

Cambodia

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1. Introduction

1.1 Cambodian people, territory, administration and society was recognized as a land that covered in the ¹best of natural resources and geographical landscapes. Agriculture is the foundation of economic growth with 85% of Cambodian peoples are farmers, depending completely on extra incomes for livelihood from multiple crops plantations, collection of non-timber forest products (NTFP) and sale labors in sometimes for years survived. The Cambodian economic growth was adapted with peace agreement and plural democracy under constitution of Kingdom of Cambodia, 1993. Natural resources have driven the best benefits to the Cambodian people, especially powerful people of Cambodia and their partisan are able to capture over livelihood assets and transformed them into business gained a rich, becoming capitalization and responding to free market crossing cut issues and parallel global partnership in development. The rich and the poor were gapped because of conflict of interests that ²affected by human rights abuse, injustice, absolutely power control for land and natural resources from state to the rich and private companies and minimized rights of the rural and indigenous communities to access to natural resources and ownership of land. The world researchers said that land is a main problem that relevance to economic, social, cultural and political fields and severe human rights impacts. There are some countries in the world such as South Sudan, Africa and Latin-Africa as an example. In Asia, Cambodia is one country that land conflict became severe human rights abuses and violent-threats. We, the undersigned NGOs and civil society groups who have been working with grass root targets group of Cambodia that affected by issues related to land, forestry, fishery and natural resources wants to provide the recommendations and questions to supports and helps a good resolution of governance of land and natural resources of Cambodia that can be contributed to the benefits of citizens and publics, promoted to justice and that reduced benefits of individual family and partisan and to fulfill the forms of development needs in sustainability such as land used planning policy, sustainable forest management policy and development resilience that response to mitigation and adaptation to climate change and disasters. Cambodia needs to formulate a nation policy for fair and just compensation to lands and natural resources, especially promotion and enforce business and human rights protected, respected and remedy based on state's obligation that is a principle and standards tied by all stakeholders with integrity and rule of laws in a justice. Hence the submission of UPR is the smart recommendations that can be give an advice.

2. Methodology

2.1 This report drafted by group member's consultation workshop in working group discussion at Sunway Hotel from first workshop, 12-13 March 2018, second workshop, 19-20 May 2018a and third 02 July 2018 that together agreed with UPR recommendations which will be lobbying our government to respond. The issues focused on governance of land and natural resources. This identification is raised from experiences and participation from their organizational projects and processes in smart UPR recommendations that is a guideline of report processes orientated and also additional comments and feedbacks from UPR programming related database review report through the presentation by Cambodia as a state under review and other sates of countries recommendations of United Nations members in cycle 1 and 2 to be develop truly report now.

¹ History book and researchers that studied in Cambodia included Cambodian people remarked and NGOs actors

² Land and Natural Resources Unit, 2014 and first semester 2015 report on land situation in Cambodia/ www.adhoc-cambodia.org and e-mail: adhoc@forum.org.kh/. The report printed and supported fund by Diakonia

3. Introduction to the national UPR context

3.1 On 28 January 2014, the Royal Government of Cambodia (the “RGC”) underwent its second Universal Periodic Review (“UPR”) at the United Nations (“UN”) Human Rights Council (the “HRC”), during which 76 States commented on Cambodia’s human rights situation and made a total of 205 recommendations on a wide variety of issues. Cambodia accepted 171 recommendations and deferred another 34. The HRC convened again in June 2014 for its 26th session, during which it formally adopted the Outcome Report of Cambodia’s UPR. As of 14 August 2014, Cambodia responded to recommendations by accepting 163, noting 38, and rejecting 4. It has become the settled practice of the HRC to conduct mid-term reviews within the UPR cycle, whereby states’ progress in implementing previous UPR recommendations is followed up by the HRC, through the voluntary submission of mid-term reports by the State under review and civil society. The mid-term review of Cambodia’s second UPR was scheduled for mid-2017. However, due to delay by the RGC, there will no longer be a mid-term review of Cambodia by the HRC, but rather Cambodia will move directly to the third cycle review, scheduled to take place in January 2019. In addition, the HRC had convened its 36th session in September 2017, when it held its annual discussion of the human rights situation in Cambodia, and during which it considered the status of implementation of Cambodia’s UPR recommendations as part of its discussions. www.upr.info/database

4 Land rights

4.1 In the past few years, Royal Government of Cambodia have been trying to transform its governance at the ministry and department level by switching the leaders of Ministry of Land Management, Urban Planning and Construction (MLMUPC), Ministry of Environment and Ministry of Agriculture, Forestry and Fishery (MAFF) in order to increase commitment for the solution of land conflicts which have become chronic diseases at all over the country. However, we have seen little concrete progressive results toward fair and just for land conflict resolutions at provinces that limited public land unfair although non-violent advocacy was influenced by vulnerable and oppress people but lastly public land dispute has been recognized and transferred to the rich larger. The recognition of land when advocacy influenced by the vulnerable and oppress people, they called win-win but public land of conflict has been transferred to the rich larger benefits more than vulnerable family for legal documents and private property. The civil society has found that win-win strategy on public land of conflict resolution has created insightfully injustice.

4.2 Good provisions have not been enforced yet in negative sub-degree and policies introduction. The original Cambodian Constitutional Law 1993 and Land Law has guaranteed completed rights of land owners and farmers. However, this has not been much considered and followed. Instead, the government has been adopting contrary policies to the law and the constitution, for example sub-degree on Economic Land Concessions which create widespread of ³land conflict over farmer’s land and natural resource conserved land. Recently, MAFF has also been trying to adopt another law entitled “⁴Agricultural Land Draft Law” which would cause more land grabbing, land conflict and land lost because the draft law is really aiming to promote corporations, privatization and capitalism benefits.

4.3 Most land grabbing and land conflicts caused either by Economic Land Concession Companies or rich and powerful people remains ⁵unsolved and we can hear people’s screaming for justice everywhere.

³ Reports of civil society (NGOs/CBOs) and newspapers/radios of VODs/ RFA/VOA

⁴ <https://www.phnompenhpost.com/national/agriculture-law-suspended-after-pm-criticism>

⁵ Printed by ADHOC/April 2016/ The land rights situation in Cambodia/ a growing divide: Disputes without Resolutions

Obviously, dozens of land communities in Banteay Srei District, Siem Reap province, Preah Sihanouk Ville, Kratie, Preah Vihear, Kg. Thom and many other provinces included urban whose land were grabbed by local rich and powerful people have not been yet solved even though they have been seeking for solutions through different actions from both sub-national, national authorities, and even from the provincial court. The NGO's programming that has been working on land issues, they have created network to monitor the land conflict cases such as NGO Forum, NGO members and also ADHOC. These organizations had data collections and processed database to all cases management profile in hands related total of family, population and hectares of land sizes impacted. The monitoring cases has been closed which was pending for many years. There are many cases that is still pending for resolutions. These cases continued non-violent advocacy actions that together works through legal file complaint submission, face to face meetings, dialogues and negotiations, uses alternative dispute resolution, and raising words in public forum by complaining and requested to response from decision makers, posting clips of crying, scolding and defamation in social media to seek public supporters that influences to politicians and policy makers. Land community and activists are still facing violation, arbitrary arrested, intimidation and extraordinary killing and most of the time they would be linked to opposition political party but most exploitations in term of economic path or greed ambitious.

4.1 Recommendations

- Address all land conflict cases either affected Economic Land Concessions (ELCs) or rich and powerful elites by returning land back to communities, providing fair and decent compensation, and issuing land tenure for community people.
- End all forms of violation and intimidation against land communities, land rights activists and environmental activists.
- Stop granting any new Large Scale Economic Land Concession at any form or for any purpose
- Provide small and medium economic land concession to small farmers and local community ensuring the benefit of both government and the people
- Strengthen transparency and equity principles on the enforcement of social land concessions
- Ensure that land will be redistributed to real landless people and farmers.
- Ensure a fair and just judicial system so that the public, especially people affected by land grabbing, do seek for justice from the court system.
- Stop political discrimination on land dispute resolution and accusation of community leaders and NGOs working on land issues.

4.2 Advanced questions

Cambodian people are concerned about power abuse and lack rule of law that is affected insecurity to land and property both legal and even legal recognition is less.

- How can government of Cambodia make good protection to rights and legal property of people in land conflict situation?
- How can government ensure a national policy to land dispute resolution especially compensation is fair and just included trust by citizen?
- How the government of Cambodia can allocate land issues resolution faster approval and make sure that vulnerable family and their children living with good conditions that proposed from their needs by them and not state gifts or company?

- The delay to deal land conflict and down speed resolution created affect to poverty and livelihood of citizen of the vulnerable family, how can government accelerate resolution and transparency to all stakeholders?

5 Natural resources

5.1 Cambodia falls into extractive industry, it is last remaining natural resources for Cambodian people which include water, forest, fishery and mineral resources are still under destruction caused by economic land concessions, unlawful mineral extraction, illegal fishing and logging, large scale infrastructure projects, hydro power dam and other aggressive development projects. Even though, there are reforms within Ministry of Environment and some protected areas have been approved, these never reflect and respond to the need of local people and most cases local people who are utilizing non-timber forest products are being arrested and punished while the powerful people and companies who are really doing the destruction have never been held accountable but can transformed resources to new business that legal assets and look integrity after their business background noted in black list by public people.

5.2 The introduction of sustainable forest management and forest certification systems especially complies FSC standards is very much concerns. It is under-capacity of Cambodia to implement this requirements according to Cambodian knowledges, mindsets, behaviors and top down admiration and directive positions both sub-national and national created un-effectiveness policy implementation. In 2016-2017 government made re-structure of forest management and planned to combine three laws of land, forestry and natural protected areas. The forestry administration department cut to agricultural department. The ministry of environment has plays role on natural protected areas or zones and ministry of agriculture, forestry and fishery has plays role on development land zones especially economic land concession. However, we seen the failure of some more companies without plantation but cleared forestry and kept land for sales. The government of Cambodia has canceled MOU of companies of ELC and we also see that delegation of decentralization to sub-nation play role of land and natural resources management is also a problems and troubles according to capacity, technical skill and knowledges that affects on decision making. Hence governance of ⁶natural resources in Cambodia is still facing ⁷deforestation.

5.3 Environment issues are increasing by man-made disasters. There are many development project was created affects to public areas such lakes, small rivers that fulfill sand for residential and buildings construction of business during the municipality of Phnom Penh did not showed master plan of drainage. The extension of city becoming issues of waste management and water logging and pollution especially raining seasons. Mining projects and hydro power dam has caused serious pollution to the water, fishery resources and life of people at the lower land. Obviously, early May 2018 a serious case which caused dozens of community people died and hundreds are under medical treatment caused by water pollution at Prek Ter River at ⁸Kratie province.

5.1 Recommendations

- Amend the current Forestry Law, Fishery Law, Sub-degree on Economic Land Concessions and other related laws and policies in transparent manner inclusive of affected people, by recognizing rights of local people and communities especially fishery and forestry communities and hold

⁶ Printed by ADHOC/April 2016/ The land rights situation in Cambodia/ a growing divide: Disputes without Resolutions

⁷ Report of researchers and reports of civil society in Cambodia. Some of evaluation project of civil society/ communities

⁸ Cambodia Community Development (CCD) Kratie province

accountable those involved in the destruction of natural resources including fishery, forestry, water and environment.

- Return the original Cambodian Constitutional Law 1993 to life and fully respects.
- Strengthen the enforcement of good provisions within Forestry Law, Fishery Law, Free Prior Informed Consent (FPIC), Corporate Social Responsibilities (CSR) , business and human rights and other related policies by ensuring that every government officer respects and practices their duties, and responsibilities professionally and correctly to avoid using power to violate and exploit people's rights and natural resource for self-benefit.
- End all form of illegal acts especially illegal fishing and logging to ensure the sustainability use of natural food and resources
- Government officers who are responsible for natural resources protection, management and land resolutions must be free and independent from political party and influences.
- Recognize the importance of small and family scale farming as part of poverty alleviation and ensuring food security.
- Support and encourage agroecology farming through providing land, capital, water and ensuring fair price for local agricultural production.
- Investigation these who involved in illegal loggings, fishing and hunting in Cambodia and punishing based on effective laws and policies, special for those who are the owners of economic land concessions, hydropower dam project and etc...

5.2 Advanced questions

The illegal fishery and forestry issues regarding logging and use illegal equipment for fishery that related relations between government officers and business people that can't be made effective intervention. Many public people scold about weakness of management and corruption through roles and exploitation for personal benefits that affected to public benefits and citizen especially the poor and vulnerable groups. Laws and policies relations are good but do not implementation.

- How can government of Cambodia consider reduction for illegal cases and rights abuses related forestry and fishery issues?
- How the government of Cambodia ensure a mechanism that works for citizen benefits and may not severe impacts to natural resources?
- How do you feel that public people is critical to destructions of natural resources in Cambodia especially benefits of ownership lack than partners such as China and Vietnamese people?
- How can the government open free space for increasing Cambodian people benefits?
- Cambodian people will be face climate change related hot season and lack of water use and agriculture production, how the government of Cambodia take action any plans to respond next crisis?
- How can the government of Cambodia make a master plans for safety city that healthy and cleaned?
- How can the government do reforestation in Cambodia while you do not strengthen forestry law enforcement and stop illegal logging?