. This is particularly worrying considering Kenertec's lack of experience in the mining sector. Additionally, Chinese ore estimates from the area show that Kenertec's production estimates could be exaggerated, suggesting an attempt to boost their suffering stock value.

Kenertec's involvement in this area will have further repercussions throughout the region. Extracted materials will be transported to Vietnam via the Mekong in 2000-ton barges that will require river dredging. The size of their Economic Land Concession, which is six times the maximum legal limit, sets another negative precedent in Cambodian land dealings, as do personnel in military uniforms guarding the Rovieng iron-ore mine.

Recommendations

Recommendations to the Royal Government of Cambodia

1. Government agencies (including MIME, MoE and Ministry of Health) urgently investigate the allegations of illegal mining activities and environmental and social impacts made by affected communities.
2. Adopt a JMI at the 2008 CDCF to create a public log-book of all pending and granted licenses for mineral resource exploration and exploitation (based on the provisions of Article 20 of the Law on Management and Exploitation of Mineral Resources) which is updated quarterly.
3. Complete the national legal framework guiding the extraction of mineral resources, prioritize the implementation and enforcement of national and international legislation (including re-instating that EIAs are required for exploration licenses) and revoke licenses in the case of non-compliance.

³⁴ According to Reuters, Rattanak Stone transaction will not be concluded 31 August 2008. Kenertec is now operational and have 2 office sites, one in Rovieng District town and the other in Toul Kok, Phnom Penh.

³⁵ http://www.kenertec.co.kr/english/relation/whatsnew_read.asp?page=2&num=12

³⁶ From http://www.kenertec.co.kr/english/relation/whatsnew_read.asp?page=1&num=10

4. New applications for concessions that overlap PA/Fs must be reviewed by the technical agency responsible for management, e.g., MoE/ANCP³⁷ and MAFF/FA, plus any other relevant stakeholders, as required by Article 10 of Environmental Protection Law and Articles 4 and 35 of the Forestry Law.
5. Compile all mineral resource deposit data and develop a national mineral resource management strategy before offering extraction rights to ensure sustainable use. This will mitigate negative social and environmental impacts, provide all companies with equivalent information and ensure the best deal for Cambodian investors.
6. Design and implement a national policy for social and environmental responsibility in the extractive industries sector which includes the following:
 - Revised Environmental Impact Assessment guidelines which employ multiple stakeholder participation and meaningfully fulfill their objectives;
 - Ensure that all aspects of the award of rights, from pre-qualification to the implementation of contractual commitments by companies, are open to oversight by Parliament;
 - Establish an independent public agency with the mandate, resources and expertise to continuously oversee all aspects of the award of rights including the monitoring of health and socio-cultural impacts. Additionally, monitors under the supervision of PA/F authorities should monitor all exploration activities within PA/Fs;
 - Develop provisions which will enable civil society groups and the wider public to have full access to information relating to the Extractive Industries Sector, according to international best practice standards as set out by the ICMM and EITI³⁸;
 - Ensure that people affected by the activities of extractive industry sector groups have the opportunity for free, prior and informed consent.
7. MIME suspends all mineral exploration activities in or near PA/Fs until zonations are officially approved through a cooperative and transparent stakeholder review process. All responsible government agencies enforce a moratorium on the granting of exploration and extraction licenses in indigenous areas until indigenous communal land titling is complete.
8. Issue an order requiring the cooperation and support from provincial authorities to implement and enforce the above recommendations.

Recommendations to development partners

9. Urgently provide technical and financial support to relevant government agencies to develop a national policy for social and environmental responsibility in the extractive industries sector (as described in recommendation # 3).
10. Ensure that all Extractive Industry issues (licensing, contracts, revenues and impacts) are discussed in relevant TWGs and initiate discussions with key government agencies about establishing a Technical Working Group on Extractive Industries to coordinate this sector to ensure equitable benefit sharing.

³⁷ Administration of Nature Conservation and Protection, formerly the Department of Nature Conservation and Protection.

³⁸ International Council on Mining and Metals Sustainable Development Framework: <http://www.icmm.com/our-work/sustainable-development-framework> and the Extractive Industries Transparency Initiative: <http://eitransparency.org/>

11. Promote alternative land and resource use based on sustainable financing options. These options could include ecotourism, carbon storage credits under the REDD framework, and endowments³⁹.
12. Development Partners from countries which mining companies investing in Cambodia originate from should work with Embassies, Private Sector Forums, individual companies and the RGC to ensure that investment are done responsibly with minimal environmental and social impacts.

Recommendations to Mining Companies

13. Companies must abide by international best practice standards as set out by the ICMM and EITI.
14. Companies with operational safeguard policies should ensure compliance at every stage of design, planning, operations and recovery, even if these guidelines go beyond provisions in National Cambodian Legislation.

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³⁹ Reduced Emissions from Deforestation and Degradation. For further information, see International Institute for Environment and Development's "Sustainable Financing of Protected Areas in Cambodia: Phnom Aural and Phnom Samkos Sanctuaries".

Annex 1: COMPANIES WITH MINING LICENSES BY PROVINCE

BATTAMBANG	Oxiana Cambodia Limited and Shin Ha Mining Company Ltd
Cambodia Mining Development Co. Ltd.	Southern Gold Ltd
Jireh International Cambodia Construction & Import-Export Co. Ltd.	Summer Gold Investment PVT Ltd
Ultra Marine Kiri (Cambodia) Co. Ltd	Zhong-Xin Industry Investment Cambodia Co
Kampong Chhnang	ODDOR MEAN CHEY
Meas Sopheap Co. Ltd.	Angkor Wat Cement Ltd.
KAMPOT	Cambodia Mineral Development Co. Ltd.
Cement Cambodia Chakrey Ting Co. Ltd.	Neoneer
Kampot Cement Co. Ltd.	Ratanak Stone Cambodia Development Co. Ltd.
Khaou Chuly Development Co. Ltd. & Tong Yang Cement Corporation	PAILIN
Pheapimex Group - Phnom Kampong trach	Sonuba Cham IndustriesCo. Ltd.
Thai Boon Roong Cement Co. Ltd.	PREAH VIHEAR
Unite International (Cambodia) Foreign Investment Group Co. Ltd.	Chhong Kor Chhean Pean Co. Ltd
KOH KONG	Delcom Cambodia PTE. LTD
Samnang Rea Thbong Thmor Co. Ltd	Ratanak Stone Cambodia Development Co. Ltd
KOMPONG CHAM	Titan Mineral Group Co., Ltd
Sun Trading Co. Ltd.	PURSAT
Kompong Speu	Southern Mining Co. Ltd.
Future Environment	RATANAKIRI
T.S.S.M Group Co., Ltd	Cambo Cana Kiri Development Ltd
KOMPONG THOM	Cambodia International Mining Group (CIMG - China)
NGOV PET	Indochine Resources Ltd
Vannvymex Co. Ltd.	Liberty Mining International PTY Ltd
KRATIE	Rattanak Chhorpoan (Cambodia) Ltd
Cambodia International Mining Group	Seoul Digem Cambodia Co Ltd
Chhong Kor Chhean Pean Co. Ltd	Southern Gold (Cambodia) Ltd, Greystroke Ltd
Leang Samean Quarry	Summer Gold Investment Pty Ltd
TTY Rithy Mexco Co. Ltd	Transol Mining And Exploration Company Pty Ltd
Zhong Xin Industrial Co. Ltd.	Ultra Marine Kiri (Cambodia) Ltd
MONDULKIRI	SIEM REAP
Anging Cambodia Investment Company Co, Ltd	Chea Ravy Quarry
Antrong EL	Meas Narithy Quarry
Bhp Billiton World Exploration Inc and Mitsubishi Corporation	Teng Mab Quarry
CAMBO CANAKIRI Development Ltd	SIHANOUK VILLE
Cambodia Hai Lan Mineral Company Limited	TKS International Co. Ltd.
Chin Siv Nginh CSN Cambodia Import Export	Va Ly Heng
China Forwin International Investment Phnom Penh Mining Co, Ltd	STUNG TRENG
D&Z Investment Co, Ltd	Mong Good Luck Mining Co. Ltd.
Gold Metal Group Co, Ltd	Ta Yi Co. Ltd.
Moeung Sok	Try Pheap Co. Ltd.
Oksan Cambodia Inc	Titan Mineral Group Co., Ltd

Land Reform

Introduction

International and national civil society groups continue to be very concerned about the escalating trends of alienation of poor and vulnerable people from their land and natural resources, in both urban and rural areas.⁴⁰ At the mid-point of implementation of the NSDP, the land sector may have made progress towards one goal, namely land market development. However, this success disproportionately benefits the rich whereas little progress has been made towards securing tenure or pro-poor land access.

More than 30 international and national NGOs work directly on land issues across the country and have made significant contributions to the development of land reform policies and the legal framework. These NGOs have jointly contributed to this paper on land reform. They welcome the opportunity to continue their cooperation with the RGC to ensure the fulfilment of common goals of poverty reduction and pro-poor land reform.

Joint Monitoring Indicators

The relevant joint monitoring indicators (JMIs) for this sector are as follows:

Target	Action Needed	Responsible Government Institution
8. Implement the legal framework established by the Land Law	1. To adopt 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).	MLMUPC
	2. To improve the livelihoods of the rural poor, i.e. 500 eligible households are settled on social land concessions with livelihood support and at least 10,000 hectares of suitable land confirmed as available for social land concessions	MLMUPC

JMI 8.1: To adopt 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).

NGOs are disappointed to report that they have seen no significant progress by the RGC towards achieving this JMI. We welcome the delay of the adoption of the Policy on Registration and Use Rights of Indigenous Communal Land so that it can be passed in conjunction with the Sub-decree on Procedures of Registration of Land of Indigenous Communities and be based on the results of the titling pilots in 3 villages. The national consultation on the Draft Sub-decree undertaken by NGOs, CSOs and Indigenous

⁴⁰ UNDP (2007) Expanding Choice for Rural People, Cambodian Human Development Report 2007.

Peoples representatives within the "e-consultation" framework provided by the General Secretariat of the Council of Land Policy (GS-CLP) concluded with the following substantive concerns:

1. The draft Sub-Decree undermines indigenous peoples rights enshrined in existing national legislation and international human rights standards.
2. By providing individuals who want to leave the "indigenous community" with the **right** to cut individual land parcels from the collective title (Art. 11), this Sub-decree not only contravenes the Land Law (Art. 27), but risks fragmentation and individualization of indigenous communal land.
3. The restriction that an "indigenous community" must have registered as a Legal Entity with the Ministry of Interior prior to applying for collective title (Art. 2) will prevent any claim for title until the Sub-decree governing the registration process for indigenous communities is adopted.
4. The requirement that each "community" will receive only one title after all contested claims have been resolved (Art. 7) has the potential to deny indigenous peoples their rights to title, given the large proportion involved in land disputes.
5. The restriction of spiritual forest land and cemetery forest to seven hectares (Art. 4) is against traditional practice, which does not measure land nor recognize such restrictions.

Consultation representatives also concluded that the eight-week period given by the GS-CLP⁴¹ was insufficient to enable indigenous peoples to adequately participate. It is hoped that the delay in the adoption of this legislation provides an opportunity for further public consultation on both revised documents, which will improve the transparency of the drafting process and enable informed comment by indigenous peoples.

In the context of this incomplete legal framework, NGOs and CSOs are very concerned by the limited efforts made by the RGC to implement interim protective measures to "*safeguard indigenous community's land across two provinces*". Government progress reports indicate they have worked only in the three pilot villages which gained legal recognition as legal entities during the reporting period⁴². This is unacceptable in the context of widespread land grabbing, illegal grants of economic land concessions and mining licenses. If interim protections are not implemented **across** areas eligible for communal land title, there is a real risk that there will be very little indigenous community land left to title when the legislation is complete⁴³. Additionally the RGC at both the provincial and national levels have refused to provide any clarification about their proposed plans for implementing this JMI and the "Preliminary Action Plan" reported on by Ministry of Land Management, Urban Planning and Construction (MLMUPC) representatives in September 2007 has never been completed nor released⁴⁴.

The Kong Yu case is a representative example of how "*interim protective measures (identification, mapping, classification and provisional endorsement of indigenous land legal claims) to safeguard the indigenous community's land*" under JMI 8.1 have not been effectively implemented. The case was raised in the NGO Statement to the 2007 CDCF. An update on how no further progress in this case on the implementation of each component of JMI 8.1 is set out below. There are many other cases which illustrate the RGC's failure to implement interim protections that have been documented by NGOs and indigenous communities themselves.

⁴¹ The Notice for Public Consultation was issued by the CLP on the 6th March 2008 with a deadline for submissions on the 2nd May 2008.

⁴² Such as updates given during the TWG – Land Meetings

⁴³ These problems are made worse by lack of representation of indigenous peoples within government administration structures and difficulties of communication due to high levels of illiteracy and lack of Government understanding in indigenous languages.

⁴⁴ Minutes of the TWG-Land Meeting, 18th September 2007.

Update of Kong Yu Case Study, O'Yadau District, Ratanakiri

A business woman with close family ties to high-ranking officials has been involved since 2004 in a dispute over purported land sales contracts for 450 ha of land with Jarai villagers in Kong Yu and Kong Thom. Lawyers for Community Legal Education Centre and Legal Aid Cambodia argue that the disputed land is indigenous community land under the Land Law and cannot be sold before it is registered as indigenous community land. This position is supported by international legal experts, government policy and traditional indigenous customs⁴⁵. The villagers' complaint was lodged in the Ratanakiri Provincial Court on January 23, 2007. However since the dispute began no government or judicial authority has recognized that Kong Yu villagers are an "indigenous community"⁴⁶. This is a common way authorities avoid the legal protections provided to indigenous communities.

According to a Provincial Order the disputed land contains shifting agricultural land, multi-usage forest, guardian forest and protected forest; evidencing that this is indigenous community land⁴⁷. However no governmental or judicial authority has since recognized or tried to enforce this Provincial Order. State public property is defined in Article 15 of the Land Law to relevantly include "*Any property that has a natural origin*" which specifically includes "*forests*" and "*natural lakes*". Parts of the disputed land were forest land and contained lakes (see the Provincial Order) and should therefore have been classified state public land. State public land by law *cannot* be sold to private individuals⁴⁸. Indigenous communities are entitled to manage their community land before its registration in accordance with traditional custom under Article 23 of the land Law; this includes State public land such as forests. However, there has been no state land classification in the disputed area; indeed NGOs supporting this case are not aware of any state land mapping that is publicly available in any indigenous community area.

On the application of the villagers' lawyers, the President of the Court (appointed in February 2008) was removed from hearing the case in September 2008 on grounds of bias, a lack of diligence and not upholding the law. The case is now to be heard by the Vice President of the court. Villagers hope the case will go to trial within 4 months and intend to apply for communal land title.

JMI 8.1 falls under broad Target 8 to "*implement the legal framework established by the Land Law*" which, together with NSDP 4.50, identifies implementing the existing legal framework and observing the rule of law to be the most effective means to ensuring both interim and permanent protection of indigenous lands. This lack of commitment by the RGC to achieve this JMI is extremely alarming given the simultaneous escalation of land grabbing, illegal land sales and allocation of ELCs and Mining Licenses in areas eligible for indigenous communal land title (as described in the Position Paper on

⁴⁵ This interpretation was supported by Mr. Seak Vanna, Deputy Director in Ministry of Land Management, Urban Planning and Construction in a 2005 workshop and the GTZ publication *Legal Issues Related to Registration of Indigenous Communities in Cambodia* dated 2005. Under Article 6.3 of RGC's Circular No. 02 on Illegal Possession of State Land Property dated 26 February 2007, government appropriation of indigenous land shall be delayed until it is registered as State land. The legal argument also appears to have been upheld in the decision of the Court of Appeal Civil Case File No.: 426 of June 20, 2001. See indigenous community consultation findings from Kompong Speu (9-12 September 2004) and Kompong Thom (18 November 2004).

⁴⁶ The Kong Yu and Kong Thom villagers are an indigenous community according to the independent report of Dr. Meas Nee titled "Cultural Expert Opinion Report On Kong Yu and Kong Thom Villages, Pate Commune, O Ya Dav District, Ratanakiri Province" filed in the Court by CLEC and LAC lawyers on 15 January 2008.

⁴⁷ The Pate Commune Natural Resources Management map was produced by the Provincial Department of Environment and is contained in the Provincial Order on Community Based Natural Resources Management, Pate Commune, O'Yadau District, Ratanakiri dated 13 December 2004. Page 4 of the Order dated 13th December 2004 States that the internal rules of the Commune include: "No sale of garden or plant land/rice field land/residential land/ forest land by any villager to outsiders and trader from outside community", and "Outsiders shall not practice farming and long term plantation" and "No land grabbing, and clearing forest for cultivation into the protected forest".

⁴⁸ Articles 16 and 26 Land Law 2001.

Forests, Plantations and Concessions). NGOs believe it to be indicative of RGC prioritization of development policies which favour the rich whilst penalizing the poorest and most vulnerable of Cambodian society.

JMI 8.2: To improve the livelihoods of the rural poor, i.e. 500 eligible households are settled on social land concessions with livelihood support and at least 10,000 hectares of suitable land confirmed as available for social land concessions

This JMI was rolled-over from those selected at the 2006 CG Meeting and NGOs are glad to report steady progress in the implementation of the Social Land Concession (SLC) pilot sites of Chorm Kravien Commune, Kampong Cham Province, and Sambok and Choamkrong Communes, Kratie Province. NGOs are also optimistic about the increasing number of funding opportunities and NGOs becoming involved in supporting locally initiated SLCs, in particular they welcome the approval of the Land Allocation for Social and Economic Development (LASED) project on 23rd April 2008.

NGOs involved in local level implementation and monitoring of the pilot SLCs report generally positive involvement in Phase iii "Civic Engagement in the Beneficiary Identification Process" and believe this contributes significantly to participant involvement, transparency and accountability. They note that in both pilot areas, NGO involvement remains limited, but are encouraged by requests from Commune Council members for greater NGO support and engagement in the overall process.

As was noted in the NGO Statement to the GDCC Meeting in February 2008, interventions supporting locally initiated SLCs (apart from those within the LASED project) are guided only by the provisions of the Sub-decree on Social Land Concessions itself. These provisions lack adequate environmental and social safeguards to ensure good governance and therefore may limit the potential for coordination of support between responsible Government Agencies at differing administration levels, and restrict the options for monitoring, transparency and accountability. As an example of the potential risks from inadequate stakeholder involvement, NGOs would like to highlight increasing reports of SLCs being allocated in areas already occupied for residential and agricultural uses, which is causing further landlessness⁴⁹. Unless, this land allocation programme addresses this problem (through the adoption for example of the LASED environmental and social safeguards) SLCs could potentially worsen rural poverty and tenure security, instead of achieving their goal of allocating land to poor and landless families.

Finally, NGOs would like to again highlight the discrepancy between the rapid identification and allocation of land to private companies for ELCs and mining licenses, with the very slow progress made to identify land to be allocated through SLCs to Cambodia's poorest and most vulnerable citizens.

Key Actions/Strategies from the NSDP

The relevant sections of the NSDP for this sector are as follows:

Section	Message
4.50	Goal: land tenure and land market development and pro-poor land access. Implement Land Law to ensure "an equitable, proper and efficient system of land management, distribution, land tenure security, eradication of

⁴⁹ An example case is from Taken Commune, Kampot Province where an SLC allocated for demilitarized disabled soldiers rendered households landless who were already occupying the land allocated. As a result a second SLC then had to be allocated for these newly landless households.

	<p>illegal settlements and land grabbing, and the control of ownership concentration for speculative purpose. The priority is to issue clear, incontestable, legal land ownership titles to provide security of tenure to those in actual use of the land they occupy. The challenges are to control and curb further land concentration in few hands, including review of already granted large concessions exceeding limits under the 2001 land law, where land is still lying fallow and unproductive."</p> <ul style="list-style-type: none"> ▪ Formulate and implement a comprehensive land policy ▪ Continue to discuss and develop the required legal framework for effective implementation of the Land Law, including registration of indigenous people's land rights ▪ Improve registration procedures for systematic and sporadic titling ▪ Implement the Sub-decree on state land management, particularly in the area of identification, classification and establishing land maps and inventory ▪ Strengthen Cadastral Commissions and other mechanisms to ensure just and timely land dispute resolution
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Land tenure, land markets and pro-poor land access

The goals of the RGC to achieve land tenure, land market development and pro-poor land access in Cambodia is admirable. Although some achievements have been made such as the number of rural land titles issued, it is critical to recognize that these goals cannot be achieved without an integrated approach by which all fundamental components of the land administration, management and distribution reform programme are functional. This includes a consistent and complete legal and policy framework that adequately addresses the issue of state land identification; co-operation between relevant line Ministries and lower levels of government; registration and subsequent registration of land titles; and a functioning dispute resolution mechanism. NGOs note that a number of fundamental areas are not functioning effectively, including: state land identification and demarcation; a lack of titling of urban areas, especially Phnom Penh; the low level of subsequent registration of land title; the backlog of undistributed titles; the level of outstanding disputes before the Cadastral Commission and its inability to resolve cases involving large communities or well connected individuals and businesses; the unclear and seemingly ineffective role of the National Authority for the Resolution of Land Disputes (NARLD), and the limited participation of civil society in the policy-making process. All of which have the effect of undermining the goals of the NSDP. The recognition and implementation of indigenous community rights and possession rights for the urban and rural poor as set out in the Land Law 2001 should also be a priority to achieve these goals.

Formulate and implement a comprehensive land policy

We welcome the RGC's initiative to revise the 2002 Strategy of Land Policy, interim paper, but note that consultation so far has not involved non-government stakeholders.

Continue to discuss and develop the required legal framework for effective implementation of the Land Law, including registration of indigenous people's land rights

We welcome Sub-Decree #131 on Adjustment to Economic Land Concessions (September 15, 2008). The Sub-Decree withdraws the authority granted by Sub-Decree 146 ANKR.BK to provincial/municipal governors to grant ELCs for investments of less than 10,000,000 Riel or areas less than 1,000 hectares. Further concerns by NGOs about this Sub-decree are contained in the Forest, Plantations and Concessions Position Paper.

NGOs welcome the work done by the MEF and the ADB to prepare a Sub-Decree on Land and Property Acquisition and Addressing the Socio-Economic Impacts by the State's Development Projects (hereinafter: the Resettlement Sub-decree). Because the

Resettlement Sub-decree will become the definitive legal framework for governmental property expropriation in the name of the public interest, it is an opportunity to end the land-grabbing crisis if drafted in an effective and human rights compliant fashion. However, NGOs have voiced multiple concerns regarding its current substance which does not achieve this. Failure to promulgate a Resettlement Sub-decree that meets international standards will burden Cambodia, especially the economically marginalized, for the foreseeable future with inadequate land security, corrupt practices and land-grabbing.

In relation to the implementation of the Sub-decree on Procedures of Registration of Land of Indigenous Communities, see section on JMI 8.1 above.

Improve registration procedures for systematic and sporadic titling

NGOs would like to congratulate the RGC on its progress made to issue a large number of land titles in rural areas. However titling in urban areas, in particular Phnom Penh, has not achieved its targets. One underlying issue has been the Phnom Penh Municipality's refusal to title certain areas on the basis of its development "Master Plans". NGOs would like to highlight that possession rights under the Land Law must be recognized and land title granted to urban poor community members regardless of what the future use of the land may be. The procedures for fair and just compensation as required by the Cambodian Constitution and Land Law should then be provided to the land owner.

NGOs would like to highlight the results of two research projects which highlight policy-gaps within systematic title registration processes. The first case study⁵⁰ found that over half of 36 women who are divorced, separated or abandoned had received titles which jointly named them and their absent husbands, without their consent. This practice is a form of discrimination as these women are not being given equal opportunity to register land plots under single ownership, with their own names. It is also against the Land Adjudication Guideline (2004) which states that titles must be issued to the spouse who resides on and takes care of the land. The second case study⁵¹ of the impact of systematic titling on poverty reduction found that the majority of land plots transferred subsequent to systematic titles being issued are not being updated at the Land Registry, nor are purchasers paying the land tax. NGOs do not have sufficient information regarding sporadic titling to comment on its progress.

Implement the Sub-decree on state land management, particularly in the area of identification, classification and establishing land maps and inventory

NGOs repeat their strong support for the demarcation of state land as a means to end illegal acquisition of land by opportunists and welcome the progress made in connection with SLCs. However, as noted in the Statement to the 2007 CDCF Statement, in other areas there has been no improvement in other areas which continues therefore to provide an opportunity for land grabbing and allocation of concessions, which undermine lawful possession rights of the urban and rural poor, and indigenous community rights under the Land Law 2001.

In July 2006, a Royal Decree on Principles and Transitional Provisions on Transferring Public Properties of the State and Public Legal Entities (#321) and Sub-Decree on Rules and Procedures on Reclassification of State Public Properties and Public Entities (#129) were passed setting out a new procedure for transferring State public property to State private property. Unfortunately, lack of transparency and access to the State land map

⁵⁰ GAD-C and HBF (2008) "Women's Perspectives" A case study of systematic land registration", Gender and Development Cambodia and Heinrich Boll Foundation, July 2008. The preliminary study was small and non-representative case sample (only 36 interviews with women were conducted in Kompong Thom and Kandal Provinces).

⁵¹ ADI-LIC (2007) "Land Titling and Poverty Reduction: A study of two Sangkat in Prey Nup District, Sihanoukville Municipality" Analysing Development Issues / CCC and Land Information Centre / Ngo Forum on Cambodia, November 2007.

has led to the Sub-decree on reclassification being used as a *de facto* land concession-granting mechanism. Legal NGOs are also concerned that the provisions of the Royal Decree have the potential to override the provisions of the Sub-Decree on State Land Management 2005. Rather than conducting methodological and harmonized mapping of State land with all responsible agencies, property is classified or reclassified when the Government wishes to sell, lease or grant a concession on the land (see Boeung Kak Lake case study below). According to the Royal Decree, before State public property can be reclassified as State private property it must first have been registered.⁵² This is unverifiable because of the lack of access to the State land database. The land must next lose its public interest service, function or use.⁵³ This requirement is rarely met.

This lack of transparency and violation of the Land Law and related Sub-decrees has disproportionately effected the poorest and most vulnerable. Rural communities have been deprived of farmland that provided them with a means of subsistence. Indigenous communities have had their spirit forests and burial grounds razed, preventing them from carrying out traditional ceremonies and contributing to the threatened extinction of ancient cultures. Urban communities are being denied the opportunity to secure land tenure to which they are entitled. It is also of concern that urban and rural participatory land use planning (PLUP), claimed an achievement towards a previous JMI, has never been recognized nor integrated into broader state land demarcation and mapping processes.

NGOs welcome the selection of an "action" under JMI 8 for the next CDCF Round to develop a Spatial Planning Policy defining a hierarchy for land use planning and zoning.

Strengthen Cadastral Commissions and other mechanisms to ensure just and timely land dispute resolution

NGOs support the proposed decentralisation of decision-making which will authorize Provincial / Municipality Cadastral Commissions to issue decisions on cases. NGOs also welcome their involvement in the mobile teams for land dispute resolution established in four provinces. However the impact of these teams has been limited as they have only dealt with small scale disputes and large ones involving powerful individuals (such as O'Chrao in Banteay Meanchey and Memot in Kampong Cham) remain unresolved.

NGOs are reiterating concerns raised previously that many Cadastral Commission Cases are not resolved through the procedures stated in the relevant Sub-decrees, Prakas and guidelines and that the jurisdiction and effectiveness of the NARLD remains unclear. A key component of ensuring pro-poor access to land is a functioning dispute resolution system that resolves disputes into accordance with rules and procedure and without regard for socio-economic or political status. It is disappointing that the JMI concerning the Cadastral Commission was dropped at the 2007 CDCF and that no new indicator for this fundamental component of the land sector has been adopted.

Important Issues not covered by JMIs and NSDP

Two key issues not directly included in either the JMIs or the NSDP, but which are critical to land reform processes in Cambodia have been selected by NGOs for special reference.

Resettlement Issues

This topic was raised as a key concern in the NGO Statement to the 2007 CDCF. Since then numerous reports have reiterated these concerns about the increasing number of people forcibly resettled and have deplored the current violent and inhumane methods

⁵² Royal Decree #339, Article 3

⁵³ Royal Decree #339, Article 4.

used during evictions⁵⁴. It is disappointing to note that none of the recommendations made in relation to resettlement issues during the previous NGO Statement have been implemented by the Government. The case study below of the current involuntary relocation of up to 4,200 families living around Boeung Kak lake in Phnom Penh has been selected to highlight the ongoing violation of legal procedures and human rights.

Case Study of Boeung Kak Lake, Phnom Penh

Boeung Kak Lake provides a home to thousands, a livelihood source for many of them and a drainage system for part of the city. In February 2007, the Municipality leased Boeung Kak lake and the surrounding land for 99 years to a private company for \$79 million dollars to fill in the lake and develop a new "satellite city"⁵⁵.

This lease contract is viewed by legal NGOs as illegal: no precise development plan has been released, nor have any public consultations been held. There is no evidence that the land awarded to the company was registered before reclassification, nor how the lake lost its "public interest" status⁵⁶. The case is a clear example of the improper way the Government manages State land. Residents were initially told they had to relocate because it is State Public Property. This may be true for people living directly on the lake but is false for the majority living on the mainland and have legitimate possession rights under the 2001 Land Law and are therefore entitled to apply for legal title. Moreover, under the Land Law, the lake itself is State Public Property, which cannot be leased for more than 15 years or destroyed. Nevertheless, on August 7, 2008, a Sub-decree was issued which transferred 133 ha, including the lake and surrounding area, from State Public to State Private Property. This was an improper effort to legitimize the earlier contract to lease the land.

On 26 August 2008, the filling of Boeung Kak Lake began, a development with the potential to forcibly evict more than 4200 families. The eviction and relocation plans have been done without local consultation, in contravention of relevant international human rights law. There are widespread complaints of threats and intimidation and affected communities are presented with two options – a cash payment of USD 8500, or USD 500 and a house in a distant relocation site. These options are far below market value and will not provide the persons concerned with adequate alternative housing or secure land title.

NGOs are glad to see that securing tenure for the urban poor has been identified as a priority reform issue for the next CDCF Round through its selection as a JMI "action" under JMI target #8. NGOs working on resettlement and housing rights issues offer their support and cooperation to the Government and Development Partners to ensure that this goal can be affectively achieved.

Possession Rights under Cambodian Law

For the majority of Cambodians, who lack titles on the land registry, possession rights are the only means of tenure security under the Land Law. However, in many urban and rural areas, the government has effectively rendered possession rights meaningless, by repeatedly refusing to grant titles or allow clear means by which to determine their validity. For example, the Group 78 community referred to in the Statement to the 2007 CDCF have exhausted all legal and administrative avenues and have never had their claim for possession rights investigated.

⁵⁴ Amnesty International, *Rights Razed: Forced Evictions in Cambodia*, February 2008; HRTF "Human Rights Day Urgent Action Appeal: 280 families threatened with forced eviction in Phnom Penh need your help!", Housing Rights Task Force, September 2007; HRTF "Joint Statement on the forced eviction of 132 families in Sangkat Chrouy Changva, Phnom Penh" Housing Rights Task Force, 3rd November 2007; FIDH 2008 "Forced Evictions in Cambodia: Time to End Impunity" International Federation for Human Rights, 19th February 2008.

⁵⁵ Leased to Shukaku Inc. who share offices with Pheapimex and whose owner is Senator Lao Meng Khim.

⁵⁶ Article 15 of the Land Law states that lakes are State public land because they have a "natural origin" and serve a public purpose.

The Land Law grants possession rights to anyone who can demonstrate having peacefully possessed state private property for at least five years, and grants such persons the right to request a definitive title of ownership (Article 30). To convert possession rights to ownership, the possession must be unambiguous, non-violent, notorious, continuous and in good faith (Article 38). For those who satisfy these conditions, the possession constitutes an "*in rem*" right over the property in question, even while waiting to be granted full ownership (Article 39). The effect of these provisions is to provide tenure security to the large number of people living on state private property. After decades of upheaval all land records were destroyed and the majority of the population informally resettled on vacant and available land, overwhelmingly consisting of state private property. However, official mapping of state public and private land has not occurred, leaving communities susceptible to authorities claiming (illegally) that their community's land is State public land (see case study of Boeung Kak Lake).

Recommendations

The following recommendations are suggested to the RGC and Development Partners to implement before the next CDCF as a means to remedy the specific issues described above. It is disappointing that none of the 18 recommendations made in the NGO Statement to the 2007 CDCF have been fully implemented. As an over-riding recommendation, NGOs call on the RGC, with the assistance of the development partners, to ensure **each** of the fundamental components of land reform are adequately and holistically addressed including inter-component coordination.

Tenure security for indigenous peoples' land

- Interim protection measures for indigenous community land must be prioritized by all relevant line Ministries and their provincial and district officials, including communities not yet registered as legal entities. Measures must comprise of support directly to communities and initiatives which deter further illegal land acquisition such as the prosecution of at least one high profile individual involved in a land dispute with land eligible for communal title. NGOs strongly recommend that the "Kong Yu- Kong Thom" case in Ratanakiri Province be selected; it would not only prove the Government's commitment to provide interim protection but would also act as a strong deterrent to future land grabbing.
- The RGC must ensure that affected indigenous peoples are able to provide informed comment during the finalization of the draft Sub-decree on Procedures of Registration of Land of Indigenous Communities.
- Land sector Development Partners need to urgently increase technical, financial and institutional support to the registration process for communal land title. The support for registration of indigenous communities as legal entities is welcomed. However, NGOs believe that equivalent support is urgently required for identification, mapping, classification and legal recognition of indigenous land.

Social Land Concessions

- Accelerate the expansion of SLC projects nationwide, through the LASED Programme and others, to ensure that allocation for SLCs is given an equivalent priority as allocation for land concessions.
- Use the LASED project as the basis for discussions to develop a framework to implement SLCs across Cambodia. This must include mechanisms which prioritize coordination and harmonization of identification and planning stages between responsible government authorities and with local communities living within, or using lands identified as potential SLC areas. For example, in the case that SLCs are planned for de-mobilized armed forces, all stakeholders in the

identified area must be informed and consulted and any disputes resolved before the SLC can be approved or implemented.

Land policy

- Make the draft land policy documents publicly available and include non-government stakeholders in consultation during the drafting process.

State land management

- Ensure that the development of the Spatial Planning Policy Land includes the following:
 - A review of institutional responsibilities for registration of all types of state land, the scope and implementation of Article 18 of the Land Law 2001, and the institutional roles in the administration of state land;
 - Strategies for Inter-Ministerial harmonization and cooperation for all processes, specifically harmonizing identification and classification of state land with coexisting mapping processes through participation with civil society.
- Speed up the demarcation and registration of state land, and prioritize building the capacity of the registration mechanisms and responsible provincial and district level agencies.

Systematic and Sporadic Titling

- The RGC and Development Partners must prioritize securing tenure of urban poor households through concrete measures including:
 - Ensuring that significant proportions of titles are issued to possessors satisfying legal requirements residing in urban settlements, but whose legitimacy of tenure has not yet been officially acknowledged;
 - Improving the speed and reduce the costs involved in issuing sporadic titles to ensure they are in compliance with regulations.
- Initiate research and policy dialogue with all stakeholders in the land sector regarding process-gaps relating to gender discrimination during titling and subsequent title transfers not being updated in the land registry.

Land dispute resolution

- Prioritize resources to support the Provincial / Municipality Cadastral Commission Offices to fully implement their new decision-making roles.
- Clearly state the roles and responsibilities of land dispute resolution mechanisms at all administrative levels including the service charge (fee structure) for registration and make this information easily accessible to the public.
- Resolve three land disputes involving urban poor communities with 50 or more families claiming possession rights in Phnom Penh in accordance with relevant laws.
- Speedily implement the recommendations made in the NGO Statement to the 2007 CDCF in relation to the NArLD.

Resettlement issues

- Speedily implement the recommendations made in the NGO Statement to the 2007 CDCF, centred around a moratorium on all evictions until adequate guidelines are in place.

Possession Rights

- The possession rights of the Boeung Kak Lake and G78 communities are properly investigated and the disputes resolved in accordance with relevant laws and procedures.

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Rural Water Supply and Sanitation

Introduction

The Government's National Water Supply and Sanitation Policy affirms that every Cambodian including those in rural areas shall have access to safe water and sanitation by 2025. In line with CMDG's, the government is committed to increasing the coverage of improved water supply to 50% of the rural population by 2015, and sanitation coverage to 30% through the NSDP 2006-2010. Efforts have been made by the Government through Ministry of Rural Development (MRD) in cooperation with development partners in terms of financial and technical support.

Development and Partnership in Action (DPA) has implemented water and sanitation development activities in terms of awareness and education, borehole and open well construction and water-filter distribution to rural communities, particularly indigenous communities in close cooperation with Provincial Department of Rural Development (PDRD). This information is based on consultation with other NGOs, agencies, DPA Partners and related PDRD reports.

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institution
14 Increase use of improved sanitation, hygiene and drinking water supply especially in rural areas	Develop and adopt a rural water supply and sanitation strategy and budget that is based on the official Rural Water Supply and Sanitation (RWSS) policy and aligned to the NSDP.	MRD

JMI 14: The established TWG on Rural Water Supply, Sanitation and Hygiene is currently supported by many donors such as ADB, UNICEF, WHO, UK DFID and WB to carry out tasks and develop a national sanitation strategy for Cambodia. Currently, ADB is providing Technical Assistance to support the preparation of the Second Rural Water Supply and Sanitation Sector Project in the 5 provinces of Tonle Sap area⁵⁷. Also the Law on Financial Management for 2008 MRD's public investment focuses more on improving Water Supply and Sanitation in provinces around Tonle Sap area.

According to the report by the PDRDs of Stung Treng, Ratanakiri, Mondulakiri, and Kampot, some progress has been made in rural Water Supply and Sanitation in 2008. PDRD implemented the construction of only three boreholes in Ratanakiri using non-government resources. The PDRD of Mondulakiri plans to build 30 boreholes and 1500 latrines in 2008 however they lack the budget to implement this. Meanwhile, Stung Treng plans extend only to maintain and assess existing boreholes.

Moreover data from DPA's partners in Battambang, Kandal and Svay Rieng shows that from 2007 to 2008 most water supply activities dominated by the construction of hand-pump wells were implemented by NGOs and UN agencies (including in particular UNDP and UNICEF) while no report on the progress of sanitation, in particular the construction of and the access to latrines in these provinces. However, it was reported that

⁵⁷ Technical Assistance Report, ADB, July 2008

Commune Health Centres and District Health Offices in collaboration with NGOs continue in their efforts to raise awareness about health, sanitation and hygiene.

Despite the strong demand for latrines among the Cambodian population particularly in remote rural areas, it has remained mostly unrealized and has become a long-term issue in improving sanitation. There is high ratio of indigenous households in rural remote areas of Ratanakiri and Mondulakiri who have poor sanitation and hygiene practices; 92-99% of them use surrounding forest areas as their toilet or latrine.⁵⁸ Only 16% of the rural population nationwide has access to sanitation and 42.6% access to clean water⁵⁹. Though the clean water access is better, it is still hard for the disabled particularly to use the boreholes in terms of its design.

Moreover, public investment in rural clean water and sanitation remains low⁶⁰. This is threatening the ability to reach the CMDG. The investment in rural sanitation is seen as being much lower than in clean water. PDRDs are lacking in a concrete plan and the necessary budget allocation. Thus no remarkable achievements in this sector have been made to date.

Challenges

- Policy and strategies for water and sanitation are not harmonized. This means that institutions and agencies implementing water and sanitation projects have different policies and strategies.
- Because of limited resources for the water and sanitation sector, it is not able to focus on adequately on sanitation.
- Although rural populations are aware of the issue, understand the benefits of using latrines as well as realizing they are affordable, positive behaviour changes take time.
- There is a lack of financial contribution, materials and technical support from government to maintain constructed pump-wells among local populations.
- Lack of involvement from women, children and people with disabilities in awareness and practice of water and sanitation facilities.
- Lack of awareness on universal design to ensure accessibility for all, including persons with disabilities and elderly people.

Recommendations

- Harmonize water and sanitation policies and strategies. Develop a specific water and sanitation annual sector plan and budget in alignment with NSDP 2006-2010 targets.
- The MRD/PDRD should set up a management of information system to monitor issues and progress of the rural water supply and sanitation sector.
- In collaboration with and with the technical support of other partners, MRD/PDRD should focus on awareness of using toilets/latrines and introduce model latrines in appropriate and affordable technology for rural households with a focus on remote and indigenous communities.
- Strengthen ownership of local population together with government assistance to maintain and repair the constructed pump-well/borehole for sustainable use.

⁵⁸ Baseline survey in Ratanakiri and Mondulakiri by DPA, June 2008

⁵⁹ Mid-Term Review on the implementation of Strategic Development plan 2006-20010, provided by MRD, 2008

⁶⁰ Law on Financial Management for 2008

- Water and sanitation providers should have a key role in reducing physical and infrastructural barriers in the environment. Making water and sanitation facilities more accessible, particularly easy access to borehole and latrines, benefits everyone in the community, such people with disabilities, elderly, the young and those who are ill.

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Rehabilitation and Construction of Physical Infrastructure

Management of Revenues from Oil, Gas and Mining

Introduction

Cambodians for Resource Revenue Transparency

The "Cambodians for Resource Revenue Transparency" (CRRT) coalition currently consists of the five Cambodian CSOs that founded the coalition. The organisations are the Centre for Social Development (CSD), the Development Partnership in Action (DPA), the Economic Institute of Cambodia (EIC), the NGO Forum on Cambodia (NGOF), and the Youth Resource Development Programme (YRDP). The "Cambodian for Resource Revenue Transparency" coalition has the vision that wealth generated from Extractive Industries (oil, gas and hard minerals) will be managed in a socially responsible way that is transparent, accountable and participatory to benefit all Cambodians equitably. The CRRT believes that information on operations for exploitation of extractive resources and earned revenues should be widely available and that revenues from such non-renewable natural resources should be efficiently and fairly used for sustainable development and for the benefit of current and future generations.

The CRRT wishes to engage constructively with the Royal Government to help ensure that revenues from extractive industries are transparently managed in a way that is understood by the general public. Through the NGO Forum, the Cambodians for Resource Revenue Transparency coalition is an observer at the Technical Working Group on Public Financial Management (TWG-PFM) which has been a forum for discussing the management of resource revenues between the Royal Government and its development partners.

This paper should be read in conjunction with the paper in the annex on "Environmental and Social Impacts of Expansion of the Extractive Industries Sector", which addresses the environmental and social impact of the increasing number of companies involved in the exploration / exploitation of hard minerals, oil, and gas.

Revenue management: "the most salient issue in Cambodia's medium term outlook"

During the last three years, significant progress has been made in offshore and onshore oil and gas exploration as well in the allocations of licenses for the exploration and exploitation of mineral resources. Unconfirmed current projections are that these extractive industries may begin to produce significant resources as early as 2011 although the quantities of oil, gas, and mineral reserves discovered have not been officially confirmed and there is significant variation in estimates. However, the CRRT agrees that *"expectations remain high that these resources will help to close the financial gap in public sector investments needed to implement the Government's National Strategic Development Plan"*⁶¹ and should be available to benefit future generations and reduce donor dependence in the medium term to long-run.

In his key-note address at the Cambodia Economic Outlook Conference, Prime Minister Samdech Hun Sen noted that *"Whether oil and gas revenues translate into greater economic diversification and poverty reduction is the most salient issue in Cambodia's*

⁶¹ National Strategic Development Plan 2006-2010 Annual Progress Report for 2006

*medium term outlook.*⁶² This requires sound management of potential revenues by protecting Cambodia's interests in negotiating and signing contracts with the extractive industries; publishing transparent annual budgets that reflect the revenues from oil, gas, and mineral extraction; informing the public on how oil and gas revenues are spent; and a revision of the Mineral Law to allow an easy procedure for disclosing information on exploration (applications, reports, plans, and notices). These steps will demonstrate to Cambodians and to the outside world that resource revenues are being managed in the best interests of national development, especially in priority areas like health, education, agriculture and rural development.

The RGC has not released a draft Petroleum Law or its plan for management of the petroleum sector. Little information is available on business deals, on the role of the two licensing agencies (Cambodian National Petroleum Authority (CNPA), and MIME), or on how revenue streams will be managed. Although a legal framework for mining exists, it needs to be strengthened since the law is not integrated within other land and natural resource management planning processes and poorly enforced. Civil society is keen to engage both the RGC and the private sector to ensure that revenues from oil, gas, and mining benefit Cambodian society to maintain social stability, promote sustainable development, and reduce poverty.

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institution	Concerned TWG
19. A more credible budget and more effective financial accountability	Continue implementing the PFMRP by: b) preparing the consolidated action plan for implementation of Stage 2/Platform 2), including to make recommendations on the endorsement of EITI;	MEF	TWG-PFM

JMI 19.b: At the meeting of the TWG-PFM on 7 October 2008, the Royal Government announced that although they were not going to endorse the Extractive Industries Transparency Initiative this year they remained committed to transparency and accountability in managing the revenues from the oil, gas and mining operations within Cambodia.

Key Actions/Strategies from the NSDP

Section	Message
4.67	"...The challenge is to plan from now on to use this energy resource, and the substantial revenues it would generate, in an optimal manner to benefit the country and its citizens in the immediate and long term. RGC will soon commence conducting necessary studies to adopt good lessons learnt, and avoid pitfalls experienced, by other oil producing countries."

4.67: The RGC, in cooperation with UNDP, has produced two studies related to the management of revenues from oil and gas: a SWOT (strengths, weaknesses, opportunities, threats) analysis of the Cambodian economy (2006) and a review of development prospects for the Cambodian oil and gas sectors (2007.) In addition these two studies, the Cambodian National Petroleum Authority, the Supreme National Economic Council, and their cooperating partners the UNDP, the Norwegian Agency for Development Cooperation (Norad), the Norwegian Petroleum Directorate (NPD) and

⁶² Prime Minister Samdech Hun Sen's Address "2008 Cambodia Economic Outlook Conference", 28 February 2008.

PETRAD organized a three-day international conference on "Fuelling Poverty Reduction with Oil and Gas Revenues" from 26-28 March 2008.

Lessons learnt by the Royal Government on management of revenues from oil / gas

Important issues for the development of the oil/gas sector and the management of the revenues from oil and gas that were presented in the reports and during the lessons on comparative country experiences at the international conference addressed include:

Revenue from oil and gas production should be managed in a petroleum fund in a manner that is transparent and accountable to the people of Cambodia; this general rule on transparency is valid for the whole value chain from licensing, exploration, contracting, exploitation, revenues, expenditures, to public service delivery as stated by experts in the sectors who argued that the transparency provides governments better deals in their negotiations with foreign investors.

A petroleum fund should be independent of politics and the national budgeting structure.

Expenditures from a petroleum fund should be investments in human and physical capital, rather than consumption, so as to help achieve long-term development goals.

Decisions must be made as to how to balance long-term and current needs and the rate of spending from a petroleum fund.

Develop and release a national management plan for the petroleum sector that includes: organisational governance, development policies, legal structures, capacity building, and adopting accountability mechanisms for information and performance.

Important Issues not covered by JMIs and NSDP

The NSDP has not yet addressed issues of concern for good management of the petroleum and mineral resources sector. It is recommended that the NSDP 2011-2015 include an expanded section describing the RGC's policies and actions for ensuring that revenues from oil, gas and mineral resources benefit the whole country and all its citizens in the immediate and long term.

Recommendations

Recommendations to the Royal Government of Cambodia on transparent revenue management

With the many prospects of large scale development mining and oil / gas operations in Cambodia, the prospect of large revenues from the exploitation of these natural resources flowing into the National Budget is very likely. The CRRT would therefore request to the Royal Government to **endorse the Extractive Industry Transparency Initiative (EITI) in 2009** as a part of their plans for managing the resource revenues in the future.

In addition to endorsing the EITI in 2009, the CRRT requests the Royal Government to show its commitment to transparency in management of natural resource revenues and:

- Ensure that all Extractive Industry (EI) issues (licensing, contracts, revenues, social and environmental impacts) are discussed in relevant TWG with participation from representatives from the Cambodians for Resource Revenue Transparency coalition and other civil society stakeholders.

- Specify the revenues obtained from extractive industries in its monthly publication of Government's revenues and expenditures monthly table on financial and economic operations (TOFE)⁶³.
- Publish a list of companies with granted and pending licenses for exploration / exploitation of oil, gas, minerals and other extractive natural resources. These lists should be published on the websites of the MIME and the Cambodia National Petroleum Authority (CNPA);
- In line with the recommendations from industry experts at the International Conference "Fuelling Poverty Reduction with Oil and Gas Revenues" held in March 2008, publish all current and future contracts with extractive industries (oil, gas, and mining)
- Circulate the draft Petroleum Law to the public; review the Law on Management and Exploitation of Mineral Resources (2006); and engage civil society organisations in a genuine public consultation process.
- Future studies on management of revenues from extractive industries, such as those carried out by Supreme National Economic Council (SNEC) with support from UNDP, should include the mining sector.

Recommendations to development partners

- Ensure that all EI issues (licensing, contracts, revenues, social and environmental impacts) are discussed in relevant TWG with participation from representatives from the Cambodians for Resource Revenue Transparency coalition and the NGO Forum's land & livelihood network.
- Provide technical / financial support to MEF, CNPA, MIME for more transparent revenue management

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⁶³ The TOFE should provide detailed information on revenues from all petroleum and mining companies, including a list of the names of the companies.

Hydropower Development

Introduction

Millions of rural Cambodians depend on the country's rich natural resources and free-flowing rivers as a source of livelihood and food security. As the RGC seeks to gain access to cheap and reliable electricity through hydropower development, caution must be taken to ensure that the risks of these projects do not outweigh the benefits, as poorly convinced hydropower dams may irreversibly damage the country's natural resources and undermine sustainable development.

While hydropower development is relatively new to Cambodia, hydropower projects are now being planned and built throughout the country at an alarming pace. To date, construction is forging ahead on the country's first large dam, the Kamchay dam (193MW) located in the Bokor National Park. Four additional dams in the Cardamom and Elephant Mountains have recently been given the green light to go ahead, including: Stung Atay (120MW), Russey Chrum Krom (338MW), Kirirom III (18 MW) and Stung Tatay (246MW). Numerous other hydropower projects located in the 3S area, the Mekong River and the Cardamom Mountains are currently in planning stages, including the Lower Sesan 2 (420MW) and the Sambor Chumrues (2,600MW) dam located on the Mekong River, advancement of either of these dams may threaten the region's fisheries and ecosystem, while also resettling thousands of people. Additional hydropower dams being planned for on the Lower Mekong River in Cambodia, Laos, and Thailand. If built, these dams will produce transboundary impacts, which will further devastate Cambodia's fisheries and economy.

Lessons learned from hydropower development on the Sesan River in neighbouring Vietnam and the negative impacts it has had on downstream Cambodians, illustrates how changes in the river's hydrology and quality can produce devastating social, economic and environmental impacts. These dams and the dams currently being built in Cambodia have proceeded despite meaningful public consultation and transparency in the decision-making processes. Many of these projects have also lacked adequate environmental-social impact assessments and remedy in the form of compensation, mitigation, and livelihood restoration programmes. In order to prevent unsustainable hydropower from going forward, the Royal Government of Cambodia must establish clear policies according to international "best-practice" standards to ensure that transparency, public participation, and accountability are upheld within hydropower planning, development and operation.

The Rivers Coalition in Cambodia is an alliance of civil society organisations working to protect and restore river ecosystems and river-based livelihoods in Cambodia. Each of these NGOs works in cooperation with either local communities, provincial or local authorities, central government or a combination of these.

Joint Monitoring Indicators

There are no joint monitoring indicators (JMIs) related to hydropower development.

Key Actions / Strategies from the NSDP

The relevant sections of the NSDP for this sector are as follows:

Section	Message
2.44	"The RGC is also promoting development of cheaper, renewable,

	alternative energy sources, viz., solar energy (already installed in some areas), wind energy, bio-gas and mini-hydro schemes”
4.25	“Ongoing efforts will be continued and strengthened to involve and associate all sections of <u>civil society</u> in all appropriate aspects of RGC’s planning and decision-making processes.”
4.49	“The goals in conservation, preservation and sustainable use of all natural resources of the country, including bio-diversity, are not only to conserve the unique natural heritages, but also to enhance environmental sustainability, and to contribute to sustainable economic growth, poverty reduction, and improvements in the lives of the poor.”
4.64	“Promote appropriate and effective river basin management and water allocation systems.”
4.66	“Attempt to avoid development of high cost energy sources and take into consideration of low cost ones including possibly gas from emerging oil and gas fields

2.44: Promote Development of Alternative Energy Sources

While civil society welcomes the progress that is being made to promote decentralized, renewable forms of energy in the rural provinces of Cambodia, alternative forms of energy should be incorporated into a national comprehensive sustainable energy strategy for Cambodia. A national strategy is needed while developing the energy sector in order to assess the needs of the people and determine how best to meet those needs. Within this strategy, sustainable and renewable energy forms should be prioritized over more destructive energy forms, such as large-scale hydropower when feasible.

4.25: Strengthen Public Participation in Planning and Decision-Making

Public participation in the planning and decision making processes of hydropower development remains weak and is rarely implemented. When it does occur, the conditions needed for meaningful participation to occur are not in place. In order to strengthen public participation in the planning and decision-making processes of hydropower development, further work is needed by the government to develop policies and mechanisms to ensure meaningful public participation. In order for public participation to be meaningful and informed, improved transparency, access to information (regarding project plans, agreements, Environmental Impact Assessments (EIAs), and studies in local languages), and ample preparation time is essential.

Additionally, public-participation measures are needed to ensure opportunities are made for on-going, multi-level stakeholder dialogue throughout hydropower planning, development and operation. Additionally, as Cambodia begins to finalize its Draft General Guidelines for EIA and the Draft Prakas on the Implementation on General Guidelines for Conducting EIA, more detail is needed to adequately explain at what stage and how developers should be asking stakeholders for their opinions on projects, along with a proposed timeline for the process. Public acceptance of a project and participatory decision-making processes is essential for ensuring the equitable and sustainable development of Cambodia’s water and energy resources.

4.49: Environmental Sustainability and Poverty Reduction

In order to properly assess whether a hydropower project will negatively impact Cambodia’s natural resources and the people who depend on the resources for their livelihood, a comprehensive environmental and social impact assessment (ESIA) must be conducted prior to project planning and in accordance to international standards, which includes multi-sectoral stakeholder consultations. Many hydropower projects being planned and built in Cambodia do not have full EIA reports, in many cases Initial EIA’s or pre-feasibility studies are the only studies done to document the potential impacts of a project.

Public consultations on the projects are uncommon and the project's reports and information is rarely disclosed to NGOs and affected communities. Effort should be taken to enforce the implementation of the EIA laws, while also strengthening public participation, transparency and the government's ability to review EIAs to ensure they are done in high standard. Attention should be given to strengthen the Draft General Guidelines for EIA and the Draft Prakas on the Implementation on General Guidelines for Conducting EIA before finalization. To strengthen these documents, civil society recommends the following:

- Developing criteria on how the Ministry of Environment will base its decision on whether or not to approve a project.
- More specific detail is needed in the minimum necessary content of an EIA and Initial EIA (IEIA).
- Strengthen the Social Impact Assessment (SIA), to ensure adequate and thorough SIAs should be completed for each project.
- Identify criteria to determine which projects require IEIAs versus EIAs.
- As some hydropower projects have significant impacts and may have long EIA documents, an ample period of time of a minimum of 30 days should be allowed for the Ministry to review the EIAs.
- Further develop the legal framework for what monitoring of projects should entail, along with an explanation of the post-EIA processes for public participation and dispute resolution.

4.64: Promote Effective River Basin Management

A regional workshop on the water quality of the Sesan River was held in June 2006, in which Cambodian NGOs called for more comprehensive and regular hydro-meteorological observing and monitoring and recommended a new system of monitoring to be conducted for water quality, which includes parameters related to human health. No follow-up to this recommendation has yet been taken.

In order to promote an appropriate and effective transboundary river basin management, the Cambodian government must take greater initiative that is backed by political will in promoting dialogue and negotiation with Vietnam and Lao PDR to ensure that downstream affected Cambodians receive mitigation and compensation for any past, present, and future impacts. While civil society was pleased to learn that a Fourth Bilateral Meeting was held in March 2008 between Cambodia and Vietnam regarding the Sesan River, little (if any) progress has been made to resolve the problems facing the Sesan villagers. Cambodia should seek further dialogue with Vietnam and demand an assessment of what progress has been made, require verifiable scientific evidence of any claims made, and develop a detailed plan and timeline outlaying the initiatives that will be taken to ensure remedy is given to the Sesan villagers before any further hydropower development occurs on the river in Cambodia.

The Cambodian government should also ensure that riparian communities are also given the opportunity to participate in decision making processes regarding hydropower planning and operation.

4.66: Avoid Development of High Cost Energy Sources

Large export-lead hydropower development should be avoided as it can wreak ecosystems and livelihoods, which in turn can increase poverty and problems of food security. In order to avoid these high cost, potentially dangerous projects, comprehensive alternative energy planning studies should be conducted for the country in order to determine which planned hydropower projects are necessary and/or the most beneficial option available.

Important Issues not covered by JMI's and NSDP

Neither the JMIs nor the NSDP fully addresses or is specific to all Cambodian concerns with hydropower development. For this reason, specific mention should be given to strengthening transboundary and national water governance, in order to ensure that development is sustainable and equitable, and results in benefit sharing and proper consideration of downstream communities.

Recommendations

In light of these conclusions and in order to strengthen commitments to poverty reduction, sustainable development and public participation in governance, Cambodian NGOs call upon the government and international donors to take the following actions:

- **Resolve transboundary water disputes and address community concerns**
Since the late 1990s, Sesan communities began reporting problems with the river linked to upstream hydropower construction and operation. In a series of thumb-printed petitions to the government, villagers have made requests including: restoring the natural flow of the river, suspending further dam construction until current impacts are addressed, compensation for past, present, and future harms, improved notification on water-releases, and involvement in the planning and decision-making process and life insurance for future impacts and potential dam breakages.

To date, these concerns remain insufficiently addressed. Although there have been recent Mekong River Commission (MRC) -led water quality and hydrodynamic modeling studies, along with an EIA done by SWECO-Grøner for the Electricity of Vietnam assessing downstream impacts of Vietnam's hydropower development, there has been little assessment and no specific compensation for past and current harms, even when such harms have been officially acknowledged. International donor agencies and Mekong governments continue to advance hydro development along these rivers without seeking consent from or providing compensation to downstream villagers.

The Mekong governments and international donors should strengthen dialogue with dam-affected villagers to address their concerns and investigate reported harms. They should also identify strategies for reducing social and environmental harm, particularly relating to environmental flow and for implementing a transparent, neutral remediation mechanism or process.

- **Ensure access to information and public participation**
In order to ensure that the availability of information is improved and accessible in a timely manner for all stakeholders and that public participation is meaningful and included in the hydro development process, we recommend that information regarding hydropower planning and development is fully disclosed to the public and that public participation is promoted. Ensure that transboundary and domestic hydropower EIAs comply with national law and international best practices.
- **Strengthen compliance and regulatory bodies**
A framework already exists for cross-border and domestic hydropower development with the MRC and that body has approved requirements for public participation in project planning. Additionally, Cambodia's and Vietnam's own domestic laws prescribe EIAs that are in compliance with international best practices. National bodies such as the Cambodian National Mekong Committee (CNMC) and the Standing Committee that coordinates border dam areas are specifically tasked with overseeing hydropower development affecting Cambodians within the Mekong basin and along the borders, respectively.

In order to strengthen compliance and regulatory bodies, the government and donor agencies should provide support for a strong national body, properly resourced, to address hydropower dam issues and ensure effective public participation. Cambodia and its donors should also support the strengthening of the MRC in terms of ensuring compliance of the 1995 Mekong Agreement⁶⁴ and facilitating scientific information regarding the state of the Mekong River and the impacts hydropower dams may have, in order to make informed decisions regarding the future of the river.

- **Encourage further development and integration of international standards in hydropower development**

Civil society urges the Government to establish a multi-stakeholder process to examine the recommendations of the World Commission on Dams (WCD)⁶⁵ report and to discuss how these recommendations could be adopted into the Cambodian law. The values and guidelines outlined by the WCD are widely recognized as the most comprehensive evaluation of large dams to date and set forth "best practice standards" for assessing options, planning, and implementing dam projects.

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⁶⁴ Cambodia, Laos, Thailand and Vietnam are signatories to the Mekong River Commission's 5 April 1995 *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin*.

⁶⁵ The World Commission on Dams has published the November 2000 *Dams and Development: A New Framework for Decision Making* report, which is downloadable at <http://www.dams.org/report/>

Private Sector Development and Employment

Community Finance

Introduction

Community Financial Organizations are being phased out from NGO development projects. Instead, these will be replaced by semi-formal structural reforms into the community based financial institutions with ongoing progressive identification of needs from supporting NGO and their networks in capacity building programs. This is one of many shared common goals of **community finance associations (CFAs) and pilot credit unions (CUs)**. Typical examples in Cambodia include village banks, self-help groups, saving groups, and saving credit associations.

The Cambodian Community Foundation Network (CCFiN) – formerly the Cambodian Community **Finance** Network⁶⁶ (CCFiN) – began as a voluntary network of NGOs and Community Finance Associations (CFAs). The Network members are diverse in their scale, experience and approach, but the majority are former or current NGO credit led projects. Over the last few years, some NGOs have been winding down their support to specific communes and the Community Finance Institutions (CFIs) have joined CCFiN directly. One of the CCFiN functions as an institution is to take on the support and organizational building roles currently played by NGOs. CCFiN's long term vision is to transform itself into an apex organization for the network, providing liquidity exchange, advocacy and other functions to its members⁶⁷.

Key Actions /Strategies from the NSDP

The relevant section of National Strategy Development Plan for this sector as follow

Target	Message
4.80.Rural Credit	<p>Exploring and promoting institutions, like user cooperatives which are well known in some parts of Asia.</p> <p>Transforming NGOs which are doing this work into registered finance operators. This process has already commenced and several have been issued licenses.</p> <p>Improving supervision of such institutions to ensure that they conform to recognised standards.</p> <p>Reducing the prevalent interest rates through best practices.</p>

4.80: Around 80 new agricultural cooperatives were established during the reporting period to provide extension work in the communities. Regular progressive reports from these have been provided to the Agriculture Department of the MAFF. However, NGOs identified that most community cooperatives have low capacity and limited management systems in place. Additionally, they are still not able to link to other networks in national and regional areas. The Sub-decree and cooperative procedures are still not well understood and as a result, relevant information has not reached many farmers or community finance groups.

The expansion of low-interest rural credit to drive growth in rural areas has always been a priority. With RGC's encouragement and guidelines, there are now 18 Micro-Finance Institutions (MFIs) working in the rural areas along with 42 operators, specialized banks and the Rural Development Bank (RDB). Despite this progress, demand far exceeds supply and the issue of high interest rates needs to be urgently addressed.

⁶⁶ Registered By-Laws still use the name CCFiN

⁶⁷ CCFiN 3-Year Plan (2008-2011).

The NSDP progress report for 2006 indicated some progress on rural credit for rural Cambodians through a wide spread partnership development with MFI and NGO operators through loans provided by RDB. The report concluded that all efforts are being made to involve civil society associated in all appropriate aspects of the RGC's planning and decision-making processes, with the overall objective of making civil society an effective partner in the development efforts. This progress is acknowledged by many NGOs (both national and international) operational in the socio-economic development sectors, as well as in the promotion of democracy and human rights.

Commercial banks have identified that there is a need for microfinance and an expansion of rural credit in Cambodia. Unfortunately, they have not yet shown willingness to reduce the prevailing high interest rates or become involved in promoting proactive measures such as encouraging the formation of farmers' cooperatives.

Important Issues not covered by JMI's and NSDP

Interest rates of MFI service providers for community credit loan still remain high at 5% in rural areas. This denies the poorest and most vulnerable from access to loans. The policies and conditions of loans (which require high concrete collateral) also act as a barrier to the poor. The effect this has is to isolate poor rural households from taking advantage of loans for agriculture or small-scale enterprise initiatives. An additional problem is that the location of MFIs and specialized bank operations does not allow easy access for small-scale savings. Finally, community financial institutions are being managed by local committees who do not have a standard for systems management and have a low level of participation.

According to the Rectangular Strategy, the Government has agreed to promote poverty reduction strategies within the NSDP and JMIs. Unfortunately, community-level financial activities were not selected as a JMI at the previous CDCF in 2007.

Recommendations

- Scale up the capacity building of farmer cooperatives and CFAs for service provision to the poor people in rural areas. In the process of strengthening sustainable development while reducing poverty in the communities, the RGC should include indicators related to community financial institutions as JMIs and within the NSDP. The community financial institution is an essential key in mobilizing people to use the local funds / resources for developing their businesses, providing a source of community capital building in promoting ownership in social development sharing.
- Encourage and motivate people to join farmer cooperatives and community savings groups and use community funds for conducting other businesses in ways which improve rural living conditions. This will motivate people to conduct their business successfully and use community financial institutions appropriately and accountably.
- The MEF and National Bank of Cambodia (NBC) should develop community financial policy and guidelines to support the registration and licensing of CFIs and CUs for operations with other of savings groups.
- Support capacity building to community members on financial management systems that relate to the national programme. Improve communication between government authorities, CFIs and CUs.

- Allocate capital loans with low interest rates to farmer cooperatives and CFAs in order that high interest rates of MFIs can reduce as proposed in the NSDP 2006-2010.

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Employment and Working Conditions

Introduction

This brief statement will attempt to share some of the concerns civil society have with respect to children working in hazardous conditions as well as the need for improvements in the garment factory practices. Indeed, while there is a labour law for working people in Cambodia, many aspects of the law are not fully implemented or not implemented in a fair and just manner. For many of the children and their families who work in the informal sector, there are no social safety nets and no rules and regulations that govern the way they work and the way they are treated by employers.

Since 2000, Cambodia has seen a steady economic growth of over 9 % and in 2006 the country has seen over 10 % of growth. The growth has been narrowly focused in a few sectors such as the garment and tourism, while agriculture is only beginning to make a contribution. There is still deep inequality between the haves and the have nots⁶⁸. Because much of the economic growth has taken place in mostly urban areas and in cities, rural poverty remains high. Because the opportunities for work is better in the cities, migration from the rural to urban areas as well as inter-country migration is a reality in today's labour market. Among those migrating to look for better opportunities are the children who seek work and better life for themselves and their families. Finding ways to ensure that the economy grows at a rate that can absorb the number of people who enter the market each year is a challenge for the government if it is to meet the Millennium Development Goal of halving poverty by 2015.

Very few of the 200,000 people entering the job-market each year are absorbed by the formal sector. In total, 85% of the informal economy's workforce generates 62% of the country's gross domestic product (GDP) while 15% of the formal economy's workforce generates to 38% of the GDP⁶⁹. Out of more than 1.5 million children working in Cambodia, a significantly high number work in the informal sector, of which 250,000 are working in the most severe forms of child labour⁷⁰. There are too many children and vulnerable populations working in poor and damaging conditions that are not covered by any legal framework. Aside from street vendors there are domestic workers, bonded labourers, salt field workers, rubber plantation workers, brick factory workers, porters, sexual and non-sexual exploitative conditions such as trafficked victims, and many other areas of work that are usually performed by women and children for lack of any other economic choice.

In preparation of this paper, the author met with both the formal and informal sectors of the economy. Consultation with various garment factory groups as well as children and families who work on the streets were conducted. A review of secondary materials include reviewing reports by the International Labour Organisation (ILO), the International Monetary Funds (IMF), human rights Non-government Organisations, and Government websites and non-governmental organisations. Further inquiries on this section can be addressed to the name at the end of the article.

⁶⁸ IMF. Staff Report for the 2007 Article IV Consultation. July 10th 2007.

⁶⁹ EIC, "The Informal Economy in Cambodia: An Overview" January-March 2005. www.eicambodia.org

⁷⁰ ILO/IPEC Time-Bound Programme document

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institution
20. Adopt laws and sub-decrees and relevant legal documents, and implement plans against all forms of violence and exploitation against women and children, according to international standards.	<p>2. Law on suppression of human trafficking and sexual exploitation adopted, and in compliance with the UN Protocol on trafficking and UN convention on transnational organized crime, and the Cambodian draft penal code.</p> <p>3. National Action plan to combat violence against women implemented. The specific target for 2007 is to establish a working group in MoI/DoLA for training materials on the Sub-decree.</p> <p>4. Policy and legislation on migration reviewed. Specific targets for 2007 include: Adopt comprehensive Strategy Paper on Migration that links Migration with Trafficking, Smuggling and the Labour Law Reform and closes existing legal gaps to enhance legal protection of migrants.</p>	MoI MoWA MoLVT

JMI 20: The law on suppression of human trafficking has been adopted though there is a concern that due to lack of understanding of the law by the enforcers, the law is not implemented correctly. There has been some backlash from some groups who protest the indiscriminate implementation of the laws and the fact that it drives sex-workers underground and they can no longer access HIV prevention services. Moreover, the new penalty for human trafficking and sexual exploitation of children imposes lighter sentence than the previous draft.

There is a need for the establishment of a migration policy that takes into consideration the realities of migration patterns, does not increase the vulnerability of migrants, recognizes that legal migration does not necessarily ensure safe migration, and does not prosecute trafficked persons for migration-related offenses⁷¹. So far, there is little discussion between government and non-government organisation about the review of the migration law.

Challenges

At present, there is no clear or systematic way for civil society to know what will be some of the up coming governmental discussions of the policy and legislation that are scheduled by various ministries and parliaments. Policies and legislations passing from the ministries to the parliament still occur in an ad hoc manner. A transparent way of informing the public of the hearings and upcoming discussions in parliament would be helpful for citizen engagement in the policy formation process. There is a lack of conscious effort by government law-making body to include civil society group as well as interested citizens.

Key Actions / Strategies from the NSDP

Section	Message
4.81	"Improve supply of qualified labour, eliminate worst forms of child labour"

⁷¹ Laurence Gray, "East Asia Regional Preparatory Meeting for the Third World Congress Against Sexual Exploitation of Children and Adolescence." Speech at the UN's consultation in Bangkok, August 2008.

4.82	<p>"...ensuring safe, proper and hygienic workplace conditions and fair and just contractual terms for the labour force."</p> <p>"...resolution of disputes and disagreements through peaceful means..."</p> <ul style="list-style-type: none"> ➤ Vigorously enforce the labour law and international conventions related to the role of trade unions to protect the rights and obligations of workers, employees and employers. ➤ Improve working conditions of workers and employees, including displaced workers both inside and outside the country workers and pregnant workers.
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The NSDP outlined in sections 4.81 and 4.82 that it intends to increase employment and to eliminate worst forms of child labour. However, some of the worst working conditions for children in the informal sector and the improvement of production capacities of the informal economy have yet to be addressed. As a result young people in Cambodia remain vulnerable to health risks such as HIV and AIDS, loss of arms and legs, loss of human dignity and or future as they are forced by poverty and other exploitative circumstances in the economy to work for very little wages and unsafe conditions in order to put food on their family's table (as stated in this report's section on children's rights). There is currently a deficit of decent work, based on existing labour legislation and actual practice⁷².

Important Issues not covered by JMIs and NSDP

The broad statements in the NSDP fail to address the serious challenges of children working in the informal sector. Issues that are not addressed included:

1. Children, Employment and the Labour Law
2. Gaps in Child Labour Law
3. Child exploitation - sex industry
4. Child Labour - domestic labour
5. Child Labour - brick factories and entertainment industry
6. Disabled people and employment
7. Migration and the needs of migrant children

The RGC has made some legal commitments in the area of child labour. In 1992, the RGC signed the UN Convention on the Rights of the Child, acknowledging that children need protection and care by the government. In 1999, the RGC ratified the ILO Convention No.138 on the minimum age for working as well as the ILO Convention No. 182 on the Worst Forms of Child Labour.

Cambodia's Labour Law sets the minimum age for employment at 15 though children aged 12-14 years are allowed to do light work that is not hazardous and does not affect regular school attendance or participation in other training programmes. Relating particularly to the age limitation of when a child can work under which circumstances, Labour Law's provision No. 2, Article 177 does not allow for children under age 18 to work in areas that could be hazardous to the health, safety or morality. Those under age 18 cannot be working in underground mines, quarries or in night work. The Cambodian National Assembly also adopted and approved for implementation an ASEAN Inter-Parliamentary Organisation (AIPO) resolution to prevent and eradicate the worst forms of child labour. The resolution adopted by the ASEAN's General Assembly in 2004 calls for *"immediate, comprehensive, and concerted action to remove children from hazardous and sexually exploitative work, and to provide for the safety, rehabilitation, and social integration of affected children."*⁷³

⁷² EIC, January-March 2005.

⁷³ ILO Report on Child Labour, "Children's Work in Cambodia: A Challenge for Growth and Poverty Reduction." December 2000.

There are still gaps in the labour law that does not extend to family-work environment and those who work in the informal sector. Because of extreme poverty and the lack of opportunity for children and their families, the poorest members of society engage in child labour. Some families are forced by circumstances to send their children to work in people's homes, leading them to migrate out of their community to an unknown environment.

Children working in the informal sectors such as: the hazardous forms of child labour like brick factories, domestic household work, salt flats, rubber plantation, entertainment; and sex industry are not receiving the protection and care of the government. There is a strong need for more collaboration between the authorities at all level to protect children. As of present, the very same people who are charged to protect the children are the same ones who exploited them. Children working along the border town of Poipet city cited that the Cambodian border police force them to share their earnings from begging or toiling heavy carts across the border.

The prospect for people living with disabilities (PLAWD) in Cambodia was stark before the 1990s. The society and country did not give values to those living with disabilities. It is through the work of many CSOs who raised the profile of PLAWD that more economics opportunities are created for them in the CSOs. PLAWD are often marginalized even today. The public sector does not intentionally hire PLAWD, on the contrary, there are discrimination.

For those who engage in work in the garment factory, the labour law is not implemented to meet the needs of the workers. The International Monetary Fund (IMF) cited poor governance as a factor that weakens the environment for broad-based development. In the case of the implementation of the labour law, the lack of proper and clean implementation of the labour law leads people to view law enforcer and governmental monitoring of the garment industry as a burden on both the owner of the factories as well as taking a cut from the pay checks of the workers. There is a strong need for the government to take strong measures to eliminate corrupted practices among the civil servants by paying government worker decent wages and send strong messages to those who do not have "clean hands".

Recommendations

Garment Sector

- Better implementation of the labour law so that factory owners fully respect the law on providing maternity leave and giving people vacation when it is truly vacation (not when the workers have been laid off).
- That the people are paid decent wages and would not have to work overtime in order to have enough to live.
- That there are clean practices by those who uphold the law. For example the inspector tasked with inspecting the factories who looks the other way after taking bribes from the owners.

PLAWD and Employment

- The government should make a conscious effort to include employment of people living with disabilities into the civil servant, particularly in the education sector.
- There should be more partnering between the government and the civil society groups to promote private and public sector recruitment of PLAWD.
- More skills training are needed for PLAWD.

Child Labour

- Promote safe migration as well as having the proper law to protect those who migrate from rural to urban to work.
- Work with CSOs to provide safe places for children who work to have a place to stay in case of problems with their employers.
- Work to ensure that adults are paid living wages so that their children would not have to work and spend time going to school.
- Implement compulsory schooling for all children age below 18 years old.
- Ensure that the Labour Law and the Prakas are implemented so that children working in the informal sector can be protected from undesirable child labour condition.
- Actively partner with other organisations and the private sector to provide vocational training (to withdraw children from the worst forms of labour) from which children can make enough money, and the analysis on the needs of the market should be done in advance.
- Collaborate with Non-Governmental Organisations to eliminate child domestic work.

Children and Migration

- There should be more and better income-earning opportunities. Accessing channels to existing labour markets should be facilitated, rather than focusing too much on startup income generation activities that are often economically not-very-profitable.
- For those who choose to migrate, provision of information on safe migration, labour rights, and human trafficking, all with regard to the destination country and in relevant national languages. Contacts with reliable support networks in destination locations should be encouraged so that migrants are not left vulnerable due to lack of social support where they migrate to.
- Government processes need to better support policy efforts to legalize migration. Processing birth registration, passport, and migrant labour job application documents should become less time-consuming and self-defeating, so that more individuals will opt for legal channels of migration.
- Identification and targeting of high risk geographic areas as well as high risk individuals with a closer focus on internal migration and persons in transit.
- Link livelihood alternatives, skills training, and credit schemes to available and feasible income-generation opportunities within target communities and their vicinity.
- Develop creative and accessible ways to disseminate information to the most vulnerable groups, especially those that are from rural and remote areas without access to information technologies.

Keys Issues for Disability Sector about Employment Achievements

The Social Security Fund has been established by the MoSVY as well as the Veteran Association, opened officially on June 21, 2007.

The Ministry of Foreign Affairs and International Communications had initially

announced to recruit people with disabilities as new staff in March 2008.

Recommendations

The Labour Law should clearly specify about persons with disabilities in its chapters to promote and protect them at the workplace;

The accessibility to the job advertisement information and to working places for people with disabilities are also very crucial points for improving employment opportunities;

Awards should be given by the government to the NGOs and private companies who have recruited persons with disabilities;

Other ministries and government authorities are encouraged to follow the example of the Ministry of Foreign Affairs and promote the recruitment of people with disabilities and adopt policies to challenge discrimination within the workplace and recruitment process;

The RGC should increase the budget for vocational training, and clarify sufficient funds allocated to inclusion of people with disabilities;

The RGC should encourage physical accessibility of all public buildings for people with disabilities.

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Capacity Building and Human Resource Development

Education

Introduction

Cambodia's education sector NGOs, development partners, and government are working hard to improve education for the citizens of Cambodia. Education NGOs play a particularly crucial role in addressing gaps in education for disadvantaged groups – the very poor, ethnic minorities, children with disabilities and those living in remote areas.

Education NGOs not only help to extend the reach of basic education in Cambodia; they also help to broaden the scope of intervention. In addition to formal education services, NGOs offer a wide range of programmes that include health education, vocational/technical training, language education, community support, scholarships, gender issues and advocating for national policy reform.

NGO Education Partnership (NEP) is a membership organisation whose 75 members are committed to helping Cambodia and the RGC develop an education system which ensures *"that all Cambodian children and youth have equal opportunity to quality education regardless of social status, geography, ethnicity, religion, language, gender or disabilities"*⁷⁴. NEP supports this goal through research and capacity building work with education NGOs, and ongoing dialogue with government and development partners.

Joint Monitoring Indicators

The relevant Joint Monitoring Indicators (JMIs) for this sector are as follows:

TARGET	ACTIONS NEEDED	RESPONSIBLE GOVERNMENT INSTITUTION	Concerned TWG
3. Improved opportunities for primary education	1. Increase the net enrolment in primary school (total, and by sex)	MoEYS	TWG Education
	2. Increase the survival rate from grades 1 to 6	MoEYS	TWG Education

JMI 3.1: Increase the net enrolment in primary school

The overall net enrolment ratio⁷⁵ in primary shows a general upward trend. This increase was particularly sharp in the early years of this millennium: from 83.8% in school year 2000/2001 to 91.3% in 2005/2006. While this positive trend is encouraging, the data reveal a slow-down in the annual growth over the last two years.

Challenges and Recommendations

The NSDP target is to reach 100% enrolment by 2010. However, the current speed of growth in net enrolment will not meet these projections unless further action is taken. National primary enrolment statistics have come under criticism because they only offer a macro level perspective which does not reflect the much lower enrolment rates that are reported in remote areas and among disadvantaged groups, including children with disabilities, the very poor and ethnic minorities.

At the 2009 Education Congress, discuss priority actions needed to increase primary

⁷⁴ Extract of NSDP 2006-2010 Section 4.85

⁷⁵ Education Statistics and Indicators, EMIS

enrolment among vulnerable populations.

While data on gender are now more readily available, enrolment statistics for these other disadvantaged groups are not yet reported by the Education Management Information System (EMIS). Therefore it is not possible to obtain a full picture of primary level enrolment in Cambodia.

Produce statistics on enrolment and survival rates that reflect experience with children from disadvantaged groups and those living in remote areas.

JMI 3.2: Increase the survival rate from grades 1 to 6

The impact of low survival rates is a serious issue. When children leave school before completing a basic education, their future opportunities are limited. In 2006/2007, only 52.50% of students entering grade 1 had enrolled grade six of primary school.

Challenges and Recommendations

The NSDP target is to have all students completing grade 9 by 2010. Given the current rate of increase in survival rates, it is unlikely that this goal will be achieved unless significant action is in key areas including teacher recruitment, training and other quality issues, teacher compensation and school accessibility.

Children with disabilities have special access needs, and require specific learning conditions and the attention of a teacher. The 2007/2008 average pupil-teacher ratio of 49.3 and up to 51.7 in disadvantaged schools, presents additional challenges for these children.

Children who drop out are more likely to be from disadvantaged groups. The burden of these children is worsened when they are asked for informal payments by teachers whose salaries are low and or who receive full or partial payments infrequently.

At the 2009 Education Congress, discuss priority actions needed to increase primary survival rates, with a focus on special needs children and quality issues.

Key Actions/Strategies from the NSDP

The relevant messages of the NSDP for enrolment and survival rates at the primary school level include:

Section	Message
4. 88	Ensure easy and equitable access to education for vulnerable and disadvantaged children, e.g. girls, the poor, those from ethnic minorities and children with disabilities.
4. 89	Encourage enrolment and attendance of poor children in primary and lower secondary schools
4. 91	Increase the coverage of preschool children attending early childhood education programmes in schools, communities and homes.
4. 91	Increase the number of primary and lower-secondary schools, especially in remote and underserved areas.
4. 91	Provide teachers with improved incentives by upgrading their qualification with professional development and pay special attention to increasing their salaries and disbursing funds on time.
4. 91	Ensure quality of education through improved provision of educational materials, equipment, libraries and laboratories, and through development of quality standards for all levels with a national assessment system.
4. 91	Assure adequate allocation and timely release of current budgets for

	education especially for basic education.
4. 91	Increase gender parity in primary and lower secondary schools by facilitating attendance of girls.

4.88: Ensure easy and equitable access to education for vulnerable and disadvantaged children, e.g. girls, the poor, those from ethnic minorities and children with disabilities.

Low primary level enrolment and survival rates are particularly evident in border areas and districts with high numbers of remote schools and ethnic minorities. In these areas, the high incidence of poverty makes it difficult for families and children to access education services. Payments required from parents by teachers represent the most important barrier to poor students' attendance to school. Scholarships are an important means of enhancing school enrolment and participation of poor families.

Increase availability and broaden distribution of scholarships for poor students.

Some progress has been made in the past year on the issue of children with disabilities. The Ministry of Education Youth and Sport (MoEYS) has adopted a Policy on Education for Children with Disabilities and issued a circular approving the employment of government teachers by NGOs to teach children with disabilities. MoEYS has included references to children with disabilities in the Teacher Professional Standard and agreed to provide a classroom in a government primary school for children with severe intellectual disabilities in Phnom Penh. A new teacher training manual on Inclusive Education for Children with Disabilities is being developed by MoEYS with the DAC and supported by UNICEF. Much remains to be done if most children with disabilities are to attend school alongside their peers. This includes full implementation of the Policy on Education for Children with Disabilities. The Disability actors recommend that MoEYS:

- Disseminate teacher training on inclusive education, Braille and sign language;
- Clarify the rights of persons with disabilities to become teachers;
- Provide simple guidelines to teachers on identification of children with disabilities and completion of the student register;
- Make specific policy and provisions for children with severe and intellectual disabilities, and
- Include children with disabilities in the proposed national scholarship scheme.
- Include specific targets/ indicators related to education for children with disabilities in the Education Strategic Plan, and
- Take increasing responsibility for special and inclusive education.

Many ethnic minority students struggle during their first years in school because they are not familiar with the national language. Learning to read and write in a language that that is not one's own is a very difficult task. Bilingual education is one solution to the problem. The opportunity to learn to read and write and to learn life skills and academic knowledge in the language that the students understand best is crucial for the future academic success and for generating interest towards lifelong education.

Make funding available for bilingual education at the primary level in areas with significant ethnic minority population, particularly for the training of indigenous teachers.

4. 91: Increase the coverage of preschool children attending early childhood education programmes

The number of children benefiting from early childhood education through preschool is increasing. In 2006/2007, 1,524 preschools were registered by EMIS; in 2007/2008 110 new schools have been registered. EMIS statistics show that 79,585 students were

registered in preschools in 2007/2008, reflecting an increase of 1,686 new students over the 77,899 figure in 2006/2007. This reflects an encouraging sustained increase over the past five years.

Recent preschool research by NEP⁷⁶ reports on the positive contribution of early education to admission and repetition rate in grade 1. The research illustrates that preschool also has a positive impact on older sibling primary level attendance due to fewer child care obligations. The major obstacles to enrolment of children in preschool are access to preschool, specifically the ability of a family to bring small children to preschool, and the capacity of the classrooms to receive students⁷⁷.

Increase access to preschool through more schools, particularly in rural and remote areas.

The capacity of the Preschool Teacher Training Centres also needs to be increased to provide training opportunities for NGO preschool teachers and to ensure that the new classes have well-trained teachers.

4. 91: Increase the number of primary and lower-secondary schools

The number of primary schools has increased from 6,277 in 2005/2006 to 6,476 in 2007/2008. The data show that more schools are built in remote areas each year than in urban centres where the need is not as great. It is important to note that school construction alone is not a measure of success because not all schools operate on a full-time, daily basis and the current shortage of trained teachers continues to be a significant problem in Cambodia.

Continue current efforts to build new schools and provide incentives for teachers to teach in remote areas.

4.91: Provide teachers with improved incentives by upgrading their qualification with professional development and pay special attention to increasing their salaries and disbursing funds on time.

The delivery of quality education requires well-trained, properly-resourced and motivated teachers. The findings of the recent *Valuing Teachers* research, a VSO-funded study undertaken in cooperation with NEP, reports that the greatest de-motivating factor for public school teachers is the low salary.

Reallocate education staff funding to allow for fair salaries for teachers to help reduce the practice of informal school fees.

Performance-related pay is an incentive to encourage teachers to improve their teaching practice. However, there appear to be inconsistencies and inequities in the administration of this practice. In some provinces, between 10% and 15% of teachers receive these awards each year but in others there is no knowledge of the scheme.

Establish standards and mechanisms to ensure that performance merit awards are made in a transparent and accountable way.

4.91: Ensure quality of education through improved provision of educational materials, equipment, libraries and laboratories, and through development of quality standards for all levels with a national assessment system.

⁷⁶ The Impact of Preschools on Early Childhood Education in Cambodia (NEP, 2008)

⁷⁷ Ibid.

The MoEYS' Teacher Training Department has gained approval for the Teacher Standards Framework which contains standards that will serve as a measure of performance of teaching practices that can be observed and evaluated. They are organized around four domains: professional knowledge, professional practice, professional learning and professional ethics. These standards should be seen as minimum or essential knowledge, values and skills to be covered. The Framework also strongly advocates the development of a positive attitude amongst teachers towards habitual assessment practices and assessors as being vital to effective learning.

Apply national standards and criteria across all primary level schools to help normalize assessment and improve monitoring and evaluation.

4.91: Assure adequate allocation and timely release of current budgets for education, especially for basic education.

Education Indicators, MoEYS, report that in 2007, MoEYS received 19.2% of the total budget, the highest budget allocation of any government ministry, higher than the 2006 allocation of 18.3%. However, in 2008, the budget allocation to the education sector was 18.1% of the total budget. A recent step towards support for Cambodia's achievement of EFA goals involved the Fast Track Initiative (FTI) budget of US\$ 57.4 million. This budget will be used to support three main education components: ECCD expansion (US\$ 4.7M), Improving Primary Education Access and Quality (US\$ 50.7M) and Institutional Development and Capacity Building (US\$ 2.0M).

Closely monitor and evaluate ECCD expansion to support improved primary education access and quality.

4.91: Increase gender parity in primary and lower secondary schools by facilitating attendance of girls.

The proportion of girls enrolled at the primary level has shown marked improvement over the last seven years. It should be noted that the proportion of girls enrolled in primary schools has increased in remote areas.

Table 1: Proportion of Female Students Enrolled

Level	Whole Kingdom		Remote Area	
	2000/2001	2007/2008	2000/2001	2007/ 2008
Primary	46.2%	47.4%	45.1%	47.1%
Lower secondary	37%	46.6%	35.6%	47.1%
Upper secondary	31.8%	40.9%	0	37.6%

Source: EMIS, Education Statistics and Indicators (figures converted into percentages based on EMIS statistics)

Continue to increase awareness of the value of school enrolment of girls among communities and family

Important Issues not covered by JMIs and NSDP

The practice of informal school fees to supplement teachers' low salaries places a heavy burden on family incomes, particularly for the very poor and other disadvantaged groups. *As long as this practice continues, Cambodia will not realize a meaningful increase in enrolment and survival rates in all parts of the country.* The Royal Government of Cambodia has acknowledged the problem of informal school fees by

ruling in Cambodia's *Education Law* that this practice is illegal. The Ministry of Education, Youth and Sport has committed to the abolishment of informal school fees by 2008 in its Education Strategic Plan (ESP).

Provide teachers with a fair income that reflects the cost of living and inflation so that they do not need to supplement their salaries through informal school fees.

Finally, corruption is seen by teachers as a major de-motivating factor⁷⁸. This affects the quality of education given students and, in turn, influences survival rates.

Make the passing of the *Anti-Corruption Law* a top priority.

Action on these recommendations is urgently needed to help the Royal Government of Cambodia and MoEYS reduce barriers to education for all. The impact on primary level enrolment and survival will be significant.

Keys issues for Disability sector about Education

Achievements

Ministry of Education, Youth and Sports (MoEYS) took measures for enhancing inclusive education for disabled children: Newly built schools incorporate ramps into their design; Disabled children, inside schools are now recorded in the Student Enrolment Register and this data will be incorporated into the Education Management Information System from 2009; and a new teacher training manual on Inclusive Education for Children with Disabilities is being developed by MoEYS with the DAC.

Policy on Education for Children with Disabilities was adopted in February 2008.

Recommendations

Disseminate and implement the Policy on Education for Children with Disabilities;
Clarify the rights of persons with disabilities to become teachers;
Disseminate the new Inclusive Education teacher training manual and train teachers in Braille and sign language;
Provide simple guidelines to teachers to identify children with disabilities, to enhance the enrolment statistics for students with disabilities;
The Education Strategic Plan should include specific targets/ indicators related to education for children with disabilities;
MoEYS to take increasing responsibility for special and inclusive education.

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⁷⁸ Valuing Teachers (NEP, 2008)

National Youth Policy

Introduction

Cambodia, considered to have a very long history of existence, currently has a large majority of youths under 30 years of age consisting of about 70 percent of total population. However, opportunities to participate in decision making, full participation in using their knowledge and skills, access to quality education and decent employment for their livings are currently limited.

Problems faced by young people in the past as well as at the present time may have been caused by the absence of national youth policy as a foundation for young people's self-development and a master plan to guide society as well as the government in planning youth development. By having seen the actual needs and the importance of national youth policy, youth/student associations and organisations begun advocating the government of Cambodia, especially the MoEYS to take action for the development of the policy in 1996. Several workshops and meetings were conducted with youths in 24 provinces and municipalities to collect concerns, needs and recommendations. Around 10,000 youth and students (40% female) participated in various workshops.

In order to form a stronger voice to advocate for the development of the national youth policy, 25 youth/student associations and organisations worked together to establish a youth network called National Youth Policy Network (NYP NET). This network has worked closely with the government, especially the MoEYS – youth department through regular meeting. Second draft of the policy has been produced by the MoEYS after the consultation workshop.

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institution	Concerned TWG
3. Improve opportunities for primary education	1. increase the net enrolment in primary school (total, and by sex)	MoEYS	
	2. Increase the survival rate from grade 1 to 6		
5. Enhance national response to HIV/AIDS pandemic	Increase coverage of effective drug & HIV/AIDS prevention, comprehensive care and support, and effective mitigations interventions.	NAA & NACD	

JMI 3: Over the years it was observed that the Royal Government of Cambodia has focused the attention on education and established a number of policies to promote education at all levels such as Education for All and All for Education etc. Despite the progress which has been made, access to education at all levels is still limited because the policy has not been responsive to the actual situation, which mean the needs of all students in all areas of the country could not be fulfilled. Also, the quality of education is not up to the international standard because the knowledge of students is still found problematic in entering the labour market.

There is a disagreement on the data of school enrolment but generally it is increasing. In 2005 the enrolment rate was 90.1 percent according to the EMIS, whereas the WB conducted a survey with many households and it was found out only 79.1 percent. The

EMIS showed that 180,000 primary schools that are geographically inaccessible and about 60 percent of school age girls have not gone to primary schools⁷⁹.

On the other hand, although legally, basic education is free it is not the case in actual practices. It is observed that in a number of schools, particularly in major towns there are discriminations against poor students who don't have enough money to give to teachers who will then normally pay less attention in teaching them. There are several other barriers in education sector such as the lack of school buildings, the lack of time for teacher to prepare session plans and inadequate inputs from teachers leading to poor quality. Because of the poor living conditions of teachers, they would rather focus on their livelihood activities than teaching. Also, inadequate education materials lead to the lack of opportunity for further research.

JMI 5: The government as well as the National AIDS Authority (NAA) has worked effectively to reduce the number of HIV/AIDS infection during the last few years. In 1997 the prevalence of HIV/AIDS was 3.3 percent but has gone down to 2.6 percent in 2002, then 1.9 percent in 2003 and 0.9 percent in 2006. This means that amongst 100 Cambodian people aged 15 - 49 years old have one person with HIV/AIDS positive and this represents almost half of the down trend compared to the estimate of 2003⁸⁰.

Today, the health care services are being offered widely both in the public and private sectors. It is observed that the private ones are being more attractive to the clients. But if we look at the quality, there are a lot of concerns because a number of private policlinics or clinics are not under the scrutiny of the Ministry of Health in terms of their skills and expertise. On the other hand, the public health services are not so active, especially the rural health centres. In fact, over 60 percent of 967 rural health centres have not been functioning⁸¹.

Lastly, most of the alcohol users started to use when there were 18-25 years old with 49 percent, and those who are under 18 years of age are 14 percent and also those who are 20-30 years of age consist of 13 percent. The alcohol intake affects their health which is susceptible to traffic accidents, seek sexual intercourse without safe methods, escape schools or drop out completely, etc⁸².

Recommendations

- The Ministry of Education should strengthen the teachers' skills through professional training course and pedagogy in teaching.
- The Ministry of Education should monitor and clearly establish quality standard for private education institutions.
- The Government should provide life skills such as the school workshops, vegetable growing.
- The Ministry of Education should strengthen the information dissemination about the enrolment to the rural areas and encourage them to increase the number of enrolment even more.
- The Ministry of Health must advise the health professionals to pay close attention to taking care of the patients and to adhere to professional ethics in order to avoid unnecessary expenses incurred by the patients or patients' families.
- The Government should have a policy and effectively implement it in providing the public health care services for the poor, especially young people.

⁷⁹ NGO STATEMENT TO THE 2006 CONSULTATIVE GROUP MEETING ON CAMBODIA

⁸⁰ A press release of National Centre for HIV/AIDS, Sexually Transmitted Diseases and Dermatology, Ministry of Health, June 28, 2008

⁸¹ A report on situation of human rights, ADHOC, 2006

⁸² The impact of alcohol consumption on Cambodian people (a case study of 7 provinces in Cambodia), PDP centre

- The Ministry of Health must monitor closely the pharmacies that do not have licenses.
- The Government must monitor the quality of medicines and expiry date of medicines, and make sure to provide overall health protection for all people.
- The Government should monitor the quality and effectiveness of private clinics.
- The Government should formulate the Alcohol Consumption Policy for promoting good health to young people and prohibit those who are under 18 from consuming alcohol.

Key Actions / Strategies from the NSDP

Section	Message
4.87	"Solid support for a country is a bundle of human resources with education, skills, genius and capacity in different fields of economy and social work... in order to ensure sustainable development and economic growth, a country needs a lot of different expertise such as scientists, engineers, researchers and specialists in the field of economy and social work".
4.88	"Link education and training to medium and long-term labour markets and to society as a whole including life-skill trainings and health education as well as HIV/AIDS prevention"
4.88	"Further develop in the field of youth and sports by paying more attention to youths in different expertise"

4.87: Although the government has provided a number of scholarships, it is still remained very low in comparison with the number of high school graduates each year. Also the provision of accommodation to students, especially female students, is still very limited. Graduates from public universities have very few opportunities to find a job in the government and private institutions - only one out of nine university graduates can find a job. It is believed that the main cause of this is low quality education and lack of learning materials.

4.88: The government has never adopted a mechanism to guide youth development and to ensure effective youth development; the government must establish a youth policy. Although the government indicates in the NSDP its determination to increase the number of primary and secondary school students, it has not yet established a national youth policy.

Recommendations

- The Ministry of Labour should strengthen effective implementation of the Labour Law.
- Establish an office or a counselling agency which plays a major role in assisting job seeking amongst young people.
- The Government should establish the vocational training centres in the rural areas and make it easier for young people from poor households to have the opportunity to enter the centres.
- The Government should expand the labour market by attracting foreign investments into Cambodia and provide as much information as possible to students who just graduated.
- The Government should provide loans with cheap rate of interest to young people who have just graduated from universities and have no jobs so they can start setting up small enterprises to earn incomes for themselves.

Important Issues not covered by JMI's and NSDP

Based on the current research only one out of nine graduates can find a job each year. Cambodian youth face several problems such as drug abuse, gangs and health. Although the education infrastructure has been developed in recent years, the education system remains a core problem, particularly high drop-out rates and low capacity of graduated students. Youth participation in the decision making process has not yet been fully considered by the government.

The government and concerned institutions should establish a national youth policy to support and motivate youths to actively involve and participate in the country's development. The government should include issues, concerns, needs, requests and recommendations from youths in the NSDP and prioritized these for implementation. The development of the national youth policy should focus on 10 main issues which include quality education, employment, hunger and poverty, health, environment, drug abuse, Juvenile delinquency, Leisure time activities ,girls and young women, the full and effective participation of youth in the life of society and in the decision-making process.

Recommendations

- National Youth Policy should be approved by 2009 by the NA like other countries. The policy must be based on and responded to the actual needs and aspiration of Cambodian youths. This can be realized by ensuring youths from all movements in society, including youth/student organisations fully participate in the entire development process of the national youth policy.
- Quality of education should be improved with effective monitoring and evaluation system. States should provide vocational or life skill trainings and encourage for volunteer works. Provide career placement and job consultation at universities.
- The government should develop an alcohol policy.
- The Government should attract investors/businessmen and ensuring business environment that may benefit youths in Cambodia.

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Health

Background

MEDiCAM, established since 1989, is a membership organisation for NGOs active in Cambodia's Health Sector and currently represents 117 health NGOs (see MEDiCAM Website). The words "MEDiCAM" or "Health NGOs" which are used interchangeably in this Position Paper only represent the voice and perspective of health NGOs that are under MEDiCAM's umbrella. This number, however, represents approximately 90% of all International and local NGOs working in Cambodia's Health Sector.

The MEDiCAM Position Paper has been developed with broad, transparent, and open consultations with its NGO members. The NGO regional meetings at provincial level were the first place that grassroots NGOs met and discussed issues/challenges and recommendations in Cambodia's Health Sector. They then elected their representatives to raise their collective voice at the Annual General Assembly Meeting (AGM) of MEDiCAM. After hours of deliberation conducted during the AGM by Health NGOs at the national level⁸³, NGO representatives voted to prioritize issues/challenges and recommendations which need to be addressed in the Position Paper.

Based on the voted list of priorities from the AGM, MEDiCAM Executive Director wrote the first draft of the Position Paper and submitted it to the MEDiCAM Steering Committee for review and comments. After incorporation of all comments from the Steering Committee, the second draft of the paper has been put to wider consultation with Health NGOs during the MEDiCAM Membership Monthly Meeting (known as 4Ms). The full Position Paper was presented and Health NGO Representatives at the meeting were able to go through paragraph by paragraph to review and endorse the statement. The Paper has thus been finalized and endorsed by the health NGOs for distribution.

MEDiCAM's Position Paper 2008 does not aim at advocating new priorities for the Health Strategic Plan 2008-2015 (HSP2) into which Health NGOs' comments have already been integrated. The purpose of the Paper however, is to highlight key issues/challenges and recommendations in the implementation of HSP2 so that the Ministry of Health and the Royal Government of Cambodia will be able to fulfil their Cambodian Millennium Development Goals (CMDGs), particularly CMDG 4, 5, and 6 in 2015. The Paper tends to look at this on a yearly basis.

Introduction

Health NGOs congratulate the Ministry of Health (MoH) for its continued achievements in improving people's health. The health outcomes have significantly improved — reduction of 30% infant mortality rates (IMR) and under-5 (U5) mortality rates in the past five years (IMR is 66 per 1000 live births and U5 Mortality Rate is 83 per 1000 live births)⁸⁴; HIV Prevalence among general population aged 15-49 has considerably declined from 3% in 1997 to 0.9%⁸⁵ (0.6 in CDHS 2005); declines in both malaria and tuberculosis morbidity and mortality; sustained improvements in immunization coverage and control of vaccine-preventable diseases (polio, measles, hepatitis B); fertility has reduced from 4 to 3.5; exclusive breastfeeding for 6 months has considerably increased from 11% in 2000 to 60% in 2005 (CDHS 2005); antenatal care (ANC) visits went up from 38% to 69%; birth delivery attended by skilled providers rose from 32% to 44% in 2005; and life expectancy has improved to 60 for men and 65 for women (CDHS 2005).

⁸³ Please refer to MEDiNEWS May 2008, volume 7, issue 04

⁸⁴ Cambodia Demography and Health Survey 2005

⁸⁵ Expert Consensus Meeting on Estimation in HIV Prevalence 2007, NCHAD

Furthermore, Health NGOs have also observed great improvements in policy and strategy development. This includes the development of HSP2 2008-2015, National Framework for Health Care Financing, HIS Strategic Plan 2008-2015, Community Participation Policy in Health, National Guidelines for Health Equity Fund Implementation, National Guidelines for Health Insurance, CPA Guidelines, MPA guidelines, National Family Planning Commodity Security (FPCS), Reproductive Health Costing, Reproductive Health Strategy, Child Survival Costing, Core Strategy for Child Survival, National HIV/AIDS Strategic Plan II, National M&E Framework for HIV/AIDS, and others. Health NGOs would like to also appreciate the fact that the RGC and the MoH have given more opportunity for Health NGOs to provide comments and feedback on policy development and it has also been observed that several comments have been accepted in the national policies or strategies.

Another important observation is the increased health budget from both the government and development partners. The paradigm shift of aid architecture tends to support the government and public systems. For instance, the Health Sector Support Programme Phase II (HSSP2)⁸⁶, a five-year project jointly supported by the WB, AusAID, DFID, UNFPA, UNICEF, and the Agence Française de Développement (AFD), worth more than 100 million US dollars, is a pooling of funding to support the implementation of HSP2 through the RGC's financial system—the MEF. The Belgium Technical Cooperation's Provision of Basic Health Services Phase II⁸⁷ is a second example of additional resource that injects directly into the public system. The third example would be the newly signed Global Initiative in Health—"the International Health Partnership" in which Cambodia is among the first eight waiver countries that implement this initiative. Furthermore, Cambodia is one of a few countries in the world that has won the most rounds of the Global Fund—rounds 1, 2, 4, 5, 6, and 7, totalling about 260 million US dollars.⁸⁸ From the government side, health budget has significantly increased as a result of overall government annual budget increase.

Despite all the above mentioned progress, Cambodia's health indicators still lag behind many countries' in the region. This includes: Maternal Mortality Ratio remains stagnant (472 per 100,000 live births); Child and Infant Mortality Rates are still very high; the chronic diseases are on the rise (Diabetes prevalence: 5% rural, 10% urban; Hypertension prevalence: 12% rural, 25% urban)⁸⁹; very low level of access to improved sanitation: 17% (53% urban, 8% rural); increasing malaria drug resistance (artemisinin tolerance); increasing rates of motor vehicle accidents; continued threats to blood safety; Tobacco - related illnesses (50% of men smoke)⁹⁰; inequitable health outcomes remains very large; food safety and food security, the anarchic use of antibiotics and other un-prescribed medicines in the private sector; unsafe birth deliveries and induced abortions at homes and in informal private sector; the unregulated private sector; the high out-of-pocket health expenditures; the continued under-funded public system etc., are among the significant concerns in achieving MDGs 4, 5, and 6.

Key Issues and Recommendations

The issues and recommendations below are not intended to be comprehensive, nor are they able to be highly detailed. It is hoped they will articulate the NGO perspective on the important selected topics in health that the Health NGO community debated and selected by vote during its annual congress on 21st March 08 (refer to MEDiNEWS May 2008, volume 7, issue 04).

⁸⁶ HSSP2 Document is available at MEDiCAM's website

⁸⁷ BTC-PBHS document is also available at MEDiCAM's website

⁸⁸ MoH's PR document

⁸⁹ MoH-WHO Report

⁹⁰ WHO Report in 2008

1. Limited resources allocated to strengthen community system

The MoH has demonstrated its commitment to strengthen community participation as highlighted in the fifth crosscutting pillar strategy of HSP2—governance system, and the development of National Community Participation Policy in Health. Development Partners always talk about the important role of civil society organisations and the community participation. However, when it comes to funding for strengthening community system, it is a curious paradox that both government and donors' resources are allocated much more to the public system and there remain insufficient amount for community system strengthening.

Communities have a great niche in strengthening the efficiency and effectiveness of spending tax payers' and the government's resources in improving the provision of quality basic health care services to them. Currently, there is almost a complete disconnection between consumers and providers of health care services. There are no functioning community structures or mechanisms which could lead communities to exercise their rights to claim for better health services or a mechanism which makes users more powerful and actively participate in the service provision for their communities. For instance, the role of communities in reporting health care performance of Health Centres (HC) or Referral Hospitals (RH) (report cards or score cards system), the role in budget tracking, access to accurate and relevant information, understanding their rights to health, etc., are among the key functions which could lead to better governance in managing public health system. However, these cannot materialize without support from CSOs/NGOs or without resources allocated from the government and development partners.

There are always common issues in health systems in developing countries. These include lack of human resources, lack of essential drugs and health commodities, limited skills, shortage of modern medical equipment, poor referral system, less supervision, poor planning etc. These issues cannot be resolved by simply putting more money into the system. It requires political will and the change in leadership and management in the whole health care system. Most importantly, this can be changed if there is a good governance system in place. Good governance can never happen if consumers or communities do not have access to necessary, accurate information, no mechanism or structure to exercise their rights for better services, no transparency system in leadership and management of health care services. Basically, the power of the people and transparent system are the two key pillars to improve leadership and management. But the question is how to make the people powerful?

MEDiCAM, therefore, would like to call for development partners and the government of Cambodia to allocate concrete and substantial resources to support community system strengthening which will lead to good governance and significant impact on health outcomes of the people. Without such action, the roles of consumers or communities continue to be just a lip-service. Furthermore, the leadership and management can never be changed by simply putting more money into the system but requires improvement of good governance.

2. Insufficient skilled health staff, especially at health centre level

Poor road conditions, difficult living environments in rural areas, low wages and incentives are the fundamental factors leading to inadequacy of skilled health staff, particularly lack of midwives at health centre level.

Mal-distribution and retention of skilled midwives or health staff within the public health system, especially in the remote areas, is one of the greatest challenges of the Ministry of Health because the current wages and incentives are not adequate for them to live and work effectively. It is even more concerning when the young generation becomes

less and less interested in training to become midwives or nurses at all regional training centres.

MEDiCAM would like to call on the Ministry of Health: (1) to ensure that all regional training centres are well equipped and have good capacity to deliver quality training; (2) to ensure that the midwifery and nursing training curriculum is a significant building block for their future professionalism; (3) that the RGC must address the issue of low wages and incentives so that health professionals can live on and work effectively, particularly for rural remote areas; (4) development partners and the RGC should establish scholarship programmes to allow more opportunities for those in outlying communities or minority groups; (5) delegate local authorities and operational health systems to recruit their required health staff to fill in the gap.

3. Poor quality of health care services

This is one of the biggest concerns in Cambodia's Health Care Industry. The issues include rampant unethical, unfriendly, and uncaring behaviour of health providers at all levels of care, limited technical skill and poor compliance with national standards or protocols of treatment, poor management and leadership skills across the board and most importantly there is no functioning mechanism for consumers or communities to constructively criticize and claim for better services. Shortage of essential drugs, other health commodities, and modern medical equipment are common issues which contribute to poor quality of services.

Managing health care services with scarce resources will also require regular and rigorous supervision by Operational Districts (OD), Provincial Health Departments (PHD), and the MoH. Low wages in the public system make staff's commitment very low. 90% of public health providers run their own private clinics. Dual practices make it almost impossible to improve quality health care services to the public sector due to benefits driven in their private sector. To improve quality of health care services in Cambodia, the RGC and the MoH must take serious short-term and long-term measures.

For long-term, it is strongly recommended to look at upstream and fix the system from the top. This means that Cambodia must improve its quality of training for all medical professionals — medical doctors, medical assistants, nurses, midwives, and public health professionals. An Accreditation System must be implemented effectively, to evaluate the quality of training of medical professionals in both private and public training institutions. The government must take action seriously because it affects our future for any investment we are making today.

It has been observed that currently, development partners tend to leave these major long-term measures to the government alone and get more involved in the quick-fixed results. Since Cambodia is now moving from the fragile state status to a more consolidation phase in growth and development, it is strongly recommended that development partners assist the RGC in taking care of the upstream issues — improving the quality of health professionals; in treatment, public health, leadership, and management, and strengthening institutional development and organisation.

Short-term measures would include: (1) active, regular, and rigorous supervision from ODs, PHDs, and the MoH, must be done with feedback and comments given for improvement, especially with regard to compliance with guidelines and protocols; (2) there must be a reward and sanction system in place; (3) any incentive mechanism in the operational system must be linked to quality improvement. E.g. Health Equity Fund, Special Operation Agency, Service Delivery Grants, etc., communities or consumers must have a say to the performance appraisal of HCs or RHs before these mechanisms can be offered to extend; (4) for those health facilities which are now put under special

operation agency contracts, the Provincial Health Departments must set a very strict rule and regulation for applying clients-friendly service principles; (5) the Ministry of Health should ensure that essential drugs, health commodities, and necessary medical equipment are available; (6) NGOs and health partners should assist in continuous skill upgrading and support the implementation of quality improvement projects.

4. Issue of equitable access to quality health care services

35% of Cambodians are living under the poverty line (earning about 0.50 US dollar a day). If we include those who live at the poverty line or a little bit above the poverty line, this means that very poor, poor, and medium-poor population may represent very high proportion—70-80%. Therefore, un-affordability to pay health care costs is one of the biggest barriers for the poor to access to health care services. And this is because the public health care services have been charged since health sector reform began in 1996.

Evidently, 75% of Cambodian women interviewed during the Cambodia Demographic and Health Survey in 2005 said that the reason they did not seek care at a public facility is because of the fees charged at the point of health service delivery. User fees have created the main barrier for the poor to access to public health care services, especially for secondary and tertiary care.

Health Equity Funds (HEF) are currently one of the quick-fixed solutions to the problem created by the user fee system. But it has high administration cost for a third party to run and the sustainability of HEF remains questionable. Health Insurance will also require a third party to play. The current user fee or HEF or Community-Based Health Insurance has a small purchasing power to improve accessibility and quality of health care services because a larger proportion of funding for health care provision comes from the state.

HEF, although it looks like a good solution at the moment, does have a few key concerns: (1) HEF currently covers around 30% of public health facilities; (2) HEF has a small purchasing power to improve quality and accessibility of health care; (3) high administration cost by a third party and pre-identification of the poor; (4) uncertainty of financial sustainability; and (5) if it will lead to Health Insurance, again, this will make total health care cost very high due to additional third party's administration cost and abuse of the system by both providers and consumers. And in Cambodia's economic context, the health care system should not run into Health Insurance Trap which will require this poor country to pay unnecessary health care costs and it will be impossible for the government to ensure universal coverage of Health Insurance.

To improve equity in health care system, policy makers should reconsider a vision of free health care services at the point of delivery. Scaling up of contracting such as Special Operation Agency or Service Delivery Grant is a good way forward but the user fees must be lifted so as to improve access for the poor. Good governance can be strengthened through enhancing social accountability by consumers or communities and through the implementation of Decentralization and Deconcentration.

In addition, free health care service at the point of delivery will: (1) make a clear delineation between public and private sector, paving the way for strengthening the public system; (2) improve equitable access of health care services to the poor; and (3) total health care cost may be much lower.

5. Late and incomplete disbursement of national health budget

Some improvements have been observed in the last couple of years. However, the last quarter disbursement rate is double or triple. The issue of regular and timely cash disbursements to the operational level remains important enough to bear repeating. MEDICAM again calls on the RGC to increase transparency and accountability for policies designed to reduce delays and incomplete government budget disbursement during the first part of the year in particular.

6. Issue of availability, timeliness, and quality of essential drugs and other health commodities

Having encountered problems in the field whilst working at the operational level of public health system, NGOs are very concerned about the timeliness, availability, quality of drugs, and mismatch between the need and the distribution. They complained that the logistics system did not function well. There are several issues in each layers of logistics supply system and management from National level down to health facilities. For example, some health centres complain that the quantity received do not match with quantity ordered. Some items needed are not delivered whilst some items not needed are received. Drugs are usually arriving with short expiry dates.

This is an area of critical importance for better service provision. Strengthening logistics supply system and management will require stronger political will and commitment of leaders to establish a more transparent and decentralized system of supply and management including procurement procedures and distribution of essential drugs and other health commodities.

7. Dual practices

This is one of the greatest impediments in improving the public health system because almost all public providers are private providers. The changes of these practices will require more than political will: (1) there should be a clear delineation between those who work in private and those who work in public facilities; and (2) decent wages/salaries are required in order to retain public health staff in the public health system.

8. Maternal, newborn and child health (MNCH) remains a critical area which requires intensive efforts and support to meet the MDGs in 2015.

MEDICAM Position Paper in 2007 is still very relevant today. For details, we would recommend to look at point number 4 and 5 in the position paper 2007 (it is available on MEDiCAM Website). Key areas to improve MNCH include: (1) improving access and quality of Emergency Obstetric Care Services; (2) an effective referral system; (3) access to safe abortion; (4) increasing financial support beyond the national health budget (it is obviously impossible to achieve MDGs 4 and 5 without additional global financial support because increase from the national budget within the proportion of low GDP will not be able to allow developing countries to get adequate resources to intensify their efforts); and (5) alignment with the national child survival core strategy and other national strategies for maternal health such as national reproductive strategy is something which requires strong commitment and actions from health partners.

9. Private sector

Another great impediment in achieving MDGs is the health care provision in private sector. CDHS 2005 indicates that only 21.6% of patients use public services, 69% of the population is using the private sector, informal private sector and non-medical sector. The informal private sector and the use of all kind of medicines from pharmacies

and drug stalls is the most worrying. MDGs 4, 5, and 6 can never be achieved if the quality of health care provision is only addressed in the public system. It definitely needs regulation and enforcement of the regulation in private sector. Transitionally, public-private partnership must be strengthened.

10. Best practices and lessons learnt

Cambodia has now passed fragile state status and is in the consolidation phase for sustainable growth and development. It is time that best practices and lessons learnt should be well coordinated and a framework for scaling up should be developed. Since several NGOs and health partners have been working to support the strengthening of the public health system and improving people's health, MEDiCAM should intensify its effort in the coordination of best practices and lessons learnt and jointly develop a framework for scaling up.

Key issues for Disability sector about Health and Rehabilitation

Achievements

A joint agreement between the MoSVY and five NGOs in charge of the provincial rehabilitation centres (PRCs) has been signed in 2008, stating the official takeover of PRCs by MoSVY in 2011.

Medical and physical rehabilitation themes have just been introduced to every provincial hospital through the tour training programme organized by Ministry of Health (MoH), department of preventive medicine.

Recommendations

The MoH should include disability in its strategy plan and set up policy framework for people with disabilities;

The RGC should assign a focal point ministry to establish mechanisms of coordination, for health and physical rehabilitation;

To effectively enforce the Memorandum of Understanding (MoU) signed for the rehabilitation sector, comprehensive actions for successful sustainability (HR, financial, other) should be implemented by MoSVY;

To implement a policy of physical accessibility to all health structures in the country;

All public and private health educational establishments should integrate disability into their study curriculum.

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Gender Equality in Poverty Reduction

Introduction

While social norms and culture still remain barriers for women's full-fledged development, discrimination against women is continuing to be an issue. In a context of vibrant economic structure, women have been actively participating in socio-economic development at household and national levels. However, due to power imbalance, valuing the responsibility both on economic and political aspects plus the fact that men dominate over women in decision making, there is less opportunity for women in social and political participation. This reduces opportunities for income generation and control over resources as well as limiting access to **public** services, such as education, health, legal supports, etc.

Gender violence is also an area of concern. Cambodian women are seen to be subject to domestic violence, rape, sexual harassment at the work place and trafficking. Gender inequality includes traditional posture, poverty and poor law enforcement. These have contributed to the rising trend of domestic violence and high level of violence acceptance.

Poverty reduction together with improving living standards of the people in Asia-Pacific has become a common goal of the WB and ADB; people with disabilities are amongst the poorest of the poor in Cambodia, especially disabled women and children. They are amongst the most vulnerable and deserve special social attention as their living standards are even lower than the poverty line and the ability to participate in various economic related activities is limited due to their disabilities.

Joint Monitoring Indicators

Target	Activities Needed	Responsible Institutions
20. Adopted laws, sub-decrees, and legal documents and implement the Plan Countering All Forms of Violence Against Women and Children to compliance with international standards	<p>20.1 Adopt the Sub-decree on Administrative Decision to the Law on Domestic Violence Prevention and Victim Protection led by the Ministry of Justice and Gender Technical Group.</p> <p>20.2 Adopt the Law on Anti-human Trafficking and Sexual Exploitation that is amending to be in line with the UN Protocol on trafficking and UN Convention on transnational organized crime and penal code.</p> <p>20.3 Implement National Plan for Violence Elimination against Women. Special target of 2007 was to form a Working Group at the Local Administration Department, MoI to prepare training materials related to the Sub-decree.</p>	<p>MoI MoWA MoLVT</p>

JMI 20.1: The draft Sub-decree on Administrative Decision to the Law on Domestic Violence Prevention and Victim Protection has not been adopted. It is still with the Ministry of Interior (MoI) and stakeholders involved are unclear about the reasons for this delay.

JMI 20.2: NGOs whose work focus is on improving gender equality would like to congratulate the NA and the Senate for passing the Draft Law on Anti-human Trafficking and Sexual Exploitation on 20th December, 2007.

JMI 20.3: NGOs highly appreciate the efforts made by the Department of Legal Protection, MoWA for coordinating the process of National Plan for Violence Elimination against Women. The Plan has been submitted to the CoM for approval.

Key Activities / Strategies from the NSDP

Section	Message
4.85	Boys and girls have equal opportunities to access high quality education without taking into considerations the issues of social status, geographical area, ethnic, religion, language, sex or disability.
4.89	Heighten enrolment equality of girls and their enrolment at secondary school through various efforts, such as constructing schools next to the villages where children are living, especially in rural remote areas; reduce spending of parents and assure schooling and education of poor children, etc.
4.92	Enhance women reproductive health, mother and child health, and eradicate causes leading to illnesses , take preventive measures, and offer necessary medical treatments
4.96	HIV/AIDS: Prevention, Treatment, Care, and Efforts to minimize impact of HIV/AIDS are key factors contributing to achieving the common goals of NSDP in reducing poverty and economic growth. Priorities actions include: <ul style="list-style-type: none"> - Promote the programme to provide broad encouragement to men and women to use condoms. - Prevent transmission of HIV/AIDS to family members through information, education, communication programme and individual consultation/counselling. - Increase and improve supporting health services and cares to those who are affected by HIV/AIDS
4.97	<u>Gender equality:</u> RGC considers women as backbones of Cambodia's economy and society. The Strategic Plan for Women, "Neary Rotanak" or "Women as Precious Stones" will continue its strength aiming at offering value and hope to women through gender mainstreaming on all activities.
4.98	Gender equality to education, employment, wage, ownership over land tenure, care of reproductive health, adverse impact of HIV/AIDS, women trafficking, and work without receiving any benefits or without pay, domestically and socially.
4.99	At the national and local levels, focusing at: <ul style="list-style-type: none"> Commit to build capacity at all levels, including policy makers and programmers related to gender and gender mainstreaming activities. Promote economic empowerment to women. Uphold legal protection for women.
4.100	Mainstream gender issues into the mindset of the whole population, at all levels of the Government, and in the process of budget disbursement . Provide instructions and address domestic violence, women trafficking through eradication of corruption and strictly strengthen law enforcement . Increase women participation in decision making structure and promote women to hold high positions and responsibilities by policies and laws.

Education (4.85 and 4.89):

There have been many efforts by the Government, Civil Society and Donors to uphold gender equality in education. However, the assurance of gender equality in the education sector faces many obstacles such as poverty, existing traditional mindset on the roles of the girls and their education, lack of teachers, buildings for educational purposes, and dormitories, where all of these are issues leading to high rate of school abandoning for school girls overweighing that of school boys at the secondary level.

NGOs have observed room for further efforts to be made by the MoEYS to respond to the final say of the Committee for Elimination of All Forms of Discrimination Against Women in relation to the Cambodian "Women's Precept". This is based upon the fact that the Precept has been recognized as a tool to strengthen women and men's traditional value, roles, and relations which is taking deep root into Cambodian mindset over centuries and is still embedded in the national education programme. There have been no modifications or positive interpretation of the Precept aiming at upholding women's roles to the level of men's in domestic and societal decision making. To date, there has been no sign of commitment from MoEYS as well as that of line ministries to discuss the issue.

Case Study: Literacy and Living Skills to Empower Youth in Development Project, Koh Kong, Care Cambodia

Ky Sary is 19 years old with 3 siblings and lives with her aunt in a rural remote village in Botum Sakor, Koh Kong province. Her parents passed away many years ago leaving behind 3 siblings, including 1 younger brother as orphans. Living with her aunt, Sary does many things at home as well as occasionally working out at sea. At home, she does housework, prepares fishing tools and takes care of her younger siblings. She has one small vegetable garden which is able to grow many kinds of vegetables. Sometimes, she helps her aunt to take vegetables to sell at Andaung Toek, a nearby market. During the fishing season, she goes fishing out at sea with her uncle.

Due to lack of teachers at school and living in such a poor condition, she has to help her family. As a result, Sary was forced to drop her grade 2 class and abandoned her school over 6 years ago. She was only 13 years of age and had no other option.

Later, Care Cambodia started a programme in her village. Sary enrolled in a literacy class along with other girls in her village. As she was good at learning, Sary's talents in class enabled her to be selected as a "member of Youth Advisory Committee". With substantial trainings from Care, Sary's new position has given her self-confidence in sharing ideas, gathering information from her classmates to be discussed with other "Members of Youth Advisory Committee" at monthly meeting, and at each meeting, she gains more and more self-confidence. When her teacher is absent, Sary is able to cover for her teacher and help other students. "I can now read, write, and take many initiatives and can handle all tasks without being shy. This is the result of attending literacy classes", says Sary.

Health 4.92:

There have been substantial efforts in trying to improve the health conditions of poor women in rural and urban area and lately national budget for health sector was increased. Despite this, access to health services is still an issue for women, in particular for those in rural area because maternal mortality rate at birth has increased (472/10,000 of live births compared to 432/10,000 in 2000) and infant mortality rate is 65/1,000 deliveries and 83/10,000 for children under 5⁹¹. Particularly in remote areas, hospitals are far away, causing high travelling costs, together with high health service fees; these are major obstacles for rural women. Although public services for women

⁹¹ CDHS 2005

are available for birth deliveries, these are under the responsibility of the Government. Only 68% of rural women went to received health services at hospitals prior to their deliveries and only 17% delivered their newborns at hospitals. Inappropriate beliefs over nutrition during pregnancy and post deliveries are factors contributing to high maternal mortality rates.

The Law on Abortion is a positive step for Cambodian women, but abortion for the reason of birth spacing and family planning deserves attention. There were increases of 5% in 2000 and 8% in 2005 of the population aged between 15 and 19 years old, and illegal abortion at unlicensed clinics is also a severe case and there has been no official data showing the extent of this⁹².

AIDS 4.96:

Cambodia has been successful in reducing the spread of HIV. Multi-sectoral interventions by RGC, NGOs, and donors as well as assistance by other agencies did contribute largely to the cutback of the virus' spread. HIV prevalence decreased among women sex workers from 42% in 1995 to just 21% in 2003. Nevertheless, the trend of new cases is changing; transmission from husbands to housewives and from mothers to newborns during deliveries is on the rise⁹³. Prevention of the transmission from husbands to housewives appears to be difficult and will be time consuming because of social mindset of power imbalance between men and women making the latter in a difficult position to negotiate the use of condom with their husband because such a negotiation would imply dishonesty of men over women.

4.97, 4.98, 4.99, and 4.100:

RGC considers women to have crucial roles in Cambodian economy and society. In order to contribute to poverty reduction, RGC commits to eliminate gender inequality from all sectors through gender mainstreaming into all activities. The MoWA is a leading Ministry to promote and coordinate Government institutions, civil society organisations, and private sector to integrate gender in their respective policies and programmes and to take charge in monitoring and evaluating policies and programmes to see the progress of gender mainstreaming activities of all sectors. Of the 31 ministries and institutions, 15 Government ministries and agencies have their Gender Mainstreaming Plan of Action adopted.

Women and Employment: Opportunities for women's employment is still an issue although many young women actively participate in the garment sector. Lack of employment opportunities in rural areas is forcing the majority of male and female youth to migrate to urban areas and to foreign countries looking for work. Legal and illegal migration outside the country such as to Malaysia, Korea and Thailand is challenging for Cambodia today. Women workers are being discriminated by employment types, labour and wage exploitation, working conditions, sexual harassment, trafficking, etc. The Government appears not to make its full efforts in protecting labour right to these migrants yet especially there have been limited and inefficient monitoring and reporting mechanisms in place to secure them.

Wage Inequality: The gaps between men and women's wages are high. Among those migrants of 15-29 years with no education background, men get paid 75% higher than women⁹⁴. On average, women receive 30% less wages than men for similar type of work. In specific sectors the gap is even larger: for example in fishing, labour selling, harvesting forest resources, men receive 48%, 42%, and 189% higher wages respectively than women⁹⁵. In formal economies, wage discrepancy is getting larger, resulting from the fact that the majority of men's work is in highly paid types of

⁹² NGO CEDAW report 2005

⁹³ A Fare Share for Women (MoWA 2008)

⁹⁴ Ibid

⁹⁵ Ibid

employment and hold the positions as managers. There have been no specific policy, appropriate measures nor any positive actions developed to eliminate the gaps. At present, there is no complaint mechanism related to wage inequality prepared for women to counteract against this form of discrimination⁹⁶.

Women and the Right of Land Tenure:

Mrs Saro is 47 years old. She has 5 children. Her husband has left her over 13 years ago when she was 7-months pregnant, he has never returned. She is the household head and she earns her living by rice farming. The piece of land she gets from the state is a major source for her to earn her living and to feed her children. She described her story by saying that *"Due to flood, this year I was not able to transplant, however, I try my best to feed my children"*.

She described her life as being a household head, a farmer, a mother and a woman. This led to a topic discussed on the right to own land property. Mrs Saro had participated in a meeting on land property registration, but she could not remember the principal idea of common land titling. She could explain thoroughly the importance of putting women's name on land titles. She says *"For me, putting a woman's name on a land title is really crucial because I am the household head. I raise 5 children hence land is my surviving tool"*.

When we asked her under whose name had she put during land titling registration process, she confirmed that only her name was registered on the land title. However, when looking at her actual land title, it clearly says the land was registered under property jointly owned with her husband. She also told us that the land registrar looked at her family book although she did tell him that her husband left her so many years ago. To date she has never examined her land title. *"I am really surprised, those officials make me lose confidence; what would happen if my husband comes back to claim the land?"*

Although the RGC has made efforts to integrate gender perspective into legislations and policies pertaining to land reform, still there remain some concerns on the implementation⁹⁷. Based on a gender assessment by USAID, they found that *"Ambiguity and the fees of land titling shed negative impacts on women's right over land tenure, especially for those who are women-headed. Limited understanding of applicable laws and registration process may obstruct their participatory activities"*⁹⁸. On the other hand, referring to a recent study, they found that divorced, separated, and abandoned women face difficulties to access their right on land tenure⁹⁹. There are a number of factors involved in this, such as low education and limited understanding of official divorce, domestic violence, economic dependence, limited access to information, and most important factor is the ambiguity of the guidelines for land registration and limited understanding of officials who register land title over the instructions of divorce, separation, and abandonment. This has raised the question: how can rural women retain and protect their land right when local authorities do not even know clearly the process and the guidelines for land registration related to divorced, separated, and abandoned women by their husbands?

Women and Their Roles in Decision Making: There has been positive change for women participating in politics after the 2007 commune/sangkat election and national elections in 2008. Around 15 % of women were elected as commune councillors (8% in 2002) and 4% were elected as heads of commune council (0.8% in 2002). In addition,

⁹⁶ Ibid

⁹⁷ Gender analysis and Assessment , USAID Cambodia , March 2006

⁹⁸ Gender analysis and Assessment , USAID Cambodia , March 2006

⁹⁹ Concluding comments of the Committee on the Elimination of Discrimination against Women: Cambodia, February 2006

7.7% of women were positioned as Ministers, 8% as State Secretaries, 22% as Members of Parliament, and 13% as Senators. To comply with the recommendation of Prime Minister, in 2008 MoI assigned women to hold positions as Deputy Provincial/Municipal Governors, Deputy District/Khan Governors throughout the country. CSOs share their concern that women who have been assigned to hold their positions as a leader may not implement their roles effectively due to limited personal experience, lack of supporting system, and discrimination by their male counterparts. Therefore, it means that the true gender equality in the role of decision making fulfil these statistics. The RGC therefore should pay more attention to provide enabling environment and supporting system with gender perceptions at all levels to assure that those women leaders will implement their roles properly and effectively.

Women and Violence: Although laws and mechanisms are in place, there has been limited implementation. Domestic violence, rape, and trafficking are reported to be on the rise. The campaigns of law dissemination to prevent domestic violence are limited, especially in rural remote areas. Law enforcement is not effective and in general it is found that intervention by the authorities only taken place when the case is severe because policemen are reluctant to intervene over a non-criminal case and because the Law on Domestic Violence does not specify in details this issue. NGOs believe that the Sub-decree on the Principles to implement this Law at local level which is now being held up by the MoI would help strengthening the implementation of the Law on Violence Prevention to be effective. The National Plan of Action to fight against violence with broad scope covering legal protection and violence prevention on women initiated by the MoWA was submitted to the CoM and is awaiting approval soon. A National Task Force to implement bilateral and multi-lateral MoUs to eliminate human trafficking was formed early 2007. Specialized Police Provincial/Municipal Departments have been created in almost all Provinces/Municipalities to counter violence against women and children.

Important Issues not covered by JMIs and NSDP

Gender and Disabled Women

Due to the fact that persons with disabilities were not included in NSDP, we are concerned that these people, especially women and girls, would not enjoy substantial benefits from development. In addition, the issue of disabled women and children were not included in JMIs. Despite the fact that upholding gender equality sufficiently covers disabled women and girls as specified in sections of 4.97 to 4.100 of the NSDP, we observed that the MoWA took the lead in gender mainstreaming activities, even though they do not have any responsible unit over disabled women and children yet.

Recommendations

- All ministries should develop their Gender Mainstreaming Plan of Action with existing mechanisms and prioritise budgets to uphold womens participation at each ministry. At the same time the existing mechanisms of each ministry must be strengthened to ensure effective implementation of gender mainstreaming activities and to link the activities at the national level down to local levels.
- Strengthen the mechanism to integrate gender perception into NSDP, allocate budgets to monitor the process of this plan implementation and ensure specific strategies with sufficient budget be developed at all levels, national and sub-national levels to achieve gender equality.
- Strengthen and build the capacity of national and sub-national officials to uphold gender equality.

- Strengthen all legal frameworks and promote gender equality including the definition of direct or indirect discrimination against women.
- The RGC should assess the traditional code of conduct that influence women's education to define all elements leading to women's discrimination and the root causes preventing women from receiving benefits from the society, such as education, health, employment, politics, public sector, politics and factors which intensify gender violence.
- Make sure women's leaders receive trainings and capacity building as a priority, so that they can fulfil their duties reflecting their status and positions.
- The RGC should mainstream or integrate disabled women into the MoWA and create a Department responsible for disabled women. To this end, MoWA should include disabled women within their Mainstreaming Gender Strategy and create a separate budget to fight against all possible obstacles.
- The RGC should strengthen laws, policies and existing legal documents including the issues of disabled women.

Keys Issues for Disability Sector about Gender

Key Achievements

The policy on gender has already been developed by the Ministry of Women's Affairs (MoWA) on April 2008 and this issue has been mainstreamed in other policies and legal instruments.

Some forums were developed for women with disabilities (WWD).

Recommendations

The RGC should mainstream women with disabilities into MoWA, the gender mainstreaming strategy, allocate a specific budget and establish a department in charge;

MoWA should develop a grant for NGO on gender awareness raising for women with disabilities;

The RGC should reinforce existing law and other legal documents, to include women with disabilities.

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Disability and Development

Introduction

In low-income countries, research shows that persons with disabilities are represented amongst the poorest of the poor disproportionately higher than other social groups¹⁰⁰. The economic exclusion of people with disabilities has major consequences for the country's growth. A WB study estimates the annual loss of GDP globally, due to people with disabilities being excluded from economic income activities, at between US\$1.37 trillion and US\$ 1.94 trillion¹⁰¹. Concerned about the link between disability and poverty, the process for developing the Poverty Reduction Strategy Papers (PRSP), therefore, is a unique opportunity to reduce poverty within this part of the population. Disability is a cause and consequence of poverty alike, thus for PRSPs to be effective regarding all poor people, countries are advised to place disability in a prominent position.

Despite the near invisibility of disability issues in the NSDP in Cambodia, the disability sector was asked by the NGO Forum to provide a specific monitoring statement for the upcoming CDCF meeting. This presents an important step for people with disabilities to ensure that their numerous voices are heard increasingly. According to the National Institute of Statistics Social and Economic Survey 2004, the total of people with disabilities is estimated at 4%¹⁰² of the total population. The statement is thus an opportunity for the disability sector, appreciative of the RGC's move to sign the UN Convention on the Rights of People with Disabilities and its Optional Protocol, to point out current key issues and recommendations in fighting poverty amongst people with disabilities.

In order to present a collective view a consultative workshop on "Disability and Development Policies" was organized in August 2008 by the Disability Action Council (DAC) and Handicap International France. A total of 37 key organisations, representing disabled people organisations, NGOs and INGOs¹⁰³ as well as the National Centre for Disabled Persons (NCDP), identified key concerns, progress made and recommendations for ensuring reduction of poverty in the following sectors: Health, Education, Land Mine Action, Employment, Gender Equity and Governance within 2007 – 2010.

Based on these recommendations, Disabled People's Organisations (DPOs) and other disability stakeholders urge all concerned stakeholders to do their utmost in the years ahead of the current NSDP (2009-2010) to mainstream disability in their actions to reduce poverty and reach the Millennium Development Goals.

Joint Monitoring Indicators

The invisibility of disability in the NSDP as well as its absence within the JMIs is a major obstacle to monitoring whether impacts and activities are benefiting people with disabilities. Therefore, participants of the consultative workshop have produced specific boxes, for each key sector, which we propose be integrated into the relevant JMI monitoring papers. These boxes are enclosed at the end of this statement, in Annex 2.

¹⁰⁰ According to research by World Bank 2000, Robert L. Metts "Disability Issues, Trends and Recommendations for the World Bank", Washington 2000; refer also to ILO 2002: Disability and Poverty Reduction Strategies – How to ensure that access of people with disabilities to decent and productive work is part of the PRSP process. Switzerland.

¹⁰¹ See Robert L. Metts 2000, quoted in: Simon Zadek and Susan Scott-Parker "Unlocking Potential. The New Disability Business Case" ILO and The Employers' Forum on Disability, 2001

¹⁰² While the ADB is estimating the number to be even higher at 15%, "Identifying Disabilities Issues Related to Poverty Reduction : Cambodia Country Study, ADB 1999"

¹⁰³ Thereafter, referred to as the 'disability sector'

Important Issues not covered by JMI's and NSDP

Embracing the overall NSDP vision of the RGC *"...to achieve a socially cohesive, educationally advanced, and culturally vibrant Cambodia without poverty, illiteracy and ill health where all Cambodians live in harmony free of hunger, inequality, exclusion, and vulnerability (...) to contribute to further progress of the country and for an increasingly higher standard of living"* we would like to propose issues and recommendations on how the current NSDP and JMIs could better address the poverty situation of *all* Cambodian citizens through a more disability-aware perspective in monitoring and actions.

Issue

Representatives and supporters of people with disabilities are concerned about the way disability is included in the poverty reduction process and its strategy paper, the NSDP, in Cambodia for the period 2006- 2010. While people with disabilities do figure in the specific key strategies and actions to be a targeted group among the most needy and least served people *"to help rapidly reduce poverty"* (chapter IV, point 4.05), we note that people with disabilities are not specifically mentioned in the 15 strategic goals and 43 critical targets.

Recommendation

Include disabled people as a category and specific target group for poverty reduction actions in respective critical targets and strategies across the major sectors of health, employment, infrastructure, governance, gender, and education. Take note in the meantime of the National Plan of Action for People with disabilities including Landmine/Explosive Remnant of War (ERW) Survivors¹⁰⁴.

Issue

Exemplifying this challenge further, the education sector of the current NSDP estimates that until 2010 the full enrolment of all children in primary school education will be accomplished, and thus an important Millennium Development Goal reached. However, information gathered from organisations of and for people with disabilities show that a high number of disabled children are not enjoying the benefits of enrolment and education. Therefore, we are concerned that this goal is not truly reachable. We can assume that similar major challenges apply in the other sectors and so negatively influence the process to reach the main MDG of halving extreme poverty by 2015

Recommendation

- Specifically measure the enrolment rates, collect data on children outside education and progression in education of children with disabilities, and support initiatives to enhance the enrolment and education of children with disabilities.
- Support attempts for a national disability survey to assess the impact of disability and environmental barriers on poverty reduction across the sectors.
- DPOs should be included in monitoring exercises as well as in capacity building initiatives.

Issue

The lack of visibility of people with disabilities in the JMI, measuring the progress with regards to the proposed actions is hampering the practice and knowledge of poverty

¹⁰⁴ In the process of development, following the further development of the National Action Plan on Landmine and Victim Assistance so that for the first time also general disability issues are included in a national Action Plan, by DAC. Expected to be finalized by end of 2008.

reduction amongst persons with disabilities. Without measuring, current actions cannot be readjusted in a concerted and empirically informed way. The current lack of data on disability also creates a difficulty in planning poverty reduction strategies.

Recommendation

Identify lessons learned from successful monitoring of mainstreaming women and gender concerns in Cambodia's development to guide this change of practice. Monitoring poverty reduction action and allocation of sufficient budget should be undertaken based on the assumed percentage of people with disabilities in Cambodia, using the expected new figures from the 2008 Census which included disability for the first time.

Issue

DPOs and other disability stakeholders were not adequately involved in the consultation process to develop the current NSDP and JMIs. Some of the DPOs lack capacity to meaningfully participate due to past discriminations.

Recommendation

Since planning for the next NSDP (2011 onwards) is expected to start in 2009, we strongly recommend the inclusion of DPOs and other disability stakeholders in the consultation and formulation process from the beginning. Support capacity building initiatives to enhance the capacities of DPOs for participating successfully in the planning process. Support initiatives for DPOs to collect views from the rural areas, not represented at capital level.

Keys Issues for Disability Sector about Mine Action and Victim Assistance Achievements

A draft **National Plan of Action for Persons with Disabilities including Landmine/Explosive Remnant of War (ERW) Survivors 2009** developed in 2008.

The number of mine victim decreased thanks to prevention action and 8 de-mining agencies continuing to work.

Prevention and assistance have been improved by: developing a Draft Pre-hospital and Hospital Trauma Care Policy, implementing First Aid Programme by MoH in some provinces, Cambodian Red Cross and NGOs, implementing Community Based Rehabilitation (CBR) programme in 19 provinces.

Recommendations

The MoH should adopt the draft Pre-hospital and Hospital Trauma Policy;

Government should encourage MoH to extend its Programme of First Aid and CBR nation wide (including the participation of people with disabilities);

The RGC should speed up the adoption of the draft **National Plan of Action for Persons with Disabilities including Landmine/ERW Survivors**;

The RGC should improve the quality of emergency and medical care systems in 24 referral hospitals and establish Spinal Cord Injury service in all 11 PRCs;

The RGC should use equity fund more widely and include persons with disabilities;

The RGC should improve the capacity building for concerned government officers in delivering good quality services with reference to persons with disabilities;

The RGC should encourage Mine Action operators to expand their services to reduce the risks of disability.

Ms. Meas Mao, DAC

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Child Rights

Introduction

This statement on Child Rights is complementary to other documents as children's rights are relevant with other sectors. It has been prepared by the NGO Committee on the Rights of Child (NGOCRC) which is a coalition of 46 national and international NGOs working together to promote, advocate and monitor the implementation of Convention on the Rights of the Child (CRC) in Cambodia.

Since CRC's ratification in 1992, the RGC has made progress in some areas based on concluding observation of the UN Committee on Child Rights. However, many areas still have gaps to be fulfilled, especially focusing on formulation more children-related public policy, strengthening its commitment to implement existing policies and increasing resources for various institutions of the government working on children.

Joint Monitoring Indicators

There are no joint monitoring indicators (JMIs) related to child rights.

Key Actions/Strategies from the NSDP

The relevant sections of the National Strategic Development Plan (NSDP) for this sector are as follows:

Section	Message
4.83	<p>"...expand rehabilitation and reintegration programmes for the disabled, those affected by drug abuse, victims of trafficking and children in conflict with the law,...."</p> <p>"...Priority strategies and actions to be taken include: the adoption and enforcement of important legislation; and establishment of rehabilitation centres for orphans, street people, disabled, elderly, and women and children victims of trafficking."</p> <p>"Since drugs are a major concern for the security and well-being of the whole society, measures to prevent production, smuggling, sale and use of drugs will be strictly pursued by authorities concerned."</p>
4.96	<p>RGC is committed to a multi-sectoral response, guided by the National Strategic Plan for a Comprehensive Response to HIV/AIDS, 2006-2010, with a strong decentralized response. Important priorities include:</p> <p>"Increase and improve care and support services to those infected by HIV/AIDS."</p>

4.83: Drug Abuse

Drugs are still featuring almost weekly in the press in Cambodia and they were also found to be an issue of increasing concern among the public. According to the National Authority for Countering Drugs (NACD) report, Cambodia had 6,500 drug users in 2006 which decreased to 5,797 in 2008¹⁰⁵. However drug use has spread to many other areas where there had previously been no drug users before. Police confiscated a lot of Methamphetamines, the most popular drug among young people, which show the increase of their need. Drug use seriously affects the social security and welfare of the

¹⁰⁵ Report for Dec 2007 to June 2008 of NACD

users. The awareness raising campaign on the impacts of drug abuse is still limited to students and their community. Moreover, Cambodia doesn't have enough technical centres to treat, care or rehabilitate those children addicted to drugs.

4.83: Child Trafficking

The Government has strengthened its measures in response to commercial sexual exploitation of children through the adoption of new law on the suppression of human trafficking and sexual exploitation, which is more detailed than the previous one in 1996. The government also established a National Tasks Force against Human Trafficking in order to eliminate human trafficking and sexual exploitation in Cambodia, but the existing national sub-committee on child trafficking and sexual exploitation of Cambodian National Council for Children (CNCC) is barely functioning. The out of date National Plan of Action against Trafficking and Sexual Exploitation of Children in 2000-2004 hasn't been renewed yet.

Cambodian children are still the victims of trafficking and sexual exploitation. An NGO joint statistic report has shown that 44.7% of the victims were children below the age of 18 and 14.5% of girls 15 years of age or below¹⁰⁶.

4.83: Children in Conflict with the Law

Cambodia is still lacking many laws and regulations concerning to its justice system for children. There are some provisions regarding detention period of children under criminal law. However, there are no provisions or guidelines saying that the arrest, detention or deprivation of the freedom of children should be carried out as the last resort. No separate care centres for a child in detention or imprisonment are provided; children are kept in prison together with adult inmates. As such, they easily learn how to carry out felony from the adult offenders. For the rights to both psychological and physical treatment and re-integration into society, the Cambodian prison system has a rehabilitation service which is aimed at adults but is used for adults and children alike. This same rehabilitation service is used in all provinces throughout the country. This means that there are very few or no educational and rehabilitation programmes specifically aimed for the children in prisons. There are approximately 450 children jailed in Cambodia¹⁰⁷.

4.96: HIV/AIDS

The Government has made a lot of progress related to the prevention of HIV infection in Cambodia. This has been shown by an infection rate decreased to 0.9 percent in 2006. The Government has also increased its supply of anti-retroviral drugs to HIV/AIDS infected people including children.¹⁰⁸In the first quarter of 2008 a total of 28,142 active patients, including 25,453 adults and 2,689 children were receiving Anti-Retro Viral (ART). This strategy is helping to reduce the number of orphans whose parents have died of AIDS.

There are an estimated 570,000 orphans in Cambodia¹⁰⁹. With a rising AIDS death toll, it is projected that HIV/AIDS will account for about one in four orphans – making them one of the most vulnerable sectors of Cambodian society. At least 6,000 Cambodian children are living with HIV. Orphans have been abandoned and ignored by community and relatives, and discriminated; these children are forced to leave school in order to work to support their younger sisters and brothers; children lack food, refuge, and study material. They face many hazards such as trafficking, prostitution and drug abuse.

¹⁰⁶ NGO Joint Statistics Database Report on Trafficking and Rape in Cambodia 2005-2006 (launched in June 2008)

¹⁰⁷ "Temporary Detention and Legal Representation for Juvenile" Research report 2006, Legal Aid of Cambodia

¹⁰⁸ First Quarterly Comprehensive Report 2008, National Centre for HIV/AIDS, Dermatology and STD

¹⁰⁹ UNICEF

Important Issues not covered by JMIs and NSDP

Implementation mechanism and monitoring of the CRC

Though some progresses has been made in the field of child rights, NGOs are still concerned about the functioning of CNCC in promoting and monitoring the implementation of CRC in Cambodia. This national institution does not have its networks in provinces and districts. CNCC has not started to function well yet due to the lack of personnel staff to run this entity. CNCC's information management system cannot meet the needs to monitor the children situation that lead to a long delay in the submission of Cambodia's periodic report on the implementation of CRC in Cambodia to the UN Committee on CRC.

Recommendations

Drugs

The Royal Government should:

- Strengthen implementation of the law through effective suppression of drug production, trafficking and delivery systems.
- Increase awareness raising activities on the negative impacts of drug abuse and felony offences, especially among young people.
- Increase budget and human resources available, specifically those with skills in treating drug victims.
- Build more rehabilitation and vocational training centres which are free of charge.
- Formulate reintegration programmes for rehabilitated people to family and community.

Trafficking and Sexual Exploitation of Children

The Royal Government should:

- Immediately adopt the second national five-year plan against trafficking and sexual exploitation of children.
- Strengthen the enforcement of law on the suppression of human trafficking and sexual exploitation in punishing perpetrator.
- Get rid of obscene magazine and pornography video CD/cassette through the strengthening of the Inter-ministerial Prakas No. 14 (9th February 2000) on the Commercialization of Pornography.
- Strengthen the education of social morality and take measures in communities through participation of commune councils, police, village chiefs, monks and influential people in communities.

Children in Conflict with the Law

The Royal Government should:

- Immediately accelerate the adoption of the Law on Juvenile Justice in Conflict with the Law which is still in draft form.

- Urgently separate children in detention centres from adult inmates and ensure that the provision of education and rehabilitation programmes for children in prison is appropriate and accessible.
- Accelerate the establishment of Juvenile Courts separately from that of adults.
- Increase the number of judges and lawyers specializing in juvenile cases.

HIV/AIDS

The Royal Government should:

- Continue and expand free provision of ARVs.
- Create programmes to support orphans whose parents have died of AIDS.
- Further solicit help for orphans from community and reduce discrimination to orphans whose parents have died of HIV/AIDS and those HIV infected children.

Implementation Mechanism and Monitoring of the CRC

Cambodian National Council for Children should:

- Have a Secretary General in a higher ranking position than that at the present.
- Follow the commitment of H.E Sok An during the event of International Children's Day 2007 on the establishment CNCC's network in all cities/provinces and districts.
- Have its own staff for the everyday functioning of the Council.
- Increase human and financial resources.
- Establish an information management system to follow-up the implementation of the CRC.

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Costs, Resources and Programming of the NSDP

NSDP Financing

Introduction

The NSDP provides the framework for poverty reduction in the fastest possible manner. However, domestic revenues and funds from development partners are required to finance this and should be allocated in line with the NSDP objective. The Government has made substantial progress in its often praised Public Financial Management Reform Programme (PFMRP) which started in 2004. NGOs appreciate the complexity and long-term nature of the reform process but would also like to note that there are some areas where it should be relatively easy to make progress in further improving public financial management.

Two key issues from this position paper are that firstly, the Government and its development partners should improve the alignment of the National Budget to the NSDP 2006-2010 as RGC and development partner's resources are the primary tool for implementing its policies. Secondly, the budget process should become more transparent and allow more organisations/individuals to make a constructive contribution to the budget process thereby providing valuable information to the decision makers in executive and legislative branches of the RGC. NGOs request the Government to make practical steps towards more transparency in 2009 by making the following three documents available to the public: i) the detailed monthly table on financial and economic operations (TOFE) that includes information on all line ministries; ii) additional information on capital expenditure by the line ministries to the TOFE; and iii) the National Audit Authority Report on the implementation of the 2007 Budget Law.

This statement has been prepared by the National Budget Project which aims to promote understanding on the National Budget among the Cambodian Civil Society Organisations. The project is part of the Economic Development Network (EDN) coordinated by the NGO Forum on Cambodia and has the status of observer in the Technical Working Group on Public Finance Management (TWG-PFM).

Joint Monitoring Indicators

There are no JMIs on financing the NSDP.

Key Actions / Strategies from the NSDP

The relevant sections of the NSDP for this sector are as follows:

Section	Message
5.20	"The financial allocations made for various sectors under NSDP (Table 5.2) are broad directions or indications for moving forward. In order to become operational, they have to be further broken down into clear proposals for specific capital and current expenditure on an annual basis..."
5.23	"... full synchronization among NSDP, PIP and annual Budgets would be ensured from mid-2006 onwards."

5.20: Financial allocation

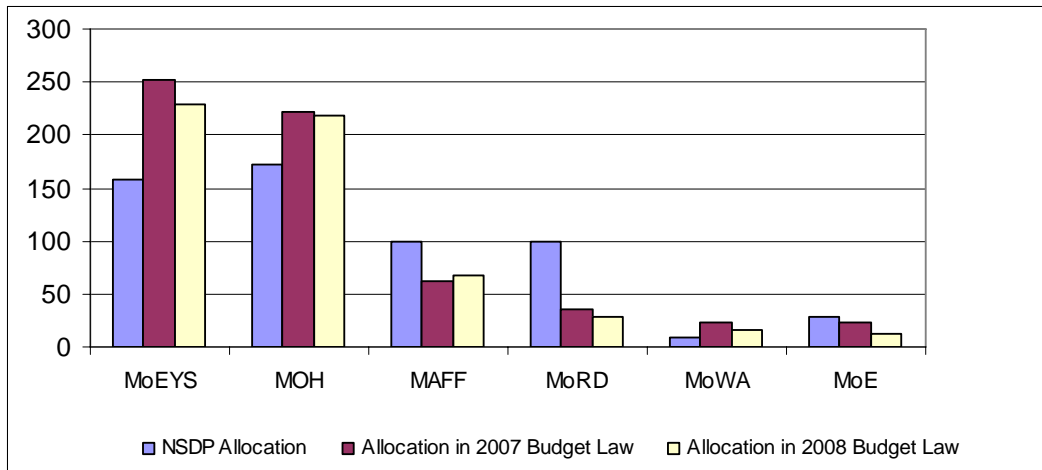
Although a revision of the NSDP was foreseen in June 2006, there has been no revision of the NSDP that has operationalised table 5.2. It remains to be seen whether the Mid Term Review of the NSDP will address this issue.

5.23: Synchronization among NSDP, PIP and annual budget

Although declared as a priority in the NSDP, no progress has been made in the first three years of NSDP implementation with respect to synchronizing NSDP, PIP, annual budget and the CDC database. Inter-ministerial coordination of this effort remains a challenge that needs to be addressed urgently.

Figure 1 below provides an overview of the sector allocation in the NSDP (Table 5.2) and allocations in the 2007 & 2008 budget laws (both capital and current expenditure) of the ministries in charge of i. education, ii. health, iii. Agriculture, forestry & fisheries, iv. rural development, v. women's affairs, and vi. the environment. All figures are expressed in 2008 prices and, when adjusted with inflation, budget allocations to these ministries reduced from 2007 to 2008 with the exception of the Ministry of Agriculture, Forestry and Fisheries.

Figure 1: NSDP allocation by sector in average and 2007 & 2008 budget law in 2008 price (in million USD)



Source: NSDP (Table 5.2), Budget Law 2007 & 2008.

Figure 2 below shows that besides the non-alignment of the National budget to the NSDP, the national budget does not provide a good prediction of actual expenditures by line ministries. The figure 2 provides the percentage share of implemented capital expenditure of the priority ministries during budget year 2007.

When further taking into account that three non-priority ministries (including 1-Public Work and Transport, 2-Economy and Finance, 3-Interior) overspent more than USD 100 million while priority ministries like the MRD and MAFF spent USD 23 million less than originally budgeted, it is clear that the priority sectors are in reality not prioritized¹¹⁰.

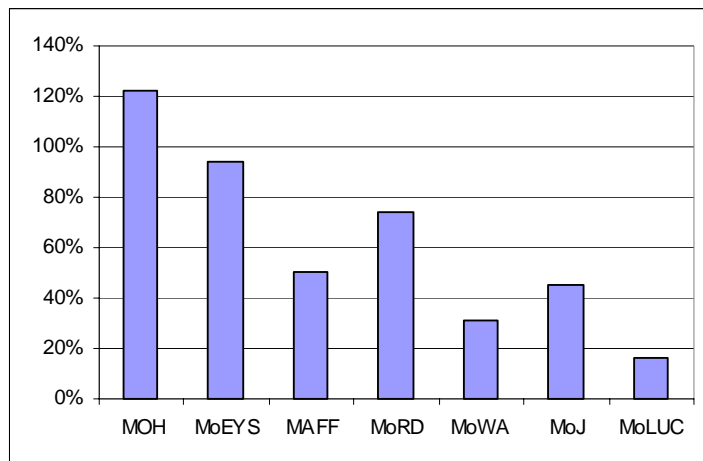
Especially worrisome is the low capital expenditure in the MRD and MAFF, as increasing public expenditure in the two sectors would stimulate the rural economy, create employment and reduce poverty¹¹¹. The recent increase of the price of rice (it doubled

¹¹⁰ NGO Forum (2008) "Analysis of the implementation of the 2007 Budget and the 2008 Budget Law" (table 2)

¹¹¹ Approximately seventy-five percent of the poor households are farmer-headed households.

in the period may 2007 to may 2008) is an additional reason to break with this pattern of under-investment as returns to public investment have increased¹¹². Please also refer to the position paper on agriculture for an overview on budget allocations and disbursements to the MAFF and MRD.

Figure 2: Implementation of capital budget for seven priority ministries in 2007



Source: Budget Law 2008¹¹³.

Government's Commitment to the NSDP objective: "poverty reduction in the fastest possible manner"

In its fight against poverty, the government prioritized a number of ministries/agencies. By labeling a sector "priority" then it was expected that these ministries/agencies deserved special budget treatment over "non-priority" ministries.

Table 1 & 2 below shows that significant over-expenditure (more than US\$ 180 million) occurred in "non-priority" sectors. This amount would have made huge progress in reducing Cambodia's poverty level if spent on, for instance, health, education, agriculture and rural development. This lack of predictability deserves an explanation.

Increase in huge capital spending in MEF resulted from huge flow of funds on PRGO and Financial Sector Development programme (3rd Sub-programme). MEF's over-expenditure on external services, and subsidy and social assistances needs an explanation since subsidies to for instance Electricité du Cambodge, have a strong urban bias and cannot be considered to target poverty reduction.

Table 1: Top 4 "Non-priority" overspending ministries/agencies in capital expenditure in 2007 in USD Million (2007 prices)

Non-priority Ministries/agencies	2007 B.L.	2007 Spending	Share
Ministry of Public Work and Transport	25.2	39.7	157%
Ministry of Economy and Finance	0.6	9.6	1726%
Ministry of Interior	3.5	6.3	181%
Cambodian Authority on Mine Action and Mine Victim Rescue	0.1	0.2	233%
Total	29.4	55.9	

Sources: Budget Law 2008, Budget Law 2007, TOFE 2007 (MEF).

¹¹² Also see NGO Forum (2008), Budget Brief, No.01, 2008: "2009 National Budget should favor farmers"

¹¹³ MEF has not released data on implementation of the 2007 capital budget.

Table 2: Top 5 "Non-priority" overspending ministries/agencies in current expenditure in US\$ Million (2007 prices)

Non-priority Ministries/agencies	2007 B.L.	2007 Spending	Share
National Election Committee	0.9	9.8	1073%
Ministry of Industry, Mines and Energy	2.7	9.3	347%
Ministry of Economy and Finance	10.9	131.0	1207%
Ministry of Interior - General administration	6.5	10.4	160%
Office of Council of Ministers	20.7	39.6	191%
Total	41.6	200.0	

Sources: Budget Law 2007, TOFE 2007 (MEF).

Important Issues not covered by JMI's and NSDP

Transparency in the National Budget process

The first area where the Government can make more progress in the Public Financial Management Reform is to release more information to its citizens on the National Budget. Box 1 below provides an overview of all budget documents produced by the Government that are made public and provides some observations on the documents. Changes that the NGOs would like to see in 2009 are: i) publication of the detailed monthly table on financial and economic operations (TOFE) that includes information on all line ministries; ii) additional information on capital expenditure by the line ministries to the monthly TOFE; and iii) publish the National Audit Authority Report on the implementation of the 2007 Budget Law.

The management of foreign aid is carried out by three institutions of the RGC: MEF, the Ministry of Planning and the Council for the Development of Cambodia. Possibly because of the challenges involved in dealing with a large number of donors, together with the difficulties of coordination among Government institutions, data on Government's capital budget (or sometimes referred to as development budget) is scarce. Although figures for planned expenditure by Ministry are released at the beginning of the year, figures on implementation are not provided (neither in the TOFE or the Budget Settlement Law). Therefore the Royal Government should integrate information on breakdown of recurrent and capital spending (by line-ministry) in the monthly TOFE and publish this timely on the web-site of the MEF. Moreover, the Government should ensure that there is consistency in the format of all budget documents that relate to the same year, especially the Budget Law, TOFE, and Budget Settlement Law. This consistency would enable better analysis by parliamentarians and other stakeholders.

Although the National Audit Authority became operational in early 2002 and carried out 285 audits from 2002 to 2006¹¹⁴, it has not made any of the audit reports public. As a key institution for ensuring accountability in the budget management, the National Audit Authority should start making National Audit reports accessible to the Cambodian public¹¹⁵ and this should start with the most recent report on the implementation of the 2007 National Budget.

Recommendations

- It is recommended that a joint monitoring indicator is formulated for which the MEF, Ministry of Planning and the Council for the Development of Cambodia take responsibility for integrating the planning and expenditure of Governments

¹¹⁴ NAA Strategic Development Plan 2007-2011

¹¹⁵ Article 29 of Audit Law of the Kingdom of Cambodia stated that "the report issued by the Auditor-General shall be deemed to be public documents".

recurrent budget and Governments capital budget (that is mostly financed with foreign aid).

- Update Table 5.2 in the revised second half version of the NSDP and provide a breakdown of these figures into clear proposals for special capital and current expenditure on annual basis based upon a comprehensive costing of NSDP.
- Align the 2009 Budget Law to the priorities of the NSDP and ensure that real expenditure and public investments will also be increased to agriculture and rural development for the benefit of small scale farmers. Allow priority sectors to receive first priority if any additional funds are available during the fiscal year.
- Ensure consistency in the format between Budget Law, TOFE and Budget Settlement Law in the same year.
- Release and post on MEF website detailed monthly TOFE with integration of information on capital expenditure by line ministry and make report of National Audit Authority Report be public documents or accessible by Cambodian citizens.

Box 1: Public Investment Documents Produced by RGC and Some Observations

Source	Content / Comments	Comments
1) The National Budget Law	<ul style="list-style-type: none"> ▪ Allocation of revenues and expenditures by Ministry for the coming financial year ▪ Estimates of revenues and expenditures by Ministry of the previous year. 	<ul style="list-style-type: none"> ▪ The RGC does not release final figures on actual capital expenditures; the National Budget Law is the only source for this data.
2) The Public Investment Program (PIP)	<ul style="list-style-type: none"> ▪ Allocation of on-going projects (capital and technical assistance) by Ministry, ▪ List of high priority pipe-line projects. 	<ul style="list-style-type: none"> ▪ Since 2007, the PIP is linked to the National Budget since 2007.
3) The Budget Settlement Law	<ul style="list-style-type: none"> ▪ Overview of actual recurrent expenditures vs. budgeted recurrent expenditures by line ministry ▪ Overview of actual capital expenditure vs. budgeted capital expenditure. 	<ul style="list-style-type: none"> ▪ Budget Settlement Laws for 2006 and 2007 are not yet available. ▪ Numbers of budgeted capital expenditure are not always the same as in the Budget Law. Occasionally information on expenditure is missing for certain ministries. ▪ Some years there is no breakdown of capital expenditure by line ministry
4) The Table of Financial Operations (TOFE)	<ul style="list-style-type: none"> ▪ Overview of actual recurrent expenditures vs. budgeted recurrent expenditures by line ministry ▪ Overview of aggregated actual capital expenditure vs. budgeted capital expenditure. 	<ul style="list-style-type: none"> ▪ The aggregated TOFE is published by the MEF in the Monthly Bulletin of Statistics. ▪ A detailed TOFE is circulated among development partners of the Royal Government.
5) The aid database from CDC	<ul style="list-style-type: none"> ▪ Overview of projects / programs from development partners 	<ul style="list-style-type: none"> ▪ The CDC database is not useful not linked to the National Budget or the Public Investment Program.

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NSDP Monitoring and Evaluation

NSDP and Its Implementation

Introduction

The poverty reduction objectives that the Government committed itself to in the NSDP were welcomed by NGOs at the time the NSDP was made public in the beginning of 2006. NGOs have a genuine interest in learning about progress, challenges and the constraints the Government faces in the implementing this plan and stand ready to assist the Government in monitoring progress.

The NGO Forum on Cambodia is a member of the Technical Working Group on Planning and Poverty Reduction (TWG-PPR) chaired by H.E. Ou Orhat, Secretary of State of the Ministry of Planning.

Joint Monitoring Indicators

Target	Actions Needed	Responsible Government Institution	Relevant TWG
1. Approve final Ministry of Planning Strategic Plan (MPSP)	<ol style="list-style-type: none"> 1. Approve final MPSP as a strategic document to be implemented with coordinated EDP support. 2. Bring together the NSDP APR and the alignment section of the CDC AER to document and assess progress on key NSDP indicators and resources committed/aligned to NSDP priorities. 	MoP MEF CDC	TWG-PPR

JMI 1.1: Approve final MPSP

NGOs welcome the efforts made by the Ministry of Planning (MoP) regarding the Strategic Plan of the Ministry (MPSP) which has been approved in July 2007. They urge the Ministry to do a realistic costing of the different elements and make it clear what parts of the MPSP are financed by the MoP and where donor-funding is required.

JMI 1.2: Bring together NSDP APR and CDC AER

No progress has been observed on this action. However the concept-note for the Mid-Term Report mentions that the MTR will *"follow the same format and structure (chapter headings and annexes) as for the APR 2006"*.

Recommendations

JMI 1.1: Donors should support the MPSP in such a manner that minimizes the administrative burden in order to make time available to more pressing matters such as aligning the Public Investment Programme with the Aid Database at the Council for the Development of Cambodia and improving the monitoring framework of the NSDP for it to include intermediate indicators.

Key Actions / Strategies from the NSDP

Section	Message
6.02	The aim is to ensure regular and periodic monitoring and evaluation of progress with reference to inputs, outputs and outcomes of various strategies and actions under the NSDP.

6.05	"The overall NSDP monitoring and evaluation framework will be developed to perform two major tasks. First, it will monitor, on a yearly basis, the progress of implementing policies/programmes and achieving targets/goals through tracking both (i) inputs and outputs; and (ii) development outcomes".
4.25	"Ongoing efforts will be continued and strengthened to involve and associate all sections of the civil society in all appropriate aspects of RGC's planning and decision-making processes, and to make civil society an effective partner in the development efforts"
6.12	"Obviously, the adoption of a comprehensive framework for NSDP monitoring and evaluation does not preclude the need to undertake sector-level and participatory approaches to NSDP monitoring and assessment. These will be used as potentially important sources of more focused and periodic monitoring and evaluation of NSDP. These will also be integrated to the NSDP implementation process. Similarly, new and innovative tools (e.g. citizen's scorecards rating the perceptions of change and satisfaction with quantity and quality of different public services) will be used to enhance participatory elements and voices from the grassroots level into NSDP monitoring and evaluation."

6.02: Regular and periodic monitoring with reference to inputs and outputs

Although one progress report has been produced in 2007 as an input for the 2007 CDCF, the Mid Term Review serves as another, more elaborate, progress report. Nevertheless, these reports cannot be considered adequate monitoring as they lack clear reporting on inputs, outputs and outcomes of the various strategies and actions under the NSDP. The reports eloquently sum up the achievements of the Government in the period under review but lack an honest assessment of challenges and constraints, and clear attribution of the achievements described to actions outlined in the NSDP.

6.05: Monitoring framework will monitor inputs, outputs, outcomes

In June 2006, the framework was adopted which consists of 43 indicators of which roughly 25 % are intermediate¹¹⁶ indicators and more than 70 % are outcome / impact indicators. The NSDP recognized the need to further improve its monitoring framework in order to help the RGC to be able to track inputs, outputs and development outcomes. However, despite some discussion in the Ministry of Planning early 2008 on adjusting this framework to better balance the indicators types, no changes have been made. As a result, the current monitoring framework is not helpful in answering crucial questions such as: "*are we using the resources wisely?*" or "*are the desired outputs being achieved?*"

Other gap in relation to monitoring for the NSDP is the lack of any policy matrix. The current Mid Term Review of the NSDP elaborates on the progress of a number of policy commitments that the Royal Government has made. However, in order to make it insightful for the general public, a policy matrix is required which includes all policy commitments included within the NSDP and describes their current status. Such a matrix would also help the MoP be able to track the progress of the NSDP implementation as well as to be accountable for its policy announcement.

4.25: Involvement of Non Governmental Organisations

The TWG-PPR membership includes adequate representation of CSOs which are committed to positively contributing to the objectives of the TWG-PPR. The NGOs participating in the TWG-PPR would, however, like to urge the MoP to use the TWG-PPR meetings for more open discussions, receive inputs from designated working groups, and ensure that the available expertise of MoP's partners is used to strengthen the

¹¹⁶ Intermediate indicators are both input and output indicators

Ministry's role, fulfil its role in guiding and managing national socioeconomic development planning.

6.12: Participatory approaches to NSDP monitoring

Despite using its monitoring and evaluation framework as a means to ensure and assess the implementation which will be mainly reliant on administrative data and periodic surveys, the NSDP 2006-2010 further commits that *"new and innovative tools (e.g. citizen's scorecards rating the perceptions of change and satisfaction with quantity and quality of different public services) will be used to enhance participatory elements and voices from the grassroots level into NSDP monitoring and evaluation."*

NGOs very much appreciate this consideration since such kind of monitoring and evaluation tools would enable policymakers to get better sense of policy impacts and implication on the ground. However, according to NGO observations, neither the Annual Progress Report 2007 nor the current draft of the Mid Term Review of the NSDP has included any voices from the grassroots. Using more participatory monitoring methods for NSDP monitoring would increase the ownership of the NSDP reporting processes. It is highly recommended that the MoP experiments with more innovative monitoring tools during future reporting; or this can be achieved through working in collaboration with NGOs such as the Commune Council Support Project (CCSP) who have experience in implementing its Citizen Rating Report in Cambodia.

Recommendations

- Given the current imbalance of the intermediate and final indicators, revision to include more input and output indicators to the current NSDP monitoring and evaluation framework would reflect the RGC's commitment to improve the monitoring system. NGOs request the MoP and its development partners to include the revision of the NSDP monitoring framework as one of the actions under the new JMI for the TWG-PPR.
- In order to track the progress of, as well as be accountable to, policy announcements in the NSDP, NGOs would suggest the MoP prepare a policy matrix that includes all policy commitments in the NSDP and describes what achievements have been.
- To fulfil its commitment to participatory monitoring and evaluation and also to help RGC get a better sense of the policy outcomes and implication on the ground, NGOs would strongly suggest the MoP employ innovative and participatory tools for monitoring of the NSDP. NGOs are willing to cooperate with the Ministry to implement such tools.

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<p><i>MEDICAM</i> is a membership organization of over 100 NGOs active in the health sector in Cambodia. MEDICAM acts as a bridge between NGOs in the health sector and the Royal Government of Cambodia. Its mandates are to exchange information, to facilitate advocacy, to build capacity for local NGOs, and to represent NGOs voice.</p> <p>MEDICAM: House #4, Street 522, Boeung Kak I, Tuol Kok, P.O. Box 1164, Phnom Penh, Cambodia</p> <p>Tel: (855-23) 880 291 Fax: (855-23) 880 292 E-mail: info@medicam-cambodia.org Website: www.medicam-cambodia.org</p>	<p><i>The NGO Forum on Cambodia</i> is a membership organization of over 80 NGOs that seeks to discuss, debate and advocate the concerns of NGOs regarding Cambodia's development.</p> <p>NGO Forum on Cambodia: House #9-11, Street 476, Sangkat Toul Tom Poug I, P.O. Box 2295, Phnom Penh 3, Cambodia</p> <p>Tel: (855-23) 214 429 Fax: (855-23) 994 063 E-mail: ngoforum@ngoforum.org.kh Website: www.ngoforum.org.kh</p>	<p><i>The Cooperation Committee for Cambodia (CCC)</i> is a membership organization of around 100 NGOs established in 1990 for NGOs working in Cambodia. CCC facilitates information exchange between NGOs and provides a forum for NGO coordination on issues of common concern.</p> <p>Cooperation Committee for Cambodia: House #9-11, Street 476, Sangkat Toul Tom Poug I, P.O. Box 885, Phnom Penh, Cambodia</p> <p>Tel: (855-23) 214 152/216 009 Fax: (855-23) 216 009 E-mail: info@ccc-cambodia.org Website: www.ccc-cambodia.org</p>
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