THE ACCESS INITIATIVE (TAI)
Cambodia

Cambodia Assessment Report
Access to Information, Public Participation, and Access to Justice

Supported by TEI

December 2010
Acknowledgements

The TAI Cambodia Coalition is comprised of the following organizations: The Advocacy and Policy Institute (API); the Community Legal Education Center (CLEC); the Culture and Environment Preservation Association (CEPA); the Centre of Development Oriented Research in Agriculture and Livelihood Systems (CENTDOR). The Coalition has produced the first assessment report on environmental issues in Cambodian by focusing on areas of access to information, public participation, access to justice and capacity building in 2010. TAI Cambodia works to promote access to information, good governance of natural resources, transparency, social accountability and responsive government.

All 18 case studies were prepared by the TAI-Cambodia Research Team of 22 researchers: Mr. Am Sokha; Mr. Chay Keartha; Mr. Ea Dara; Mr. Hong Chhay; Mr. Kok Sothea; Mr. Lam Socheat; Mr. Moeun Tola; Mr. Neb Sinthay; Mr. Oeung Jeudy; Mr. Peak Saven; Mr. Roeun Narith; Mr. Sam Chanthy; Mr. Sarin Say; Mr. Sek Sokha; Mr. Suon Seng; Mr. Tek Vannara; Mr. Vy Phalluy; Ms. Heng Thou; Ms. Katie Spencer-Smith; Ms. Khim Nina; Ms. Lim Sereyroth; and Ms. Sek Sarom.

The 18 case studies in the report were consolidated and synthesized by Dr. Raymond Leos, in cooperation with Mr. Neb Sinthay and Mr. Lam Socheat, along with all the researchers, using the assessment method developed by The Access Initiative, a global network of civil society organizations.

The TAI-Cambodia Research Team express their gratitude to the Cambodia environmental NGOs and individual consultants who participated in the TAI case studies and who contributed information and shared their experiences on access to information, participation, and justice in environmental decision-making.

Special thanks to Raymond Leos, Dean and Professor of Law and Communications Faculty of Communications & Media Arts, Pannasastra University of Cambodia, for his valuable support, without him, this First Cambodia Assessment Report would not be a success.

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TAI Cambodia gratefully acknowledges the World Resources Institute, for establishing the Global TAI and technical support.

Unless otherwise noted, the opinions, interpretations and findings presented in this document are the responsibility of the TAI Cambodia Coalition. For additional information about The Access Initiative, including its members and leadership, please see www.accessinitiative.org.
Executive Summary

a. Introduction
The Access Initiative (TAI), a global network comprising of 50 countries, is a coalition of civil society organizations promoting good governance by developing indicators to assess national performance on its implementation of Principle 10 of the Rio Declaration which focuses on access to information, public participation, and access to justice. These indicators have been applied worldwide.

Principle 10 states:

Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

This assessment represents the Kingdom of Cambodia’s first national assessment on environmental issues, and includes 18 environmental case studies. It focuses on three categories: access to information, public participation, and access to justice. One major objective was to assess how well the government provided its citizens access rights on environment-related issues, which is consistent with the spirit of Principle 10 of the 1992 Rio Declaration on Environment and Development. A second major objective was to improve the research, analysis, and writing skills of the staff members of the participating organizations. Developing these skills is vital, and will insure the production of clear, detailed, and insightful national assessments in the future.

On November 19, 2009 the National TAI Coalition was formed with the Advocacy and Policy Institute (API) as its leading organization. In addition, an advisory committee of local environmental experts and activists was formed to support the Coalition as needed. Members of the Coalition conducted the TAI assessment, using the TAI indicator based methodology.

In addition to API, the Coalition included the following organizations: Community Legal Education Center (CLEC); Culture and Environment Preservation Association (CEPA); and the Center of Development Oriented Research in Agriculture and Livelihood Systems (CENTDOR).

Before and during the course of the assessment, researchers received training to improve their research, assessment, and writing skills. In addition the Coalition held three meetings, one in August; September and December 2010, to update the progress, lessons learned, challenges, technical problems and support, budgetary issues, activity plans, finalize case study and assessment report.

b. Main Findings

i. Conclusion: Access to Information Cases

One common thread among the cases involving Access to Information was that those cases involving non controversial or sensitive domestic issues, such as those dealing with the bird
flu outbreak, flooding, and climate change received higher score assessments from the researchers. Natural disasters and crisis, such as disease outbreaks and flooding have a great impact on rural communities. Also, in these situations, there is the potential for panic and rumor, which can potentially lead to social unrest. In order to prevent these occurrences government therefore appears more willing and able to proactively provide the public with the requisite information in these cases.

On the other hand, those cases involving issues dealing with economic land concessions, mining projects, and garment factories often involve clashing economic interests, as well as power imbalances between parties (such as poor rural villagers, factory workers and wealthy/powerful economic interests).

Those cases that involved issues in which there is no apparent immediate crisis or emergency, and which there was little apparent public awareness or interest, (such as city air quality monitoring and city tap water quality) received average or slightly below average scores, mainly due to a lack of proactive effort by the relevant agencies to provide information to the public. Some of this can be attributed to a lack of knowledgeable and trained staff, but can also be due to governmental budgetary constraints, which can impede the timely and accurate release of information to the public.

Recommendations

1. The law on the Access to Information should be adopted with international standard in Cambodia.

2. To enable public access to accurate information a simple and open mechanism should be used which makes available information on all economic land concessions granted and proposals under consideration, including concessions not exceeding 1,000 hectares of land. Information should include location, size, use and status of concessions, and comply with the requirements of the Sub-Decree on Economic Land Concessions. This information should be made available at a local level. Government should publish information beyond the current legal requirements on the internet. This includes information related to their functions, the type and form of records held, relevant laws and policy documents, audited accounts, services to the public, achievements and so on. In the case of Cambodia where even senior civil servants often find it difficult to obtain official documents and hold on to their hard copies, it would be unrealistic to expect the general public to have access to reports, studies, EIAs, gazettes or laws in print. As a result of advances in information technology it is possible to maintain basic websites for all public institutions, to provide meaningful information in electronic format which is regularly updated.

3. The governments of the Mekong River should improve access to information and the involvement of communities in decision making. The notification system should similarly be improved to use more advance technology that is accessible to local communities.

4. Development of information, education and communication materials should be targeted to the public on the right issues and address the root causes of environmental emergencies. With specific regard to indigenous and local communities, efforts should be made to provide information in the different languages and dialects spoken in the national territory. In addition, it should be ensured that information is also made available in remote areas, possibly with the collaboration of local authorities. In areas of high illiteracy rates, non-print media such as the radio should be used. When working with communities, special attention should be paid to the fact that they may have power and gender structures of
their own, and every possible effort should be made to support gender equity without being disruptive. Project or activity proponents should take the initiative in disseminating information to potentially affected persons about their legal rights and the modalities of exercising them. Concentration of information activities matching the annual and monthly seasonal availability and accessibility by a farming household in Cambodia and technical pre-conditions (equipment) for effective disclosure of information both at sub-national and national levels should be included in information requirements and supported in budgets to further improve the government development plans.

5. A mechanism for air quality data dissemination should be made available to the public by any of the following (1) place notices in public areas in order to keep the community informed about current and trends of air quality in the city, (2) a monthly report in the newspaper (3) posting on the Ministry of Environment and Ministry of Public Transport’s website. Offering encouragement or incentive to field staff who collect air quality data in order to produce reliable data regularly.

6. Civil society and the media should pay more attention on environmental problems especially air pollution, as it is vital for human health. By doing this it is more likely to reach the mass public.

7. More publicity on the drinking water quality in Phnom Penh and other cities in Cambodia to the public through the media. An upgrade of the existing resource center for public research, making more documents and reading material available in libraries and resource centers and greater cooperation between public, private institutions and civil society to promote water quality information to the public.

8. Access to public information from the government should be free of charge or at a minimal cost which is clearly stated and disseminated to the public.

9. Local communities [especially those who are most likely to be affected] should demand information relating to a project, specifically the compensation and resettlement plan which the company has to consult with. There are no grounds for asking the local communities to believe in hearsay about the project unless there is a formal meeting or discussion between the company, local authority and the communities.

10. There is a need to strengthen the demand for accountability and build civic competencies. There is also a need to empower people (the public) to “be heard”. Media is not fairly treated and people are easily confused due to their unclear position. It is also important to note that the media is normally perceived as a partner of convenience, expected to report only on successes and praise achievements. The public bodies should encourage independent and balanced journalism to lay the foundation for informed social, economic and environmental choices.

11. There is a need to break the culture of secrecy amongst Cambodians. This requires successfully building trust amongst better informed citizens to participate in decision-making processes. Thus the public will better understand their role, which in turn should reduce friction, misunderstandings and unwarranted criticism. As a result, officials will have better and more comprehensive information upon which to base their work.

12. A capacity building programme on access to information, especially for government officials who are responsible for disclosing and disseminate public information should be initiated.

\textit{ii. Conclusion: Public Participation Cases}
One common thread among the cases involving Public Participation was that those cases involving policy frameworks or administrative orders scored higher than those dealing with actual practice or policy implementations. For example, the case dealing with inclusion of indigenous peoples in Deforestation and Forest Degradation. Cases involving large projects, such as hydroelectric power projects, also received lower assessment indicators. This would indicate that government agencies lack the resources and training to effectively implement participation. Or, it could also indicate a lack of will of the government to encourage public participation, particularly in large scale infrastructure projects.

As with the public participation cases, non controversial or sensitive domestic issues, such as those dealing with fisheries and climate change policy received higher score assessments from the researchers.

**Recommendations**

13. The government’s legal and policy framework: plans, policies, sub decrees and laws should be open for public participation and involvement in decision making from relevant stakeholders and should be published and distributed nationwide to the public.

14. Public participation in regulatory decisions has been mentioned in some existing Cambodian legal frameworks but there was very limited enforcement. Government agencies should take action to enforce legal frameworks to promote public participation.

15. Public awareness is strongly needed in the Cambodian environmental legal framework, around regulatory decisions and project level decisions.

16. The initial environmental and social impact assessment process should be reviewed to ensure that any potential consequences from the proposed development project are minimal. A clear process of promoting public participation of key stakeholders should be clearly included in this revision to ensure the proper assessment of environmental and social values. Together with this guideline, The Corporate Ecological Service Review (ESR) or Corporate Social Responsibility (CSR) should also be made for the purpose of standardizing the assessment.

17. The Cambodian government should review recommendations from the World Commission on Dams for the purposes of integrating best practices for hydropower development into Cambodia’s energy sector. As well as policies regarding effective public participation and the minimization of the hydropower development impact on the environment and communities.

18. The government institutional structure must be well set and empowered through institutional capacity building, combating corruption, and enhancing justice. Policies should be well written and focus on a participatory approach to the implementation mechanisms needed to be clearly integrated.

19. The government and private sector should identify key persons to address queries or problems during IESIA and the project. The environmental and social impact is a priority and must be addressed by the government and private companies. Though IESIA is not participatory but already approved, the strategic implementation and monitoring plan should be participatory and efficiently carried out, especially the compensation plan for the possible damages.

20. In terms of public participation, some development projects have not employed the national, regional or global recognized best practices for participation. Both the government and private companies should be more proactive and participatory oriented at
the commencement of the project and especially during the construction, operation and transfer phases.

21. Due to the limitation of Cambodia’s resources, foreign investment should demonstrate a commitment to help Cambodia enhance and strengthen the local legislatures and preferably adopt the best practices of recognized standards of investment (including the public participation of the key stakeholders).

22. Transparency and accountability for both the government and local and foreign investments need to be considered and enhanced at the commencement of the project. This can be done by participatory investment bidding, and disclosure of information about the project. The government of Cambodia needs to ensure this acknowledgement within the policies and its implementation.

23. Local communities need to become better informed and involved in understanding the proposed activities of the companies and local authorities in order to keep track of what is happening and what is going to happen. Be ready for any participation regarding the project. Often, report to the company (if possible) or the local authorities or the local NGOs about what is affecting livelihoods and the natural resources. Always seek advice and comments from local authorities or NGOs in regard to the impacts of the project.

24. The Government should offer more substantive, systematic dialogue between CSOs and development partners, using existing mechanisms eg Cambodia Development Cooperation Forum and Technical Working Groups, etc. The Government should be open and receptive to ongoing and ad-hoc communication with civil society organizations during which ideas are heard and respected.

25. More public consultations/dialogues and hearings need to happen among the affected people, private companies and the government agencies in order to avoid conflict, as well as balance the benefit of sustainable natural resource management.

**iii. Conclusion: Access to Justice Cases**

In the Access to Justice cases, the legal frameworks provide a broad support for the principles of access to justice, both at the constitutional level, statutory level, and executive and sub decree level. Yet in practice, these rights are not enforced or provided through proactive efforts by the courts and / or governmental authorities. This is especially true in large land and development projects, which are promoted by wealthy and powerful interests. According to the case studies, courts and governmental authorities are often unwilling or unable to provide ordinary citizens with the opportunity to bring complaints, receive redress, or consult with governmental authorities and developers regarding the social, environmental, and economic impacts on community livelihoods and health.

**Recommendations**

decree on Procedures of Registration of Land of Indigenous Communities, Sub-Decree for Economic Land Concession, Royal Degree on National Authority on Land Dispute Resolution…etc. The Government should enhance its legal and judicial reform mandate, especially the much-needed training of its officials on the access to justice procedures, and available resources and services to which anyone can access when he or she has any problem.

27. The judiciary should act independently and impartially when hearing a case to ensure that the rights of all parties are fully upheld and equally addressed. As well as watching/monitoring to ensure court-case procedures are respected by the public including the media.

28. The raising of public awareness on access rights and laws related to environment and natural resource and complaint mechanisms should be done to ensure the understanding and accessibility for affected people, vulnerable groups including illiterates and minority groups.

29. The Government should establish a mechanism to enable communities or their representatives to initiate actions or challenge the validity of a private companies’ license. As well as challenging economic land concessions for mining or plantation and participatory monitoring of the private companies’ compliance, and call for their review or cancellation. Ensure that all new economic land concessions, including those that do not exceed 1,000 hectares, comply fully with the provisions of the Land Law and Sub-Decree on Economic Land Concessions. In particular, ensure that public consultations and genuine environmental and social impact assessments are conducted prior to granting concessions, with the effective participation of local populations. Assist families in rural communities to register their interests in land, in accordance with the Land Law. Review all existing economic land concessions for compliance with the Land Law, Sub-Decree on Economic Land Concessions and concession contracts, and ensure they do not encroach upon land possessed and used by communities, including forested areas.

30. The Government has to urgently adopt a national housing policy and properly implement the 2001 Land Law, particularly in accordance with the internationally accepted principle of the rights to adequate housing.

31. The Government should try to avoid forms of forced or violent evictions. If inevitable, it should be carried out only as a last resort, after the resettlement and relocation is properly addressed in advance. Full participation and consultation ahead of any forced eviction involving the community, the company, and authorities must be made in an open and transparent manner and fair compensation must be also provided. The government provides communities with remedies to deal with the past, present and future impacts of the development projects.

32. Neighboring governments should negotiate a long term agreement on cross border water management issues and natural resource issues to establish a concrete process or mechanism for resolving claims and determining appropriate redress. This should include specific timetables so as to avoid further delays which have plagued the issue to date.
## Case Studies Summary

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<td>1. Livelihood and Flooding along the 3S Rivers</td>
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<td>6. Mining in Mondulkiri Province</td>
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<td>CENTDOR Mr. Suon Seng Mr. Chay Keartha</td>
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<td>8. Economic Land concessions in Sre Ambel district, Koh Kong province</td>
<td>CLEC Mr. Am Sokha Mr. Sek Sokha Mr. Moeun Tola</td>
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<tr>
<td><strong>Public Participation:</strong> a minimum of 6 case studies are selected</td>
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<td>Policy-making</td>
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<td>API Mr. Sam Chanthy</td>
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| Project-level decision | 13. Public Participation in Initial Environmental and Social Impact Assessment (IESIA) in Kamchay Hydropower Project. | API  
Mr. Sam Chanthy |
|------------------------|----------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
|                       | 14. Inclusion of Indigenous Peoples in REDD project in Mondulkiri Province | API  
Mr. Sam Chanthy |

Access to Justice: a minimum of 4 case studies are selected

| Denial of right to information | 15. Investment Project in Kompot Province | PRAJNA  
CONSULTANCY  
GROP and API  
Ms. Sek Sarom  
Ms. Lim Sereyroth  
Ms. Heng Thou and Ms. Khim Nina |
|-------------------------------|----------------------------------------|-------------------------------------------------|
| Denial of right to participation | 16. Land Conflict in Ratanakiri province | CLEC  
Mr. Am Sokha,  
Mr. Sek Sokha  
Mr. Moeun Tola |
| Claim for an environmental harm | 17. Economic Land Concession in Mondulkiri province | CEPA  
Mr. Ea Dara and Ms Katie Spencer-Smith |
| Other | 18. Land Taking in Phnom Penh, Dey Krahoorm Community | API  
Mr. Oeung Jeudy |
1. **Case Name**: Livelihood and Flooding along the 3S Rivers  
**Category**: Access to Information  
**Case Type**: Information in an emergency  
**Responsible Agencies**: Scale: National  
**Location**: Stung Treng Province  
**Year Case Occurred**: 2000  
**Researcher**: Vannara Tek, Vy Phalluy & Peak Saven  
**Description**: In the last ten years the rate of development has rapidly increased. However, development activities have caused a serious negative impact on the environment and the social life of communities, mainly because of the lack of extensive environmental impact assessments. For example, the Yali Hydropower development in Viet Nam has had a negative trans boundary impact on Cambodian community livelihoods since 1996. Every year the resources along the river have been damaged. The villagers’ decreased livelihoods cause them to face growing poverty every year. In 2009 villagers repeatedly struggled with flooding, so this research was conducted to study the villagers’ livelihood and the impact of the flooding in 2009, particularly on villagers along the Sesan River in Stung Treng province. The objectives of this research were to assess access to information in terms of quality, timeliness, and consistency of data. This will assist stakeholders in providing some possible solutions to these problems.

2. **Case Name**: Bird flu outbreak in Cambodia  
**Category**: Access to Information  
**Case Type**: Information in an emergency  
**Scale**: National  
**Location**: Cambodia  
**Year Case Occurred**: 2008  
**Researcher**: Seng Suon  
**Description**: Since 2004 and as of September 2009, Cambodia had recorded 25 outbreaks of Highly Pathogenic Avian Influenza (HPAI), including eight human cases, of which only one person survived. Since the outbreak of highly pathogenic avian influenza (HPAI) in Cambodia in 2004, the Cambodian Government, in collaboration with international and national agencies, has developed a comprehensive national plan to control the outbreak of HPAI in the country. In addition, several communication materials on bio-security practices have been developed and promoted from the various organizations, especially to address behavioral changes among poultry producers as a long term strategy to control HPAI.

Under the financial support from the John D. Rockefeller III Scholars Program of Winrock International, a proposal from a Cambodia-Lao team was selected and funded. The study aimed to assess the determinant-factors influencing the behavior changes of poultry producers. In Cambodia, the study selected five study sites for a comparative analysis. It attempted to understand the role of external forces, such as behavior-change campaigns and government policy, when compared to internal factors such as personal perceptions of economic risks or benefits, physical wealth categories, and social roles of household members in the affected communities.

3. **Case Name**: Air Quality Monitoring in Phnom Penh  
**Category**: Access to Information  
**Case Type**: Information from regular monitoring  
**Scale**: National  
**Location**: Phnom Penh, Cambodia.
**Year Case Occurred:** 2010  
**Researcher:** Kok Sothea  

**Description:** Air pollution is an emerging and not fully quantified problem. The ambient air quality in Cambodia is basically a local growing concern. The swift industrial and urban development in a certain areas in Cambodia particularly in Phnom Penh city has produced an air pollution dilemma. An increase in motor vehicles, industries, population, and use of fossil fuels in each economic sector has brought about visible threats on air quality. The law mandates the Ministry of Environment (MoE) to be in charge of air quality monitoring, to analyze the air quality testing and publicly disseminate about the situation and status of air quality.

The overall goal of this case study was to assess on the performance of the responsible agency toward improving air quality in Phnom Penh with regard to access to information and public participation. Three main items were assessed namely, law, effort and effectiveness related to the access to the information.

4. **Case Name:** Drinking Water Quality Monitoring in Phnom Penh  
**Category:** Access to Information  
**Case Type:** Facility-level information  
**Responsible Agencies:** Phnom Penh Water Supply Authority  
**Scale:** State/Province  
**Location:** Phnom Penh city  
**Year Case Occurred:** 2010  
**Researcher:** Sarom Sek  

**Description:** Cambodia enjoys abundant water resources yet only 37% of urban populations have access to real drinking water. The situation is better in Phnom Penh where there is an 85% coverage rate in central districts. However, the city’s outlying neighborhoods still do not have a distribution network and water is often supplied by private transporters at a very high cost. The Phnom Penh Water Supply Authority (PPWSA) is an autonomous public establishment under the supervision of the Ministry of Industry, Mines and Energy. It is in charge of producing and distributing water in Phnom Penh and its outlying neighborhoods (i.e. to 1.3 million inhabitants). PPWSA has made a spectacular recovery thanks to donor support since the signing of peace agreements in 1993 and the strong involvement of its teams under the impetus of its General Director Ek Sonn Chan. Its performances are now on a par with international standards: an 8% loss rate and a billing recovery rate of nearly 100%. Its good results have made it a model in Asia. This study focused on the issue of public information made available PPWSA regarding drinking water quality in Phnom Penh.

5. **Case Name:** Garment Factory in Kampong Chhnang Province  
**Category:** Access to Information  
**Case Type:** Facility-level information  
**Sectors:** Manufacturing  
**Responsible Agencies:** Ministry of Labor  
**Scale:** National  
**Location:** Phnom Penh and Kampong Chhnang Province  
**Year Case Occurred:** 2010  
**Researcher:** Tola Moeun  

**Description:** More than 400 hundred workers in M&V Manufacturing International LTD fainted continuously for three days in August 2010. The workers fainted after complaining of dizziness and shortness of breath and the mass faint led hundreds of workers hospitalized in the Kampong Chhnang hospital. Although the employer claimed that the fainting was due to a power failure, most workers who were interviewed, along with a provincial judge and some
government officials believed that the mass fainting was caused after workers inhaled strong chemicals from fabrics. This study focused on issues of access to information related to the apparent hazards in the factory.

6. Case Name: Mining in Mondulkiri Province  
**Category:** Access to Information  
**Case Type:** Facility-level information  
**Responsible Agencies:** Ministry of Mines and Energy, Ministry of Environment  
**Scale:** Local  
**Location:** Mondulkiri Province  
**Year Case Occurred:** 2003  
**Researcher:** Mr Ea Dara and Ms Im Sophanavy  
**Description:** The case study of Pou Rapeth villages in Mondulkiri province reveals the difficulties confronting indigenous communities in Mondulkiri province as they engage with corporate mining expansion in their ancestral homelands.

7. Case Name: Local Adaptation to Climate Change and Flood along Mekong River  
**Category:** Access to Information  
**Case Type:** Other Access to Information  
**Responsible Agencies:**  
**Scale:** Local  
**Location:** Prey Veng province Year Case Occurred: 2008  
**Researcher:** Keartha Chay  
**Description:** Topographically, the central part of Cambodia is a flood plain with rivers, and its tributaries, while at the borders are the mountains and plateau areas. Because of monsoon rains and its topographical setting, Cambodia experiences flooding every year. Flooding in Cambodia depends on the country’s rainfall flowing from the mountainous and plateau areas downward the central areas and water from the Mekong flood regime. Historically, and due to the limited development of road infrastructure, rivers and their tributaries have played a very important role in the facilitation of people’s movement and in the transportation of goods. As a result, it has attracted people to make their living along the rivers and their tributaries. In the recent decade, the irregularity of floods have harmed and affected the livelihoods of people living in the flood affected areas. In the face of this disaster, people living in the flood affected areas gradually learn how to live with floods and make a living from floods.

Prey Veng province is a province which experiences floods every year. For three out of the five years from 2000-2004, floods in Prey Veng reached the alarm level facing risk of loss of lives, animals, crop harvests and other livelihood assets.

8. Case Name: Economic Land Concession in Sre Ambel District, Koh Kong Province  
**Category:** Access to Information  
**Case Type:** Other Access to Information  
**Responsible Agencies:** Ministry of Agriculture  
**Scale:** Local  
**Location:** Koh Kong Province  
**Year Case Occurred:** 2006  
**Researcher:** Sorphonneary Ny  
**Description:** Economic land concession based in Sre Ambel and Botum Sakor districts, Koh Kong province. The concession granted by the government affected three villages: Chi Khor, Chhouk and Trapang Kandol. There are 252 families who were victims of the granted concession, and they lost their lands, total around 1750 hectares. The families have occupied their lands since 1979. They have cultivated many kinds of crops such as cashew nut, jack
fruit, mango, water melon, coconuts and other vegetables. On 19 May, 2006 those crops were bulldozed by Koh Kong Sugar Industry, Co.LT and Koh Kong Plantation Industry, Co.LT. On 20 March 2006, two companies were granted by the government approximate 20,000 hectares for economic land concession for sugar canes plantation and to build sugar factory. The report focuses on access to information issues related to the approved land concession.

9. Case Name: Public Participation in Cambodia's Hydropower Development Plan
   Category: Public Participation
   Sectors: Electricity
   Case Type: Policy-making
   Case Type Detail: Plans
   Scale: National
   Year Case Occurred: 2006
   Researcher: Chanthy Sam

   Description: Hydropower is seen as a single economic demand to boom the growth. To industrialize Cambodia, electricity plays a vital role in catalyzing the manufacturing processes to produce goods and services for industry competitions. Cambodia is endowed with water resource and applicable geography where hydropower can be constructed. Cambodia’s energy resources are also immense such as coals, oil, gas, solar, hydropower, wood, and etc. In the past ten years, lack of resources slows the progress of Cambodia’s energy development; however, recent approaches and regional strategies (i.e. “Open Sky Policy”) have pooled and encouraged local and international investments in Cambodia for varieties of sectors from agriculture, services to industry. This also helps build the confidence and trust among the development partners in committing more aid to Cambodia. Since 2006, development aid has focused on the improvement of energy sector, aiming at powering Cambodia. This study focuses on public participation with regards to hydropower development projects.

10. Case Name: Climate Change and Policy in Cambodia
    Category: Public Participation
    Case Type: Policy-making
    Sectors: Government
    Responsible Agencies: Scale: National
    Location: Cambodia
    Year Case Occurred: 1999
    Researcher: Mr. Vannara Tek and Ms. Im Sophanavy

    Description: Cambodia submitted its National Adaptation Program of Action to Climate Change (NAPA) in March 2007 to the United Nation Framework on Climate Change (UNFCCC). Approved by the Council of Ministers in October 2006, the implementation of the NAPA is expected to contribute significantly to the Cambodia Millennium Development Goals (CMDGs) and national sustainable development objectives. The formulation of Cambodia’s NAPA relied on consultations from the grassroots level to policy-makers. A nation-wide survey of local authorities, NGOs, and more than 700 households was conducted in 17 provinces to identify coping mechanisms to climate hazards and climate change adaptation needs. The NAPA followed a participatory process involving the rural communities most likely to be affected by climate change. This study focused on the current policy regarding climate change in Cambodia.

11. Case Name: Sub-Decree on Community Fisheries
    Category: Public Participation
    Case Type: Regulatory decisions
    Responsible Agencies: Fishery Department Scale: State/Province
Location: Battambang
Year Case Occurred: 2003
Researcher: Sarin Say
Description: Research on fishery in Battambang province focuses on Public Participation which is mentioned in the community fishery sub decree and fishery law. The research team conducted a survey on Sub-Decree on Community Fishery, and the participation of public in reform efforts in Battambang province. The target of the survey was focused on community fishery representatives in Battambang, fishery officers, NGOs, commune local authorities, independent consultants and fishery networks around Tonle Sap Lake. In addition, official documents were reviewed. These included reports from government, NGOs, and others that have been cooperating with government during this reform. The method of this research was divided into 3 parts; (1) Law requirements and limit to access, (2) Government Efforts, and (3) Effectiveness.

12. Case Name: Small Scale Fishing Circular in Battambang province
Category: Public Participation
Case Type: Regulatory decisions
Responsible Agencies: Scale: State/Province
Location: Battambang Province
Year Case Occurred: 2003
Researcher: Sarin Say
Description: Fishing conflict in Battambang occurred because of these of illegal fishing equipment. The study focused on the small scale fishing circular which dealt with the issue of illegal fishing, and public participation in the formulation of this regulatory decision.

13. Case Name: Public Participation in Initial Environmental and Social Impact Assessment (IESIA) Kamchay Hydropower Project
Category: Public Participation
Case Type: Project-level decisions
Responsible Agencies: Scale: State/Province
Location: Kampot Province, Cambodia
Year Case Occurred: 2006
Researcher: Chanthy Sam
Description: The Kamchay Hydropower Project in Cambodia was first contracted to Sinohydro Corporation in April 2005 and the construction started in 2007. This project costs around US$280 million. It can produce electricity up to 193 MW which could supply Phnom Penh, Kampot, Kep, Takeo and Sihanouk Ville provinces. It is expected to be completed by 2011. The 1996 Law on Environmental Protection and Management of Natural Resources and the later 1999 Sub-decree on EIA require such development project be conducted full standard EIA for the approval processes. Due to the political commitment of China and Cambodia, this project was undergone only initial environmental assessment. The participation from key stakeholders is not fully exercised due to the rush completion. Therefore, project-level participation is a problem and required further analysis. This study focused on the issue of public participation in the hydropower project.

14. Case Name: Inclusion of Indigenous Peoples in REDD project in Mondulkiri Province
Category: Public Participation
Case Type: Project-level decisions
Responsible Agencies: MAFF - Forestry Administration Scale: Local
Location: Mondulkiri Province, Cambodia
Year Case Occurred: 2009  
Researcher: Chanthy Sam  
Description: REDD is a new resource management and Cambodia is piloting the project. One is on-going in Oddar Meanchey province and another one is in the process of preparation in Mondulkiri province. One aspect is that indigenous peoples are occupying the forest resources and the planned project should be inclusive to achieve the success. Indigenous peoples are widely recognized to be the natural owners of the forest resources and they are the only key stakeholders to manage their resources more effectively and in a sustainable manner. Their participation is crucial. Due to their isolation and uniqueness of their living conditions, their participation is often impossible or limited. The planned REDD project needs to take serious account of such challenges. The study is to see how the REDD project in Mondulkiri province engages the indigenous peoples living in the area.

15. Case Name: Investment Project in Kampot Province  
Category: Access to Justice  
Case Type: Denial of right to information  
Sectors: Other Industry  
Responsible Agencies: Council for Development of Cambodia/Cambodian Investment Board (CIB), Fishery Administration, Ministry of Agriculture, Fisheries and Forestry, Ministry of Commerce, Ministry of Environment, Sub-committee on Investment of the Provinces-Municipalities  
Scale: State/Province  
Location: Kampot province  
Year Case Occurred: 2007  
Researcher: Sarom Sek  
Description: This case study refers to the development of Investment Project in Boeng touk commune, Tek Chhou district, Kampot province. It is a conflict between a private company and the people in the commune due to the government had granted an economic land concession of 200 hectares to the Keo Chea Company in 2007. This project will eventually include a factory, market, resort, condominium complex and public park by filling sand in the coastal fishing areas of which 90% of community people rely on it.

16. Case Name: Land Conflict in Ratanakiri Province  
Category: Access to Justice  
Case Type: Denial of right to participation  
Responsible Agencies:  
Scale: Local  
Location: Kong Yu and Kong Thom Village, Pate Commune, O Yadaw District, Ratanakiri Province, Cambodia  
Year Case Occurred: 2004  
Researcher: Sokha Am  
Description: This is a land dispute between Jarai Indigenous People in Kong Yu and Kong Thom village, Pate Commune, O Yadaw District, Ratanakiri Province, Cambodia and Ms. Keat Kolney, wife of His Excellency Chan Saphan, Secretary of State, Ministry of Land Management, Urban Planning and Construction and her associates. The dispute started in 2004 and has not been solved as of today. Size of land in conflict is around 450 hectares. Part of the land in conflict was planted with rubber trees. Representatives of both villages had filed complaint with Ratanakiri Provincial Court on 23 January, 2007. This study examines the dispute.

17. Case Name: Economic Land Concession in Mondulkiri Province  
Category: Access to Justice
Case Type: Other Access to Justice: Claim for Environmental Harm  
Responsible Agencies: Scale: Local  
Location: Mondulkiri Province  
Year Case Occurred: 2000  
Researcher: Hong Chhay & Vannara Tek  
Description: The Sub-Decree on Economic Land Concessions, adopted in December 2005, is an important advance in establishing the legal and regulatory framework for the granting and management of concessions, including requirements to conduct public consultations and environmental and social impact assessments. However, these provisions have not been properly implemented and enforced; existing concessions have not been reviewed; and economic land concessions have continued to be granted over forested areas and indigenous land, in violation of the law. Economic land concessions can only be granted over state private land, for a maximum duration of 99 years. These concessions cannot establish ownership rights over land. However, apart from the right to alienate land, concessionaires are vested with all other rights associated with ownership during the term of the contract.

Concerns about the encroachment of concessions upon traditional or spiritual land have been raised in relation to economic land concessions in Mondulkiri province, affecting both indigenous and non-indigenous communities. For example, the Wuzhishan concession has affected the traditional lands of Phnong indigenous communities in O’Reang district, Mondulkiri province since 2004. The company has desecrated the spirit forests and ancestral burial grounds of Phnong communities, whose beliefs centre around spirits that control life at home, in the forest and in their fields. Its operations have also affected reserved land, grazing land and farm land. Although the communities raised their concerns with the company and provincial authorities, the Government signed a contract with the company in December 2005 and the concession continues to operate.

The affected communities fear that all the forests they have traditionally used and depended on will be gone once the concessions are fully exploited. In 2004 and 2005, villages in O’Reang district initiated requests for community forest areas, which are still pending. The various concessions overlap with the requested areas, which also cover community spirit forests. For communities, the loss of access to non-timber forest products, particularly the tapping of resin trees, has had a heavy impact on family incomes and traditional lifestyles. Depending on areas and provinces, communities have reported that they can earn up to 10,000 riel ($2.50) per day by tapping resin trees and selling non-timber forest products. In contrast, day laborers at concessions are paid from 5,000 to 10,000 riel ($1.25 to $2.50) per day worked, with no guarantee of continued work or a fixed monthly income. In many concessions, communities note that workers are brought in from other provinces, and few local villagers are engaged. This study focused on access to justice issues related to this case.

18. Case Name: Land Taking in Phnom Penh, Dey Krahorm Community  
Category: Access to Justice  
Case Type: Other Access to Justice  
Responsible Agencies: add Scale: Local  
Location: Phnom Penh Capital  
Year Case Occurred: 2007  
Researcher: Jeudy Oeung  
Description: Dey Krahorm (which means Red Soil in English), which locates in riverside of Tole Bassac Commune, Chamkarmorn District, Phnom Penh, is one of the communities that has been forcibly evicted after the Government granted as a “social land concession”. On 8 July 2003, the Council of Ministers issued a Notification Letter No. 875 to transform the Dey
Krahorm area as a “social land concession” at the size of 3.70 hectares out of the total of 4.70 hectares for residential development to private investment company. According to the villagers, many of them had been living in Dey Krahorm since early mid 1980s. Over the years, the population of this area became increasingly and more diverse, but most of them were poor, such as construction workers, motorcycle drivers, small market stall-holders and so on. After the land was granted as social land concession to the community, a private company called “7 NG Company” came to get involved in the on-side resident development project. Then, after that the community people were struggling to claim their homelands or at least they could award fair compensation if relocated, while some other had voluntarily moved off the land. This study focused on access to justice issues related to this case.
I. INTRODUCTION MATERIAL

a. Introduction

The Access Initiative (TAI), a global network comprising of 50 countries, is a coalition of civil society organizations promoting good governance by developing indicators to assess national performance on its implementation of Principle 10 of the Rio Declaration which focuses on access to information, public participation, and access to justice. These indicators have been applied worldwide.

In Southeast Asia previous TAI assessments have been conducted in Indonesia, Cambodia, Thailand, and Vietnam. Cambodia is the most recent country in the region to participate in the TAI assessment process, and this report presents the results of this assessment.

On November 19, 2009 the National TAI Coalition was formed with the Advocacy and Policy Institute (API) as its leading organization. In addition, an advisory committee of local environmental experts and activists was formed to support the Coalition as needed. Members of the Coalition conducted the TAI assessment, using the TAI indicator based methodology.

In addition to API, the Coalition included the following organizations: Community Legal Education Center (CLEC); Culture and Environment Preservation Association (CEPA); and the Center of Development Oriented Research in Agriculture and Livelihood Systems (CENTDOR).

This assessment, which represents the Kingdom of Cambodia’s first national assessment on environmental issues, includes 18 environmental case studies, and focuses on three categories: access to information, public participation, and access to justice. One major objective was to assess how well the government provided its citizens access rights to environment-related issues, which is consistent with the spirit of the 1992 Rio Declaration on Environment and Development. A second major objective was to improve the research, analysis, and writing skills of the staff members of the participating organizations. Developing these skills is vital, and will insure the production of clear, detailed, and insightful national assessments in the future.

Before and during the course of the assessment, researchers received training to improve their research, assessment, and writing skills. In addition the Coalition held three meetings, one on August 23, 2010, September 18, 2010 and another on December 27, 2010 to update the progress, lessons learned, challenges, technical problems and support, budgetary issues, activity plans and report writing.

b. Social, Environmental, and Political Context

Before reviewing the assessment findings, a general description of elements not specifically reflected in the indicators is first necessary. These contextual elements, which reflect the current societal, environmental, and political situations in Cambodia, will help the reader gain a better perspective and a deeper understanding of the issues involved.

1 See Principle 10: “Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”
Social context

As of the most recent census (2008) the population of Cambodia is about 13.4 million. The latest statistics (2008) show a literacy rate (the percentage of the population over 15 that can read and write) at 78%, with an 85% rate among males and a 64% rate among females. With a young trending population demographic (over 50% of the population is under 22) current school enrollment figures stand at 94.4% for primary, 33.9% for grades 7 to 9, 16.4% for grades 10 to 12, and 2.8% for post secondary. Completion rates stand at 85.58% for primary, 49.05% for lower secondary, 20.58% for upper secondary, and 6% for university.

Approximately 90% of the population is ethnic Khmer, with 5% ethnic Vietnamese, 1% ethnic Chinese, and the other 4% comprised of Cham, Lao, as well as indigenous peoples and hill tribes which mainly inhabit the remote northeastern region of the country. Khmer is the official language, and is spoken by over 95% of the population. Some French is still spoken, particularly in the cities among older educated Cambodians. However, English is becoming increasingly popular as a second language, particularly among the business class and the young. In the major cities and tourist centers, English is widely spoken and is taught at a large number of schools. Even in the rural areas, many young people speak at least some English. The indigenous groups also speak their own languages and dialects.

With regards to religion, Cambodia is overwhelmingly Buddhist (95%), with the most of the rest of population identifying either as Muslim (primarily the Chams) or Christian.

The civil war and its aftermath have had a marked effect on the Cambodian population. 50% of the population is younger than 22. At 0.96 males/female, Cambodia has the most female-biased sex ratio in the Greater Mekong Subregion. In the Cambodian population over 65, the female to male ratio is 1.6:1.

Thirty years of war and serious internal conflict has left Cambodia severely impoverished, with a significant depletion of skilled, educated professionals. In 1990, the Human Development Index (HDI) was 0.51, but by 2007 it had increased to 0.59, moving Cambodia from the low to the medium human-development category. Despite that achievement, the country still has some of the worst human development indicators in South-East Asia. In 2008, per capita GDP was US$ 640, with 31% of the total population still living below the official rural and urban poverty lines of US$ 0.46 and US$ 0.63 (1999). In some rural areas, the percentage of the population living below the poverty line rises to 79.0%.

Despite rapid growth in garments and tourism, Cambodia remains an agrarian society, with the agriculture sector employing approximately 80 percent of Cambodia's population. Cambodia's primary crop is rice, production growth of which over the past 10-12 years has been surprisingly strong, increasing at a 9% annual growth rate. At the same time, rice exports have increased from zero in 2000/01 to an estimated 800,000 tons in 2009/10. The country

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3 Ibid.
4 Ibid.
5 Ibid.
6 http://www.wpro.who.int/countries/2010/cam
8 Ibid.
9 http://www.wpro.who.int/countries/2010/cam/
also exports fish, rubber, cassava, corn, and other plantation crops. Improvements in infrastructure, agricultural inputs, and farming practices are significantly increasing agricultural yields. Cambodia also has a large amount of uncultivated arable land; however, due to decades of civil war and communist rule, determining legal ownership is tenuous in many cases as most land ownership is not yet titled.

Donors have been a driving force behind the development efforts of Cambodia with financial support accounting for at least 50% of the government budget. Bilateral and multilateral donors such as the World Bank, IMF, and Asian Development Bank support and closely monitor the government’s reform program.

Foreign investment in Cambodia has increased significantly since 2004 led by Asian investors from countries such as Malaysia, China, Korea, Thailand, and Vietnam. Government approved investment proposals surpassed $11 billion in 2008. 11

While Cambodia presents many opportunities to investors as it emerges from its history of civil war and communist rule, the country ranks very poorly on World Bank, Transparency International, and the Global Forum surveys related to business climate. Significant challenges commonly cited by the private sector include pervasive corruption, poor infrastructure, weak institutions, and undeveloped human resources. 12

Cambodia has seen significant nationwide growth in the use of mobile phones and internet. The percentage of mobile phone users has increased from 5% in 2004 to 46% in 2009. The percentage of internet users has increased from 0.5% in 2004 to 2.1% in 2009. However, Cambodia still lags behind its neighbors Thailand, Vietnam, and the Lao PDR in mobile phone use and internet penetration. For example, Cambodia’s present internet penetration rate of 2.1% is well below Thailand and Vietnam’s 24%, and even below the Lao PDR’s 8.5%. 13

The overall number of Internet users is still low because of language barriers, poor computer skills and poverty. However, there are an increasing number of public internet access points throughout the country, especially in the capital Phnom Penh. The percentage of people that have access to radio is estimated at about 55%, while about 30% of them have access to TV; More than 70% of the Cambodian population, mainly in rural areas, have no access to newspapers. Only 6% of all Cambodians get information through newspapers at least three times a week while TV with 54% and radio with 44% have a much higher rate.

Approximately 82% of urban and 46% of rural households possess a TV, while 81% of urban households and 48% of rural households possess a radio. 14

Generally information, particularly in rural villages is often verbally exchanged (word of mouth). Radio is the source of information with widest coverage of the countryside because it is cheap, easy to buy, consumes less battery power than TVs, and it is portable.

Environmental context

11 Ibid.
12 Ibid.
The forests of Cambodia are diverse and comprise a variety of evergreen, deciduous, mixed and mangrove forest types. However, weak governance and unsustainable resource use, shifting cultivation in the upland areas, especially in the northeast of the country, and forest clearing for agriculture are causing rapid deforestation.

The country has experienced one of the highest deforestation rates in the world. Since 1969, Cambodia’s primary rainforest cover has fallen from over 70% to just 31% in 2007. In total, Cambodia lost 25,000 square kilometres (9,700 sq mi) of forest between 1990 and 2005—3,340 km² (1,290 sq mi) of which was primary forest. Since 2007, less than 3,220 km² (1,243 sq mi) of primary forest remain with the result that the future sustainability of the forest reserves of Cambodia is under severe threat, with illegal loggers looking to generate revenue.15

As a result, Cambodia’s rich natural habitats have been significantly degraded, affecting the quality and quantity of habitat for biodiversity and non-timber forest resources, both important elements of food and livelihood security.

Cambodia’s coastal, marine and freshwater resources are also being degraded by a combination of river and coastal sedimentation (often linked to logging), conversion of mangroves, poorly managed shrimp aquaculture, salt farming and dynamite fishing. Pressures on aquatic resources and on environmentally-significant wetlands are also increasing rapidly, most notably from over-fishing, illegal fishing practices, increasing use of hazardous pesticides, and conversion of flooded forests, as well as swamp drainage for agriculture.

As the country grows economically, more and more people gravitate towards urban centers such as Phnom Penh. The resulting higher quantities of untreated urban domestic sewage, industrial effluent, and solid waste are polluting surface and ground water in many of Cambodia’s cities and towns. Throughout the country, sewer system coverage is limited and/or no longer functioning, resulting in increased health risks to populations, including higher incidences of diarrhea and cholera.

In addition, the growth of unplanned settlements outside of Phnom Penh is increasing pressure on the city’s existing wastewater infrastructure and the system of natural drainage, which to date has served as the traditional environmental safeguard against flooding. Many flood protection sleeves have been occupied by migrants, restricting water flows and compounding the sanitation problem.

The disposal of hazardous (mostly industrial) waste is also a growing problem in Phnom Penh. There are no special landfills or other treatment facilities for toxic, hazardous or medical waste, which is often burned at open dumpsites, together with solid waste.

Political Context

The Kingdom of Cambodia is a constitutional monarchy, and its constitution provides for a multiparty democracy. The constitution of the Kingdom of Cambodia officially entered into force on 24 September 1993 based on the results of national wide elections organized by the United Nations. The King is a head of state as a symbol of state consolidation. Legislative, executive and judiciary powers are separated. Legislative power includes the senate, which consists of 61 members and the national assembly consisting of 123 members. The executive branch comprises the prime minister supported by deputy prime ministers, senior ministers,

ministers, and secretaries of state. The judiciary is an independent power and includes Provincial and Municipal Courts (lower courts), Military Courts, Appeals Court, and Supreme Court.

The Royal Government of Cambodia comprises 28 ministries and secretariats. Each Ministry is headed by a Minister supported by Secretaries and Under Secretaries of State; and each Secretariat is headed by a Secretary of State supported by Under Secretaries of State.

Below the central government are 24 provincial and municipal administrations. In rural areas, first-level administrative divisions are called provinces; in urban areas, they are called municipalities. The administrations are a part of the Ministry of Interior and their members are appointed by the central government. Provincial and municipal administrations participate in the creation of nation budget; they also issue land titles and license businesses.

Since 2002, commune-level governments (commune councils) have been composed of members directly elected by commune residents every five years.

In practice, the allocation of responsibilities between various levels of government is uncertain. This uncertainty has created additional opportunities for corruption and inconsistent policy implementation.

**Strategic Development Plan**

The National Strategic Development Plan (NSDP) 2006-2010 was developed by the Ministry of Planning with participation and consultation from all stakeholders including government Ministries and institutions, External Development Partners (EDPs) and civil society. After approval by the National Assembly, the Senate, the Royal Government of Cambodia (RGC) and the King, the NSDP was officially launched on 15th of August 2006 by Prime Minister Hun Sen.

The National Strategic Development Plan (NSDP) is the single, overarching document that contains the RGCs' priority goals and strategies, and directs all public policy to the reduction of poverty and the achievement of other Cambodia Millennium Development Goals (CMDGs) and other socio-economic development goals for the benefit of all Cambodians. There are 43 targets within the following major goals mentioned in NSDP:

- eradicate poverty and hunger,
- develop the agriculture sector and enhance agricultural production and productivity,
- implement the Education Sector Strategic Plan,
- implement the Health Sector Strategic Plan,
- implement population policies.
- further advance rural development,
- ensure environmental sustainability,
- promote gender equity,
- implement good governance reforms,
- sustain high macroeconomic growth,
- improve budget performance,
- accelerate industrial growth,
- further develop the private sector,
- increase trade (i.e. export),
• develop tourism,
• make progress in de-mining & provide victim assistance,
• rehabilitate the physical infrastructure,
• further develop the energy sector.

**Corruption**

After decades of civil war and political violence, corruption has pervaded almost every sector of Cambodian public life, with a system of patronage well entrenched in society. Both petty and grand forms of corruption are widespread. The courts and law enforcement agencies are perceived by citizens as the most corrupt and inefficient sectors, lacking the independence, resources and capacity to effectively investigate and prosecute corruption cases. Weak systems of checks and balance, ineffective accountability mechanisms and scarce opportunities for public participation further contribute to the deteriorating situation.

Cambodia was ranked 154th out of 178 countries in Transparency International’s corruption perception index and it was also ranked the second most corrupt Southeast Asian nation after Indonesia in an annual poll by the Political and Economic Risk Consultancy in early 2010.\(^\text{16}\)

However, to its credit, the Royal Government has recently made some notable efforts to deal with the corruption problem. Cambodia became a party of the United Nations Convention on Corruption (UNCAC) in September 2007. The Government has also adopted the Anti-Corruption Action Plan for Asia and the Pacific. In March, 2010, the National Assembly approved the long-awaited anti-corruption law. The new legislation also created an Anti Corruption Council to oversee policy implementation, and an Anti Corruption Unit (ACU) to oversee investigations. The ACU has already taken measures against some corrupt officials. At the end of November 2010, the Pursat provincial prosecutor and two bodyguards were arrested and charged with corruption, illegal detention, and extortion.\(^\text{17}\)

**Access to Information**

There is no freedom of information law to guarantee access to information and increase transparencies within government agencies. Public access to information is limited to documents that are not harmful to national security by the Archive Law. In practice, the government keeps strict control over what is open to public scrutiny.

Cambodian law doesn’t provide for the protection of whistle blowers, making it risky to expose cases of corruption both within the public and the private sectors. Under pressure in recent years from donor countries to improve transparency and commit to a “good governance” plan, the Royal Government moved tentatively toward the establishment of an Access to Information (A2I) law that meets international human rights standards.

In 2004, the Royal Government formally acknowledged the need for an A2I law, “in order to create transparent government, reduce corruption, and promote confidence in the government by the citizens of Cambodia.”\(^\text{18}\) A target was set (with donor approval) to develop a clear policy framework on access to information, which would lead to an eventual drafting and adoption of an A2I law.

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\(^{16}\) *Transparency International*, Corruption Perceptions Index 2010.

\(^{17}\) “ACU Charges Pursat Prosecutor”, *Phnom Penh Post*, November 30, 2010

After three years of public workshops and conferences involving government officials, members of civil society, local and international NGOs, as well as members of the general public, the Council of Ministers mandated the Ministry of National Assembly Senate Relations and Inspections (MoNASRI) to draft a government Policy Paper on Access to Information, which would serve as a precursor to the drafting of a national A2I law. The Draft Policy Paper on Freedom of Information was completed in late August 2007. The Draft currently sits at the Ministry of National Assembly Senate Relations (MoNASRI). As of this date (October 2008) it has still not been forwarded to the Council of Ministers for review.

c. TAI Assessment Methodology

Each TAI assessment is based on 148 indicators, or research questions, that NGO researchers use to assess their governments’ provisions for transparency and accountability in decisions that affect the environment. TAI researchers apply the 148 indicators at both a general, national level and to at least 18 case studies.

The indicators are divided into four categories:

1. **Access to information** – Information is the cornerstone of decision-making, providing the public with knowledge and evidence to make choices about and monitor the state of the environment.

2. **Public participation** – Participation allows citizens to express opinions, challenge decisions, and shape policies that could affect their communities and environment.

3. **Access to justice** – Mechanisms for justice enable citizens to seek legal recourse if their access rights have been denied or if they have suffered an environmental harm.

4. **Capacity building** – Both government agencies and civil society need particular knowledge, skills, and abilities to facilitate public access to information, participation, and justice.

In addition to these four categories, the TAI indicators also fall within one of three topics:

1. **Law** indicators evaluate the national legislative and judicial framework related to access.

2. **Effort** indicators assess the government's actions to provide access, including the implementation of laws.

3. **Effectiveness** indicators assess whether the laws and government efforts resulted in effective access, as well as how the world changed because of the level of access achieved.

In this assessment, the research teams applied the above indicators to 18 case studies, which fell into three of the four categories: Access to Information, Public Participation or Access to Justice. The fourth category, Capacity Building, was measured both within the other categories' case studies and through a general set of indicators. Similarly, law indicators fell into two types: ones that are answered for particular cases and ones that apply to the entire assessment.
In addition to the case studies, this assessment also includes an evaluation of the legal framework, both in a general sense, and also specifically related to each case study. This serves to evaluate levels of government effort and the effectiveness of government performance.

The Cambodia TAI Coalition decided to focus the case studies on the following environmental issues: forestry, fisheries, mining, land, water, air, and sanitation. As Cambodia is in the midst of ongoing development, and the amount of “big money” investment projects has markedly increased over the past five years, these projects have had or will have a significant environmental impact, particularly upon the poor and disenfranchised. In addition, issues of sanitation and disease control also impact upon national development, particularly with regards to achieving the Cambodian Millennium Development Goals (CMDGs).

d. Research Challenges

Many researchers were not given usernames and passwords until late August, and therefore were unable to access the Assessment Toolkit. Because of this, some of the research was begun without a clear understanding of the indicator guidelines. Another challenge was that the research timeline was limited, and although several researchers had done similar research before and quickly understood the assessment methodology, while others needed more time to familiarize themselves with the methodological framework and assessment guidelines.

Another challenge was difficulty in data collection, both in terms of documents and subject interviews. In Cambodia, obtaining relevant documents can be a laborious and time consuming process. Given the limited time frame and because for many researchers, it was the first time they had participated in such a large scale research project, it is understandable that the process moved slowly, and sometimes inefficiently. Hopefully, the experience gained in doing this first ever national TAI assessment in Cambodia, will help the Coalition and its researchers when they participate in future assessment projects. The skills and knowledge gained from this TAI assessment will help fill existing gaps in current policy-practice, through improved policy advocacy and continued capacity building. All of this will assist planning the next steps of what to do for the post-assessment period.

II. FINDING

a. Constitutional Law Overview

The Cambodian Constitution provides only a limited scope for guaranteeing the right to a clean and safe environment. For example Article 59 states that “[t]he State shall protect the environment and the balance of natural resources and establish a precise plan for the management of land, water, airspace, wind…..” The practical arrangement and legal protection of clean and safe environment is recognized under the Law on Environmental Protection and Natural Resource Management (1996).

The Constitution provides a limited specific reference to the right of access to information held at public bodies. although Article 41 recognizes that citizens have freedom of expression of their ideas, freedom of information, and freedom of publication and freedom of assembly. Thus the question of whether this Article provides a clear and inclusive guarantee to the right of access to information is questionable. For example, it is not clear whether the term “freedom of information”, includes the “right to access to information” or not. Consequently, this Article provides room for debate as to whether a specific “right to access to information”
be created to make sure that people can fully exercise their rights to access to information held with any public bodies.

The constitutional guarantee to the right to public participation is provided by Article 35 of the Constitution. It stipulates that all Cambodian citizens have the right to actively participate in the political, economic, social, and cultural life of the nation. The same article provides that the State must thoroughly consider the requests made by the people. However, the Constitution does not provide an inclusive term for the people to be able to directly participate in the government decision-making. For example, Article 147 of the Constitution only states that a national congress can be organized in order to enable the people to be directly informed on various matters of national interest and to raise issues and requests for the authorities of the State to solve. It further says that Khmer citizens of either sex have the right to participate in the national congress. It is obviously important to note that even though the Constitution provides for this national congress to be a venue for direct public participation, it has never been activated since the Constitution was adopted in 1993.

Article 38 of the Constitution provides constitutional guarantee to the right to access to justice through which every Cambodian is equally protected by the law of the country. The law prohibits all physical abuse of any individual and protects one’s life, honor and dignity. Everybody has the right to defend himself or herself through the judicial system. Furthermore, Article 39 of the Constitution also recognizes the right of all Khmer/Cambodian citizens to denounce, makes complaints, or claim for compensation for damage caused by any breach of the law by an institution of the state, social organizations or member of such organization. The court has a legal mandate to resolve such complaint.

At least two Articles in the Constitution provide constitutional guarantee to the right of freedom of expression. Article 31 states that the Kingdom of Cambodia recognizes and respects human rights as stipulated in the United Nations Charter, the Universal Declaration for Human Rights, covenants, and conventions related to human rights. It further states that all Khmer citizens shall be equal before the law, enjoying the same rights and freedom and obligation regardless of race, color, sex, language, religious belief, political tendency, national origin, social status, wealth or other status. Article 41 elaborates that Cambodian citizens have the rights to freedom of expression of their ideas which is a vital part of the fundamental freedoms and rights of people in a democratic society. However, what is quite problematic is when the Cambodian government introduces a new law on Peaceful Assembly which was passed in 2010 by the Parliament and promulgated by the King, which limits the right of freedom of expression, association, and assembly guaranteed by the Constitution.

List of Relevant Statutes and Sub Decrees
In addition to the constitutional provisions, this study also referred to several relevant statutes in the current legal framework of Cambodia. These included the following:

- Law on Duration of Pre-Trial Detention, (1999)
- The Land Law, (2001)
b. Access to Information

i. Importance of Access to Information

Access to information contributes to strengthening democratic governance, empowering public participation, promoting economic growth and investment, protecting human rights and privacy, and preventing conflict. Elected governments are likely to be more accountable to their electorate’s needs if their actions are publicly followed through an access to information mechanism. An open government could work more efficiently by keeping its records in order and accessible to the public. By encouraging the public to participate in open discussions, the government could also be more inclusive and well informed by diverse opinion.

An open government could make better and more equitable business decisions, act transparently, and attract more domestic and international investment.

Traditionally disadvantaged groups – of which women are the largest – could especially benefit from access to information, enabling their participation in decision-making processes.

Workers rights can also be greatly enhanced in a work place where critical information is available. Workers can be informed about health and safety issues, and other working conditions. They can obtain financial information about their institution or company, which could help them in wage negotiations, or to form a workers union. Access to information can also help the public identify health risks and gain access to treatment.
In this assessment, each case study focused on the relevant law(s) supporting access to information, and also analyzed access to information through the dual prisms of government effort and effectiveness.

**ii. Assessment of Specific Statutory and Administrative Framework Supporting Access to Information**

The assessment related to Access to Information focused on case studies dealing with air quality, water quality, infectious diseases (bird flu outbreak), garment factory conditions, climate change, land concessions, and mining projects.

**Livelihood and Flooding along the 3S Rivers**

Article 16 on the Law on Environment states that the Ministry of Environment shall provide, following a request from the public, information on its activities, and shall encourage public participation in environmental protection and natural resource management. Article 18 states that information related to environmental protection or natural resource management shall be mutually disseminated between the Ministry of Environment and different ministries, as well as local authorities.

The Environmental Impact Assessment (EIA) sub degree of 1999 states that the public has the right to obtain information and participate in development process. This means that all developers have to include the public in the development process. This is especially important in projects that may cause environmental impacts, such as flooding.

In addition, floods are mostly caused by natural causes, especially by heavy rains during the rainy season. Greater effort must be made to inform and public for such possible disasters. The existing law is either unclear or fails to provide specific procedures for informing the public.

**Bird Flu Outbreak in Cambodia**

Even though the veterinary law is not yet finalized, the Ministry of Agriculture, Fisheries, and Forestry (MAFF) has issued a number of internal directives and declarations regarding how to handle emergencies involving avian influenza. This involves dissemination of information to the public on proper care of poultry, disease prevention, and disease control.

**Air Quality Monitoring in Phnom Penh**

Under the Law on Environmental Protection and Management of National Resources, the Ministry of Environment (MoE) shall provide the requested information on its activities. However, the procedure for accessing the information on environmental protection and natural resource management shall be determined by the relevant sub-decree.

As mentioned in the sub-decree, the MoE shall regularly control and monitor the situation of the air quality throughout the Kingdom of Cambodia in order to take measures to prevent and reduce the pollution. The MoE shall manage data relating results of the air quality testing and to assess the status of the air quality. It shall also publicly disseminate the status of air quality and the status of air pollution of the Kingdom of Cambodia.

According to the sub-decree, the MoE shall immediately notify the public about an air pollution danger and investigate the sources of pollution and shall take measures to prevent air pollution and to restore the air quality. However, in real practice, public dissemination is not regularly done. Limits on claim of confidential information are not clearly described in the either the Law or sub-decree.
Neither the Law nor the sub-decree provides the public technical support on how to access and use the selected information type that may be available. The sub-decree only states that MoE shall prepare technical guidelines on pollution source monitoring, sampling points, smell air and noise analysis.

As clearly mentioned in Chapter 7, article 18 of the Law on Environment, the information related to environmental protection or natural resource management shall be mutually disseminated between the MoE and different agencies. However, a concrete timeframe is not stated.

**Drinking Water Quality Monitoring in Phnom Penh**

According to the Law on the Environment, the Ministry of Environment shall disseminate publicly the status of the water quality and the current status of pollution of public water areas in the Kingdom of Cambodia. If it is found that any public water areas are suffering from pollution which could threaten human life or bio-diversity, the Ministry of Environment shall immediately notify the public about this danger and shall take measure to prevent the water pollution and to restore the water quality of such public water areas.

**Garment Factory in Kampong Chhnang Province**

Article 14 of the Cambodian Labor Law requires an individual employer to make at least one copy of the labor law available to his/her workers, in particular, to their shop stewards in every establishment or enterprise.

Article 233 of Cambodian Labor Law requires labor inspectors to conduct regular inspections to ensure that conditions of health and safety in the workplaces are guaranteed. It also authorizes the labor inspectors to cooperate with other experts to fulfill this mission.

Article 234 of the Law states when this procedure is required. Before drawing up an official report, the labor inspectors and supervisors must officially notify the business owners that they must conform to the provisions of the regulations for implement the relevant articles of the Labor Law.

The Law only requires the labor inspectors to conduct regular inspections and notify the concerned establishment or enterprise to make any necessary changes to comply with the findings of the inspectors regarding occupational safety and health. However, the Law does not specifically require the labor inspectors to issue public reports related to their findings on the issues and disseminate these reports to all stakeholders. There is also no article of the Labor Law that gives a reasonable timeframe to require government officials to provide information to the workers and the public.

**Mining in Mondulkiri Province**

According to the statute on Environmental Protection and Natural Resource Management Chapter 7, Article 16, the MoE is obliged to disseminate relevant information to the public upon request on its activities. However, there is no specific provision in the statute about exactly when and how to obtain the information needed.

The 1999 sub-decree on the process of Environmental Impact Assessment (EIA) stipulates in Chapter 1, Article 1 the intention to motivate/urge public participation in accessing environmental impact and the attainment of public opinions in decision making process.
However, there is no evidence of a permanent governmental infrastructure available to support access to information and public participation. In practicality, if a public gathering is to be held, a private venue would be rented temporarily for the session.

The general laws of environment and mining do not include any provisions on offering the public technical assistance, guidance or training on participation in the selected decision making process. The laws do not require the central government to build the capacity of subnational governments or local authorities with regard to participation in the selected decision making process.

The laws pertaining to environment and mining in general consist of at least one article on public participation in the decision making process. However, the terms used in those articles are too broad to have included a specific timeframe for participation.

Local Adaptation to Climate Change: Flooding along the Mekong River

According to Article 9 of the Law on Environment, The Ministry of Environment, in collaboration with concerned ministries, shall conduct research, assess the environmental impacts on natural resources, and provide the concerned ministries with recommendations to ensure that the natural resources are conserved, developed, and managed [and] used in a rational and sustainable manner.

Article 10 provides that before issuing any decision or undertaking activities related to the conservation, development, or management [or] use of natural resources, the concerned ministries shall consult with the Ministry of Environment on the sustainability of natural resources.

Article 11 provides that: The Ministry of Environment shall immediately inform concerned ministries whenever the Ministry of Environment finds that natural resources are not being conserved, developed, or managed [or] used in a rational and sustainable manner.

In the Cambodia's Initial National Communication on Climate Change, it is also clearly stated that "Cambodia needs also to strengthen its institutional capacity in the field of climate change. A permanent, cross-sectoral agency that will involve all concerned stakeholders should be established to serve as a policy-making body and to oversee all climate change-related activities. Cooperation and exchange of information between government institutions, with countries in the region, as well as international organizations, are crucial".

Economic Land Concessions in Sre Ambel District, Koh Kong Province

The Law on Environmental Protection and Management of National Resources and related sub-decree on land concessions clearly states an obligation to provide the public with information regarding land concessions, particularly with respect to how they impact the environment.

However the Law and related sub-decree doesn't require the government to provide technical assistance training or instruction to the public on how to access and use information of the case. There are also no specific procedures by which the information on a concession is provided to the public. As a matter of practice then, the public is often misinformed or not informed at all.

iii. Information in an Emergency

The Assessment on Access to Information focused on two cases involving Information in an Emergency. The findings were as follows:
Livelihood and Flooding Along 3S Rivers

This research methodology used a questionnaire to interview villagers and local authorities, and by direct observation of the work of the community committees. Information collecting was done by 5 to 7 members of water resource community committee in each village and was facilitated by CEPA staff in the Sustainable Water Resource Management Program. The study focused on 15 villages along the Sesan River in Stung Treng province. 175 samples were selected. The research team spent two months to collect the information in the villages.

There were many changes in villages after having been flooded, such as rice crops being spoiled every year. Farmers often had to leave the farm to find new places to live. Fishing equipment and other farming equipment was often lost to the floods. Villagers had to migrate from the province to be workers in the city earn income for to support their families. Some students have had to drop out of school because their families do not have the money to send them to school, due to the lost farm incomes caused by the floods.

In addition, when there is a flood, the villagers often get diseases, due to the stagnant waters. They lack have adequate medical care and do not have the ability to access the hospital.

In conclusion, most of the livelihoods along the river depend on natural resources. The income will be decreased if those resources are changed, especially because of the flooding every year which is often caused by river development projects that are completed without environmental impact assessments. Therefore, developers should be sensitive to the potential impacts on villagers who live in the development projects area. Moreover, all the stakeholders, experts, government officials and NGOs should try to find good solutions for villagers in order to improve their living conditions and in turn, reduce poverty and sustain natural resources.

Bird Flu Outbreak in Cambodia

Although there is a central government policy and strategic plan to control an HPAI outbreak, there is still a lack of multi-stakeholder coordination, and particularly a lack of engagement with NGOs.

Currently, it is evident that the diversity of promoted communication packages at the community level from both NGOs and the Royal Government, seems to create confusion among poultry producers. In addition when NGOs use their own messages, the performance of policy implementation is also limited and difficult to evaluate given their lack of coordination with the government. Improved coordination is needed, especially engagement with NGOs, in developing, implementing and evaluating the different communication packages. This will ensure that all institutional and individual efforts will contribute to achieve the central plan of the government.

It can be said that the intervention which aimed to eradicate or control outbreaks of HPAI is not yet working on the right issues or addressing the root of the problem. There is also a lack of direct interventions or promotion of behavior changes among many poultry raisers, particularly related to feeding, treatment, and vaccination.

The study findings suggest that the behavioral changes of poultry producers have been influenced both from internal and external factors. The changes related to sanitation practices are primarily related to external factors, while changes in other bio-security practices are primarily related to internal factors. Finally, the study recommends development of a bio-security package, particularly on duck raising. Technical messages in veterinary practices
should be included in broadcasting systems, and rural poultry farmers should be supported in scaling up their production in order to improve the adoption of bio-security practices.

**iv. Information from Regular Monitoring**

The Assessment on Access to Information focused on one case involving Information from Regular Monitoring. This dealt with air quality monitoring in Phnom Penh. The findings were as follows:

**Air Quality Monitoring in Phnom Penh**

Air quality monitoring data has become available since 2000. The MoE has regularly conducted roadside air quality monitoring at three stations in different parts of the city. However, air pollution is not a priority issue that is focused on, and the public does not seem to be aware or care much about it as well. This combination results in poor reporting practices and the lack of consistent, regular data available to the public.

In short, the accessibility of the air quality information for the public is available upon request, but citizens are not often informed on how or where or to whom to make the request. Budgetary constraints and low government civil service salaries often limit the activities related to air quality monitoring together with dissemination of its findings.

**Drinking Water Quality Monitoring in Phnom Penh**

The Phnom Penh Water Supply Authority (PPWSA) has achieved a great deal within the past and continues to achieve more. However, a recent study found that about 46% of the population didn’t realize that the water is drinkable and there is a lack of information related to water supply quality.

It was found that most of these laws and sub decrees related to water supply quality provide very limited and narrow access to environmental information. The Water Supply Authority website can be accessible but not much information was found in the site and parts are still under construction. There is a small information center which is under developed and does not yet fully serve the public who need to access water information. Researchers were informed that this information center is also under construction and in the process of preparation. But because PPWSA is a business enterprise its relationship with consumers has been good, and an information table was set up to deal with all the questions and inquiries.

Finally, the effectiveness of the Water Supply Authority’s practices has been the most difficult part to measure due to the limited number of NGOs working in this area. Currently, besides some donor country partners, there are no existing local NGOs working with water and sanitation programs in Phnom Penh.

**v. Facility Level Information**

The Assessment on Access to Information focused on two cases involving Facility Level Information. Two case studies were on garment factory conditions and mining. The findings were as follows:

**Garment Factory in Kampong Chhnang Province**

This case study focused on a particular factory in rural Kampong Chhnang Province, and analyzed the facility safety monitoring processes.

Workers at the factory complained of dizziness and shortness of breath and hundreds of workers fainted and had to be hospitalized. Although the employer claimed that the fainting
was due to the heat caused by power failures, most workers, the provincial judge and a few
government officials who were interviewed stated that the mass fainting was due to the
inhaling of strong chemicals from fabrics. As result, at least two women suffered miscarriages
shortly after fainted at the factory.

In this case the law was enforced by the government through the Ministry of Labor, which
was the main role payer. The lack of access to information, weak labor inspection, and lack of
law enforcement contributed to the incident. Local authorities and neighboring villagers all
reported that they did not know what type of chemicals were used by the factory, nor did they
know the effects. They all stressed that they did not understand why the factory management
still forced workers to work on the day after the mass fainting on the first day and why the
provincial department of labor did not fine or punish the owner for misusing the chemicals
and causing hundreds of faints.

The local authorities did not take an active role in promoting conditions of health, safety and
environment as required by the labor law. They were not given access to information
regarding the conditions in the factory, nor were they informed regarding the possible
environmental impacts on the surrounding community. Information related to the case was
controlled by the central government and was considered confidential.

As of today, the information on the case is not widely made available to the public via
national media. However, the involvement in disseminating such information by NGOs in
cooperation with the local and international media is encouraged.

**Mining in Mondulkiri Province**

This case study dealt with the environmental impact of mining projects in rural Mondulkiri
Province, and regular environmental monitoring of the mining operations.

There is a top-down information flow from the Ministry of Environment to inform local
communities by use of the local authorities. Announcements take the form of news on local
television channels, radio news, newspapers, and most frequently of all, in the form of notices
placed on the walls of the construction sites, which most of the time makes it difficult for the
public to receive the information. Even though there have been public announcements prior to
project implementation, public participation has rarely been initiated by the relevant ministry
or government agency.

Both in law and in practice, there is no evidence of permanent governmental infrastructure
available to support public participation with regards to environmental monitoring of a
project. In practicality, if a public gathering is to be held, a private venue would be rented
temporarily for the session.

The public does have access to a registry of past and pending decisions by visiting the
responsible agency, and the public can have access to documents of past decisions. However,
it is be a lengthy and complicated bureaucratic process.

In each responsible ministry and department, there are storages of virtually all relevant
supporting documentation for decisions, mainly in hard copies. The public can, in theory,
access to any of the documentation through a readily formatted proposal document provided
by the institutions free of charge, and the entire process is done in a specific time frame. In
practicality, however, the many bureaucratic procedures required and the myriad of offices
needed for any proposal to pass through, prevents the governmental agencies from being
efficient in terms of how well they maintain a publicly accessible registry of monitoring data.
vi. Other Information Types

Two other Access to Information case studies dealt with other information types. One dealt with efforts to promote local adaptation to climate change, and another with land concessions in Sre Ambel district in Koh Kong province.

Local Adaptation to Climate Change: Flooding along the Mekong

Flood patterns: Floods and rainfall patterns during the past 15 years have changed. These changes have created many difficulties for farmers and have taken almost 5-6 years for farmers to develop or adopt innovations to live with floods and to make use of floods to improve their lives. Now, the new context of farming systems resulting from changing flood regimes creates both potentials and constraints for local people living in the communities. Different communities which are impacted from differing flood levels have created different responses. Moreover, not all farmers can adopt these innovations, especially those who are from the poorest families as well as female-headed families due to the requirement of knowledge, skills as financial resources.

Farmers’ responses: It is observed that there are several options that farmers can choose depending on their socio-economic settings. Resource-poor-farmers often make decisions to adopt the low risk options. They have adopted the crop varieties which are the most suitable to the local farming systems. However, such crop production is mainly for their consumption rather than to sell. Resource-rich-farmers have decided to adopt the crop varieties for marketing even when they have to face risks, while at the same time, they also adopt other crops for their consumption. Moreover, the production for selling normally requires a high investment on inputs (fertilizers, pesticides or/and irrigation). Therefore, resource-poor farmers experience difficulties to adopt such options.

Roles of external interventions: So far rural development largely depends on the international funding projects which are implemented by government or NGOs. Existing knowledge is mobilized in the application of those development projects. Physical infrastructures are largely implemented by the government through loans and grants from international donors as well as government resources. However, because of a lack of a local or national research institute devoted to studying local livelihood studies, many local problems which could not be solved and still exist now include crop varieties, pest control, and agronomic practices. Very often, farmers have approached other farmers in neighbouring countries for solutions to solve such problems [agricultural-technical-problems]. Strengthening the role of the local research institutes which devote their missions for local livelihood studies and agricultural applied research are important to meet this demand of local people.

Finally, it can be concluded that under the irregular flood regimes, agrarian systems have been changed. The results of changes in agrarian systems have led to a change in agricultural practices and finally, changes to the rural livelihoods and socio-cultural settings. Traditional systems have been changed or modified in accordance with the new farming system context. Maintaining assets of individual households have become increasingly more important than gaining more assets. This also leads to conflicts over the use of resources in the communities. Strengthening community solidarity is one of the important tasks, but strengthening the roles of local authorities and technical departments to provide effective intervention is also another important task, especially to understand the dynamics in agrarian and rural livelihoods systems.

Economic Land Concession Case in Sre Ambel District, Koh Kong Province

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While the Royal Government of Cambodia is currently making an effort to establish an information management system or database, relevant information on economic land concessions, in particular, is not precisely established for public accessibility. It is clear that even though lawyers from the Community Legal Education Center (CLEC) have submitted to the Ministry of Commerce several letters of request for documents regarding the case of economic land concession in Koh Kong, they have never received any replies.

The agency in charge of making available public information had no intention in planning and disseminating information to the target group of this case. This is because:

1. The system of information dissemination from high level to the low (local) level is narrow, and is often confidential,
2. The local authorities do not understand how to release information to their target group, and
3. The local authorities are afraid to make decisions in disseminating information on the case which involves the powerful or the rich.

Meanwhile, the sub-decree on economic land concessions neither requires the government agency to set a time period of information dissemination. In addition, the relevant government agency has not made available or disseminated the information on the case to the effected communities, neighboring communities or non-governmental organizations and other media.

For the last three years, the Cambodian government has made no effort in creating guidelines or training courses on access to information on each case to their staffs. While the government produces guidelines and holds environmental training courses for some local authorities and officials in the provinces, such guidelines and training courses are not made available for local authorities in the affected Sre Ambel district, Koh Kong province, mainly due to budgetary constraints.

Regarding the case in Sre Ambel, the relevant laws have not been enforced by the government. The sub-decree on economic land concessions requires the government and local authorities to widely disseminate details of the development project and hold public consultations with affected communities before implementing the project. However, in the case of Sre Ambel, the residents have no access to information on the project proposed by the private company. They are not well informed. They are not aware of the project until the company started bulldozing their lands.

Having no access to information, the affected communities do not have an opportunity to participate in public consultation, since no environmental and social impact assessment was conducted. This has a very negative impact on the communities. Farmland is lost. There is no access to livelihood. Residents are at risk of environment pollution. Their health suffers because of the pollution from the sugar factory. They have diarrhea, vomiting, headache, fainting, skin diseases and other problems.

This impact is also caused partly by the local authorities who did not inform the stakeholders involved in the economic land concession. Information related to the case is controlled by the government and is considered confidential.

As of today, the information on the case is not widely made available to the public via national media. However, the involvement in disseminating such information by NGOs in cooperation with the local and international media is encouraged.
**vii. Summary of Case Study Indicator Findings and Conclusions for Access to Information**

The results in the Access to Information case involving emergency flood responses in 3S River were based on 24 indicators, with 16 good, 4 best, 3 intermediate, and 1 poor. See Figure 1 (below):

![Figure 1](image1.png)

**Figure 1**

Livelihood and Flooding Along 3S Rivers

Indicator Key
- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
- Orange: Poor
- Grey: No assessment made

With regards to Access to Information cases involving Information in an Emergency, it appears that government performance was best in the bird flu outbreak. The assessment was based on 37 indicators; 23 best, 10 good, and 3 intermediate. See Figure 2 (below):

![Figure 2](image2.png)

**Figure 2**

Bird Flu Outbreak in Cambodia

Indicator Key
- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
With regards to the Access to Information case involving Information from Regular Monitoring, (Air Quality in Phnom Penh, the results were mixed. The assessment was based on 22 indicators; with 1 best, 2 good, 7 intermediate, 10 poor, and 2 worst. See Figure 3 (below):

![Air Quality Monitoring in Phnom Penh](image1)

**Figure 3**

**Air Quality Monitoring in Phnom Penh**

Indicator Key
- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
- Orange: Poor
- Red: Worst
- Grey: No assessment made

With regards to the Access to Information case involving Information from Regular Monitoring, (Drinking Water Quality in Phnom Penh) the total assessment score was slightly below average. The assessment was based on 21 indicators; with 1 good, 8 intermediate, 4 poor, and 8 worst. See Figure 4 (below):

![Drinking Water Quality Monitoring in Phnom Penh](image2)

**Figure 4**

**Drinking Water Quality Monitoring in Phnom Penh**

Indicator Key
- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
With regards to the Access to Information case study involving Facility Level Information Monitoring, (Garment Factory Labor Conditions) the scores were mixed. The assessment was based on 20 indicators; with 1 best, 3 good, 4 intermediate, 4 poor, and 8 worst. See Figure 5 (below):

![Figure 5](image)

**Figure 5**

*Garment Factory in Kampong Chhnang Province*

**Indicator Key**

- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
- Orange: Poor
- Red: Worst
- Grey: No assessment made

With regards to the Access to Information case involving Facility Level Information Monitoring, (Mining in Mondulkiri Province) the total assessment score was mixed. The assessment was based on 35 indicators; with 3 best, 6 good, 14 intermediate, 8 poor, and 4 worst. See Figure 6 (below):

![Figure 6](image)

**Figure 6**

*Mining in Mondulkiri Province*

**Indicator Key**

- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
- Orange: Poor
- Red: Worst
- Grey: No assessment made
With regards to the Access to Information case involving Other Information Types, (Local Adaptation to Climate Change) the government performance indicators were best. The assessment was based on 37 indicators; with 24 best, 11 good, and 2 intermediate, See Figure 7 (below):

![Figure 7](image_url)

**Local Adaptation to Climate Change: Flooding along the Mekong**

Indicator Key
- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
- Orange: Poor
- Red: Worst
- Grey: No assessment made

With regards to the Access to Information case involving Other Information Types, (Economic Land Concession in Sre Ambel, Koh Kong Province) the total assessment score was below average. The assessment was based on 21 indicators; with 2 best, 1 good, 4 intermediate, 5 poor, and 9 worst. See Figure 8(below):
c. Public Participation

i. Importance of Public Participation

If policy makers make important decisions without consulting with those who will be affected, they can ignore any harm they may be causing. Effective laws and policies shall facilitate and encourage public awareness and participation by making relevant information available. Effective access to judicial and administrative proceedings, including redress and remedy, shall also be provided, in a way that respects privacy, confidential business information and does not impose undue financial burdens.

In this assessment, each of the six case studies focused on the relevant law(s) on public participation, and also analyzed public participation through the dual prisms of government effort and effectiveness. Two studies dealt with policy making and participation, two with regulatory decision making and two with project-level decision making.

ii. Assessment of Specific Statutory and Administrative Framework Supporting Public Participation

Public Participation in Cambodia’s Hydropower Development Plan

The Law on Natural Resources and Environmental Protection, which was enacted in 1996, takes consideration of the participation from all relevant peoples to ensure that resources are wisely used to sustain the development in Cambodia. According to this Law, one of the main objectives is to encourage and enable the public to participate in environmental protection and natural resources management.

Chapter VII of this law makes mention of public participation and access to information. Chapter III, Articles 16-18 encourage and promote information sharing among the concerned public and government ministries. This chapter specifies that the Ministry of Environment,
following a request from the public, shall provide information on its activities and shall encourage public participation in environmental protection and natural resource management.

Article 17 mentions: “The procedures for public participation and access to information on environmental protection and natural resource management shall be determined by Sub-decree following a proposal of the Ministry of Environment.”

The 1999 Sub-decree on Environmental Impact Assessment further emphasizes the importance and encouragement of public participation in evaluation of the impacts from proposed development such as hydropower and suggestions for better alternatives to minimize the risks.

This sub-decree states that “EIAs are required on various kinds and scales of projects”. EIA becomes a requirement on projects and investments that are submitted to the Council for Development of Cambodia (CDC) for approval. The sub-decree is an important instrument for linking environmental protection with development planning. Its implementation is overseen by the Department of EIA Review under the Ministry of Environment. Moreover, this 1999 sub-decree entails one of the objectives, which mainly encourages public participation in the implementation of the EIA process and take into account their conceptual input and suggestion for re-consideration prior to the implementation of any project. The objective of promoting the public involvement is alluded to, but the seven chapters of this sub-decree does not entail any motivation or approach to ensure good public participation.

Energy and power development are one of the priorities of Cambodian government since the 2nd political mandate of 1998. Electricity law is a response to this effort and was enacted in 2001, aiming at enabling favorable conditions for investments in, and the commercial operation of the electricity power industry; and also protecting the rights of consumers to receive a reliable and adequate supply of electricity power services at reasonable cost.

The Protected Areas Law was ratified in early 2008. This law aims at managing the public domains in protected area designated and new designated protected areas under MOE’s jurisdiction.

Chapter VI of this law highlights the recognition of the community rights to access information related to the protected areas and its management. Article 21 clearly states that. “Local communities, indigenous ethnic minority communities, the public and civil society are encouraged to participate fully in the provision of and access to information relevant to the protected area management conservation and development.”

For hydropower, water resources are the ultimate asset to be invested, and need more effective management in terms of multi-uses for other sectors such as irrigation, navigation, industry and household consumption. Cambodia is also endowed with water resources and the effort to manage them is overseen by the Ministry of Water Resources and Meteorology.

The Law on Water Resource Governance was finally approved in 2007 to effectively promote and ensure the sustainable management and governance of the water resources in Cambodia in order to fulfill the needs for health, and socio-economic development for Cambodians. The Ministry of Water Resource and Meteorology is an executive agency for the implementation and ensuring the best practices of this law. Several articles in this law do mention about promoting the participations from relevant people or agencies or other private sectors to be more active in assisting the appropriate and sustainable water resource utilization and management.
Chapter 1, Article 7 of the law states: “The corporation and participation from relevant agencies, private sectors, other beneficiaries, international and local non-governmental organizations, is encouraged by the Royal Government of Cambodia to invest, manage, conserve, and develop the water resources.” Additionally, Chapter 3, article 14 also highlights the public consultation prior to water-licensing by the authority to any individual.

Legislation in Cambodia includes the protection of rights of the people, but offer no clear mechanism or effective strategies to realize the commitments made in the legal commitments. How the public can come in and contribute to the processes of planning or decision making is still limited, especially for those uneducated, local, and low-social status citizens. For instance, the Environmental Protection and Natural Resources Law, 1996 provides for all projects to be subjected to environmental impact assessment (EIA) procedures.

**Climate Change Policy in Cambodia**

Cambodia submitted its National Adaptation Program of Action to Climate Change (NAPA) in March 2007 to the United Nation Framework on Climate Change (UNFCCC). Approved by the Council of Ministers in October 2006, the implementation of the NAPA is expected to contribute significantly to the Cambodia Millennium Development Goals (CMDGs) and national sustainable development objectives. The formulation of Cambodia’s NAPA relied on consultations from the grassroots level to policy-makers. A nation-wide survey of local authorities, NGOs, and more than 700 households was conducted in 17 provinces to identify coping mechanisms to climate hazards and climate change adaptation needs. The NAPA followed a participatory process involving the rural communities most likely to be affected by climate change. The prioritization of Cambodia's proposed activities for adaptation to climate change was validated through provincial and national consultations. Adaptation projects were prioritized according to criteria that included: improvement of livelihoods, food security, water availability, use of appropriate technology, responsiveness to immediate community needs, and sustainability.

**Sub-decree on Community Fisheries**

According to the sub decree of fishery of Cambodia, all members of fishing communities and villagers have equal rights in establishing and developing their community, or joining fishery conservation and managing water use. NGOs and community people have been participating in the fishery reform action; and the sub decree: “Guarantees that all members of the community fisheries have equal rights in the sustainable use of fishery resources as stipulated in the by-laws; implement the by-laws of the community fisheries; and formulate the community fishing area management plan (sub decree article 10) In cases of urgency and need, the community fisheries can request intervention by nearby competent authorities to seize evidence of the fisheries violation, detain the offender, and then send him or her immediately to a competent Fisheries officer to deal with the offense in accordance with the law (sub decree article 10)”.

**Small Scale Fishing Circular in Battambang Province**

Before the fishery law was enacted in 2006, the sub decree for community fishery development has been used for a part of the fishery sector in developing the role and duty of government. The sub decree provides a legal framework that makes it easy for Khmer citizens living in local communities to establish community fisheries and to improve the standard of living in order to contribute to poverty reduction in the country.
In addition, the government is singled out for its role and duty to support community fishery development. Community fishing area management plans shall be reviewed by the provincial/municipal Fisheries Office every year, or earlier if necessary, in order to report to the Department of Fisheries. Follow up, monitoring and evaluation of implementation of the community fishing area management plans shall be done with the participation of representatives of the community fisheries committees. The Department of Fisheries may require the community fisheries committee to revise the community fishing area management plan, in compliance with other legal instruments related to the fisheries sector, in order to ensure the sustainability of the community fishing areas.

The law and the sub decrees require national and sub national officers to establish a fishing policy and other trainings in order to analyze the environmental impacts and other activities affecting local people. However, the sub decree does not clearly state how many environmental officers they have in order to solve the environmental issues.

The procedures to form the Community Fisheries shall be determined by sub decree (Article 59, law 2006) According to the sub decree; the department of fishery shall cooperate together with villagers and local authorities to establish the community fishery; “A community fishery as mentioned in this Sub Decree is a group of physical persons holding Khmer citizenship who live in or near the fishing area, voluntarily established and taking the initiative to improve their own standard of living by using and processing fishery resources in a sustainable manner, and to contribute to economic and social improvement and poverty alleviation.

Public Participation in the IESIA Kamchay Hydropower Project
The Legal Framework examined in this case study is the same as in the study mentioned in the previous section.

The Inclusion of Indigenous Peoples in REDD (Reducing Emissions from Deforestation and Forest Degradation) Project in Mondulkiri Province, Cambodia
The Forestry Law was passed by National Assembly on 30 July 2002 The objective of this law is to ensure the sustainable management of the forests for their social, environmental and economic benefits, including conservation of biological diversity and cultural heritage. It also defines the framework for management, harvesting, use, development and conversation of the forests in the Kingdom of Cambodia. Article 4 does emphasize the inclusion of the public participation in decision making process for any efforts which may cause damage to the concerned population regarding the forest management.

The Sub-Decree on Community Forestry Management was enacted in 2003. As one of the objectives is “to establish procedures to enable communities to manage, use and benefit from forest resources, to preserve their culture, tradition and improve their livelihoods”. The word “local community” defined within this sub-decree refers to the minority ethnic community or a group of local residents with original settlement in one or more villages, where they live in or near state forest with their tradition, custom, religious belief, culture and subsistence depending on the harvest of forest and non-forest products and the basic use of those forest resources. Chapter 2, Articles 6-8 guarantee the rights of local communities to establish community forestry, and to assess and analyze the requirements or problems faced by local communities, and also involve in the formulation of a management committee of community forestry. Moreover, Chapter 3 further identifies the roles, duties and rights of community forestry in managing and governing of the community.
iii. Participation in Policy Making
The Assessment on Public Participation focused on two cases involving Participation in Policy Making. The findings were as follows:

Public Participation in Cambodia's Hydropower Development Plan
In reality, the progress in encouraging full participation is very slow. The case of the Energy Development Plan does not provide for much public participation, due to some essential challenges such as limited or no access to information for decision making among the key stakeholders (especially the local communities), no motivation from the responsible agencies, limited or no accessible channels to provide inputs or comments for the decision making process. The responsible agencies (particularly the government) do not exercise the proper public consultation among the key stakeholders.

Climate Change Policy in Cambodia
See Assessment of Specific Statutory and Administrative Framework Supporting Public Participation (ii. above).

iv. Participation in Regulatory Decisions
The Assessment on Public Participation focused on two cases involving Participation in Regulatory Decisions. The findings were as follows:

Sub-decree on community fisheries
See Assessment of Specific Statutory and Administrative Framework Supporting Public Participation (ii. above).

Small Scale Fishing Circular (Administrative Order)
See Assessment of Specific Statutory and Administrative Framework Supporting Public Participation (ii. above).

v. Participation in Project Level Decisions
The Assessment on Public Participation focused on one cases involving Participation in Project Level Decisions. The findings were as follows:

Public Participation in the IESIA Kamchay Hydropower Project
The study concludes that institutional structure plays an important role in ensuring effective public participation. Low quality Environment Impact Assessment (EIA) reports and participation relate to the absence of a unified, strong EIA structure. Simplifying EIA procedures, as well as identifying responsibilities between different departments would help reduce the load for the government, project owners, and consulting firms.

Project owners and consulting firms, which are presently responsible for all public participation procedures, cannot guarantee permanent information distribution and provision of active informing mechanisms. Furthermore, the quality of published information is often not adequate, hindering participation. Furthermore, the present EIA process design does not ensure adequate quality of public participation in decision making. Participation is implemented only through the procedure of public hearings and rare consultative meetings.

The Inclusion of Indigenous Peoples in REDD (Reducing Emissions from Deforestation and Forest Degradation) project in Mondulkiri Province, Cambodia
Existing policies and structures have been clearly inclusive, but are not really adequate. Cambodia has actively set up a strong working structure to work on REDD, though the policies do not specifying how REDD and its local mechanisms can be used to effectively work with local communities and partners. This is an area that needs to be improved in the process as Cambodia is just piloting the initiative. The internal capacity of executing agencies is limited in terms of REDD technicalities and effective mechanisms to both deal with conflicts and share the benefit among the peoples. There is a need to rapidly build the capacity of government staff and local communities. The capacity building for the practitioners and planners has not been widely exercised due to limited funds and strategies.

Participation of local communities is a core element and without it the whole process is biased and spoiled.

Some practical recommendations are suggested: 1) The government needs to ensure the timely and effective property delineation for local indigenous communities. 2) There should be an effort to continue building capacity for any relevant stakeholders in REDD processes and initiatives, especially indigenous peoples to ensure that they are able enough to own, manage, engage, and develop the communities with REDD initiatives. 3) Urgent effective legal enforcement is needed to reduce specifically external threats such as concessions or large-scale land investment which may affect the forest resources for carbon credits. 4) Benefit-sharing mechanisms must be set up, with full and effective participation from stakeholders and indigenous communities. 5) Information about REDD initiatives should be made more widely available to all stakeholders, with special provisions for indigenous peoples i.e. information translated in their indigenous languages. And, 6) a gender dimension is missing and there is a need to incorporate this consideration into future REDD designs to include the unique knowledge, skills and experiences of women in forest conservation.

Thus, the study strongly confirms that participation of the resource owners—indigenous peoples—is the key entry point for the success of REDD initiative in Cambodia. Cambodia is full of diverse resources and the locals are not well recognized and usually excluded from the development processes. REDD is very much relevant to the uses of those locals’ resources. Participation should be a frontline for any REDD implementation in Cambodia.

**vi. Summary of Case Study Indicator Findings and Conclusions for Public Participation**

With regards to Public Participation involving Participation in Policy Making, (Public Participation in Cambodia’s Hydro power Development Plan) the overall assessment was slight below average, and was based on 41 indicators; with 1 best, 5 good, 11 intermediate, 20 poor, and 4 worst, See Figure 9 (below):
With regards to Public Participation involving Participation in Policy Making, (Climate Change Policy in Cambodia) the overall assessment was above average, and was based on 41 indicators; with 3 best, 8 good, 18 intermediate, 10 poor, and 2 worst, See Figure 10 (below):

With regards to Public Participation involving Participation in Regulatory Decisions, (Sub Decree on Community Fisheries) the overall assessment was significantly above average, and was based on 39 indicators; with 4 best, 11 good, 20 intermediate, and 4 poor. See Figure 11 (below):
With regards to Public Participation involving Participation in Regulatory Decisions, (Small Scale Fishing Circular) the overall assessment was above average, and was based on 40 indicators; with 7 best, 11 good, 20 intermediate, and 2 poor. See Figure 12 (below):
With regards to Public Participation involving Participation in Project level decisions, (Public Participation in IESIA Kamchay Hydropower Project) the overall assessment was below average and was based on 41 indicators; with 2 good, 7 intermediate, 18 poor, and 14 worst, See Figure 13 (below):

![Figure 13](image)

**Public Participation in IESIA Kamchay Hydropower Project**

<table>
<thead>
<tr>
<th>Indicator Key</th>
<th>Description</th>
</tr>
</thead>
<tbody>
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<td>Dark Green</td>
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<tr>
<td>Light Green</td>
<td>Good</td>
</tr>
<tr>
<td>Yellow</td>
<td>Intermediate</td>
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<td>Orange</td>
<td>Poor</td>
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<tr>
<td>Red</td>
<td>Worst</td>
</tr>
<tr>
<td>Grey</td>
<td>No assessment made</td>
</tr>
</tbody>
</table>

With regards to Public Participation involving Participation in Project level decisions, (The Inclusion of Indigenous Peoples in REDD Project in Mondulkiri Province) the overall assessment was slightly above average and was based on 41 indicators, with 3 best, 6 good, 17 intermediate, 12 poor, and 3 worst. See Figure 14 (below):

![Figure 14](image)

**The Inclusion of Indigenous Peoples in REDD Project in Mondulkiri Province**
d. Access to Justice

i. Importance of Access to Justice
Justice is closely related to human development and poverty eradication, and as a basis for a human rights based approach to development.

A well functioning justice sector is a precondition to spur economic growth. However, access to justice is more importantly a means to prevent and overcome human poverty, by strengthening disadvantaged people’s choices to seek and obtain a remedy for grievances.

ii. Assessment of Specific Statutory and Administrative Framework Supporting Access to Justice
The assessment related to Access to Justice focused on case studies dealing with economic land concessions, investment projects, and land conflict cases, both in the rural areas and in the capital city of Phnom Penh. In addition to the specific statutes and regulations relevant to each of the case studies, portions of the Law on Environmental Protection and Natural Resources should also be used as a framework to review all Access to Justice cases.

These provisions, from Chapter VI deal with penalties. They include:

Article 20

For any person who commits a violation of the Ministry of Environment's requirements as specified in article 14 of this law\(^{19}\), the Ministry of Environment shall issue a written order requiring correction of the violating activities immediately or within a specified time period; or cessation of his/her/its activities until the violation has been corrected; or clean-up of the pollution immediately.

Article 21

Any person who does not permit or refuses to allow an inspector to enter [and] conduct an examination or inspection on the premises as stated in paragraph 1, Article 15 of this law shall be fined administratively from five hundred thousand Riel (500,000 Riel) to one million Riel (1,000,000 Riel), (125 USD to 250USD)\(^{20}\).

In case of a repeat offense, shall be fined from one million Riel (1,000,000 Riel) to five million Riel (5,000,000 Riel) or imprisoned from 1 month to 3 months, or both.

Any person who commits a violation of Article 20 of this law shall be fined administratively from one million Riel (1,000,000 Riel) to ten million Riel (10,000,000 Riel).

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\(^{19}\) Article 14 stipulates that: “A Project Owner must prepare an EIA report and must submit it to the Ministry of Environment and forward a copy to the Project Approval Ministry/Institution”.

\(^{20}\) 1USD = 4,000 Riel
Riel). In case of a repeat offense, shall be fined from twenty one million Riel (21,000,000 Riel) to thirty million Riel (30,000,000 Riel) or imprisoned from 1 month to 1 year, or both.

**Article 24**

Any environmental inspection official or agent who is negligent, fails to pay attention to, or fails to comply with the Ministry's regulations, or conspires with a violator or facilitates the commission of a violation, shall be subject to administrative sanctions or face prosecution before the court.

**Article 25**

The Ministry of Environment shall apply the provisions of Article 20 above for any person who commits a violation of a Sub-decree and other regulations related to the provisions of this law.

In case of recalcitrance, shall apply the provisions stated in Article 21 of this law.

**Investment Project in Kampot province**

Under the Constitution, Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties. The settlement of complaints and claims shall be the competence of the courts. Cambodia has three levels of court: the first stage is Provincial or Municipal court, where people can make a complaint or file a lawsuit, if they are not satisfied, they can reverse the decision by appeal to the Appeals Court, and then to the Supreme Court.

The Law on Environmental Protection and Management of Natural Resources guarantees the people’s right to participate and to access information on the environment. However, the law has never been adequately and properly applied, especially when it relates to economic land concession that requires an early environment impact assessment (EIA) prior to any concessions. There are several potential factors that could cause the law enforcement weak in this regard for instance; top decision-making approach, corruption allegations, inadequate operational costs to conduct impact assessment studies and the authority’s unwillingness. In practice, the affected communities rarely accessible and engaged in the public consultations or even make complaints against such inadequate application of the procedures.

The National Strategic Development Plan 2009-2013 states that the government will provide legal aid especially through the provision of lawyers to poor citizens to help to protect their rights and interests at the court and further promotion of the mechanisms for dispute resolution outside of the court system in order to improve and strengthen the culture of harmonious co-existence of people in peace and solidarity. Particularly, the Council of Legal and Judicial Reform, Ministry of Justice and other relevant institutions will actively engage in training citizens and establish legal and judicial information services for citizens at the municipal and provinces. This provision is very broad, as it does not specify a clear mechanism to ensure that citizens, especially those who are illiterate, will be able to understand the process. It also does not specify whether it is the obligation of the sub-national government (local authorities) to do so, since they are the ones who are close to the citizens.

There is no law that requires the government to build the capacity of the sub-national government officials to understand and facilitate citizens' rights within the justice system.
However, it was stated in the National Strategic Development Plan 2009-2013 that the Council of Legal and Judicial Reform, Ministry of Justice are responsible for providing technical support, guidance and capacity building for law enforcement and judicial officials including new laws enforcement. Related to this case, there is the sub-decree on the establishment of the sub-committee on investment of the provinces-municipalities. Article 9 states that Council for Development of Cambodia (national government), shall issue regulations on the actual practice and provide expert training to Sub-Committees on Investment (Sub-national government) so as to ensure the smoothness and effectiveness of the Sub-Committee’s functioning mechanism.

In Cambodia, there is no separate court for environmental issues. This issue will be brought to a normal court system, which is composed of three levels: provincial or municipal court, appeal court and Supreme Court. The first court does not provide a specific reasonable time frame to make a decision on a case, except during the appeal period, and other different phases identified under the Criminal Procedures Code and Civil Procedures Code. Depending on the nature of the cases; in either criminal or civil cases, the court proceedings consume a lot of time and vary from one to another for reaching the final judgment due to practical reasons or intentional delay. A case resolution is often based on the financial incentives of the case (which sometimes benefit the court personnel or commission staff’s own interests).

Regarding this case, the law does not provide any channel for people to complain about not being able to access information regarding the environmental impact assessment reports, as well as the time frame for decision making. The time frame provision of these laws and codes are not clear, which lead to long delays.

**Land Conflict Case in Ratanakiri Province**

Cambodian land law classifies land into five categories: state public property; state private property; private property; monastery property, and collective indigenous community property. A Sub-Decree on Procedures of Registration of Land of Indigenous Communities” has been adopted. In 2001 the National Assembly of Cambodia adopted a new Land Law containing articles that provided immediate protection for indigenous lands despite the absence of any implementing provisions. At the time of the purported transfer, these protections were echoed in the both the National Government’s Strategic Framework of Land Policy dated 6 September 2002 for protecting the rights of indigenous people.

The Royal Government has since reaffirmed its commitment to protect and promote indigenous peoples’ rights in Article 6.3 of Circular No. 02 on Illegal Possession of Sate Land Property dated February 26, 2007 and by signing the United Nations Declaration on the Rights of Indigenous Peoples. This latter declaration was adopted by the United Nations General Assembly Resolution 61/295 on 13 September 2007.

**Economic Land Concessions in Mondulkiri Province**

Article 9 of the Concession Law states that the Council for Development of Cambodia shall be the centralized service institution providing, on request, general information to potential investors regarding investment in Concession Projects in the Kingdom of Cambodia. The Council for Development of Cambodia shall make available copies to all potential investors of any laws and regulations of general application to Concession Projects in the Kingdom of Cambodia.

The Law on Environmental Protection and Management of Natural Resources, Articles 6 and 7 state that all the projects must make an Environmental Impact Assessment before the start of
implementation of project activities. However, most concessionaires who receive economic land concessions don’t follow the EIA process or submit an EIA report. They start the project without considering the social and environmental impact of the project, or they don’t provide real mitigation methodology to reduce the negative impact from their project.

**Land taking in Phnom Penh Dey Krahorm Community**

Under the spirit of the existing laws, there are two official venues for land disputes, namely: (1) Cadastral Commissions (at lower and national level) and the newly established National Authority for Land Dispute Resolution (created by government’s Sub-Decree for dealing with land cases beyond the jurisdiction of the Cadastral Commissions) and (2) Courts. However, there are other possible venues for parties in land disputes, especially those used by poor victims or communities who suffer from land grabbing by private companies or forced evictions by governmental authorities. These can involve interventions by such bodies as: (3) National Assembly’s Human Rights and Complaints Reception Commission, (4) Senate Human Rights and Complaint Reception Commission and (5) Prime Minister’s Cabinet. Each has different jurisdictions over the issue but only the court has jurisdiction over the land cases that involve legal titles. The Cadastral Commissions and/or National Authority for Land Dispute Resolution can deal only with land disputes that do not involve ownership titles. The Cadastral Commissions in particular has legal jurisdiction to register land throughout the country as part of the government’s policy and commitment to administer the land in Cambodia, but the process is very slow because it lacks capacity to resolve the cases in the timely manner and difficult to resolve land cases involving powerful persons.

In both land law and civil procedure codes of the Kingdom of Cambodia, there are provisions that maintain confidentiality of the information containing in the claim by the competent dispute resolution institutions including court and Cadastral Commissions at all levels although they have different competence to address the issue related to land disputes. For instance, Article 239 of the Land Law states that the Cadastral Commissions at all level are responsible before the law for land registration and specification of land and the maintenance of all documents. Due to strict confidentiality applied in almost circumstances, the access to information about the relevant case is in turn make it harder for the parties or public to be aware of the issues for example, contracts made between the government and private companies over the land economic concession and other development projects.

**iii. Access to Justice: Dial of Right to Information**

The Access to Justice / Dial of Right to Information included one case that involved a Kampot Province investment project. The findings were as follows:

**Investment Project in Kampot Province**

In one case a private development project has pumped sand into coastal fishing areas, in order to build a multimillion dollar resort. This sand pumping has negatively impacted the livelihoods of the residents in three villages and has destroyed mangroves, sea grass, the coastline, and in particular fishing areas that 90% of the residents rely on. The residents were not consulted beforehand regarding the possible negative environmental impact of the project, and the possible effect on the communities. They also could not access information regarding any environmental impact assessments.

The commune councillors have not responded to community representatives who have requested they organise a forum to discuss and disclose information about the development contract including the negative environmental impact. In contrast, they organised a forum to
share the positive points of the environment impact assessment and did not allow people to ask questions as they did not want to interrupt the development process.

Furthermore, based on the environmental protection and natural resource management law, article 16 requires the Ministry of Environment to follow up on a request from the public, provide information on its activities, and encourage public participation in environment protection and natural resource management. Community representatives in those areas reported that the government did not proactively disclose or disseminate information related to the development project especially the negative impact to the environment. In addition, the people did not know where they could file a complaint on this violation and seek such information especially the amendment of the investment law.

More than 300 villagers have filed complaints with the Kampot provincial governor to stop a private company from developing the coastal fishing area. They filed complaints to with the national government and prime minister to seek intervention and requested release of important information because they did not believe that authorities in the provincial governor’s offices could resolve these issues. So far, complaints have not been solved and have not been sent to the court.

Currently, there has been no final decision made by the government or the company. The development project is still pending however the poorest people have started leaving their homeland to seek jobs to support their family, since they have no income as they cannot access their fishing areas. The people expressed that the action taken by the Government did not fully take into account the public benefits and interests. The government did not establish a clear mechanism and procedure to access the information in order to ensure the community had access to justice. Instead, they were intimidated in various forms including the warning to active claimants, following up all activities they had done and threatening them with jail if they kept complaining.

iv. Access to Justice: Denial of Right to Participation

The Access to Justice / Denial of Right to Participation included one case that involved a Land Conflict Case in Ratanakiri Province. The findings were as follows:

Land Conflict Case in Ratanakiri Province, even though in practice, there are sufficient laws and regulations which are applicable to the dispute, no resolutions have been made as of today with regard to the land conflict in Ratanakkiri province. While the complaints were lodged by the affected community, court staff never took action as they might be under potential pressures from the rich and powerful persons involved in the land disputes. The community’s participation in the access to judicial and administrative forums has been prolonged. Their civil and criminal actions in relation to the land dispute are pending because the responsible agency always delays their forum. Consequently, no resolution has been made for the community. In summary, this land dispute case clearly shows the improper law enforcement by the court officials and provincial authorities in dealing with the disputes and the judicial claims filed by the affected community against the alleged perpetrators.

v. Access to Justice: Claim for an Environmental Harm

Economic Land Concession in Mondulkiri Province

The Access to Justice / Claim for an Environmental Harm included one case that involved Economic Land Concession in Mondulkiri Province. The findings were as follows:
The economic land concession in Mondulkiri province shows that the responsible agency does not make any planned and pro-active effort to respond to the claims of the minority or disadvantaged groups such as indigenous communities. Claims on environmental harm which have eventually affected their rights to adequate housing, livelihood and environmental protection go unheard. When dealing with economic land concession, under the law and other provisions, the Royal Government of Cambodia, indeed, should also take into consideration of international standards with regard to prevention of forced evictions. Most importantly, the case elaborates that the government fails to respect the international and national laws relating to indigenous people. For example; the necessary requirement of proper consultations with affected communities prior to any concession or suspension of any existing economic land concessions (ELCs) if it strongly affects the livelihood of the community people.

Despite, these improper uses of the laws and provisions to protect the rights of the minority or disadvantaged groups, the affected community leaders, who had been courageous to challenge the private company (that was granted concession), faced unjust criminal charges for legally claiming their economic, social and cultural rights. The same case also indicates that despite their legal rights were violated, the poor communities do not get significant benefits from the economic land concessions in their communities from the local authorities or the private concessioner company.

Communities affected by economic land concessions also face pressure from concessionaires and local government officials to accept the presence of the concessions, and to stop their protests. Companies have tried to ‘buy off’ communities and families by throwing parties, giving gifts and offering money. This has led to divisions within some communities, and this pressure has the potential to lead to conflict within communities. Community members find themselves in a difficult position, facing the loss of their land and struggling to find ways of providing for their families.

Community members and non-governmental organizations (NGOs) raising concerns about the impacts of economic land concessions have faced restrictions on their freedoms of movement and assembly, and pressure from companies and local authorities. For example, since communities mobilized to protest against the Wuzhishan concession in Mondulkiri province, community members have been required to seek permission from local authorities in order to leave the province, particularly to attend meetings organized by nongovernmental organizations.

vi. Access to Justice: Other Types

Other types of Access to Justice cases included one case that involved land taking in the Phnom Penh Dey Krahorm community. The findings were as follows:

**Land Taking in Phnom Penh Dey Krahorm Community**

The lack of access to information and participation from various stakeholders, particularly the affected people and civil society when making public policies and plans, makes it very hard to adequately measure the successes and effectiveness fulfilled by the government. The implementation and enforcement of the laws and other regulations in this case are not viewed as properly as they should be due to the government’s failure to prevent human rights violations, especially rights to housing protected under the Constitution and Land Law.

The selected case study elaborates that both Phnom Penh Municipal authorities and the Court, the institutions that should have competence, failed to execute their access to justice responsibilities. The Municipal authority did not consider its violent actions as forced “eviction” which is prohibited under the Law, unless fair and appropriate compensation is
settled first, but rather based their actions on a policy of beautification of the city. They did not prevent human rights violations, but instead they assisted the company by using force and intimidation against the community claimants. Similarly, the Court has never taken into consideration resolving the claims filed by the villagers as it is viewed by the community villagers as not independent and corrupted, and in favor of the company and the Municipality.

Several local NGOs in the selected case, have actively engaged in this case, in order to empower and assist the community. This has been done through various legal and humanitarian support given to the Dey Krahorm community to facilitate access to justice. Yet with their limited capacities, the NGOs could not help these affected villagers to fully access justice or seek proper redress that the court and the authorities. In addition, in fulfilling their independent and humanitarian work, the NGOs were sometimes also threatened or suppressed by the local authorities, especially after the evictions.

vii. Summary of Case Study Indicator Findings and Conclusions for Access to Justice
With regards to Access to Justice, Denial of right to information involving a Kampot Province investment project, the overall assessment was below average, and was based on 24 indicators; with 2 good, 7 intermediate, 10 poor, and 5 worst. See Figure 15 (below):

![Figure 15](image)

**Investment Project in Kamport Province**

<table>
<thead>
<tr>
<th>Indicator Key</th>
<th>Status</th>
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<tbody>
<tr>
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<td>Red</td>
<td>Worst</td>
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<tr>
<td>Grey</td>
<td>No assessment made</td>
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</tbody>
</table>

With regards to Access to Justice, Denial of Right to Participation, (Land Conflict in Ratanakiri Province) overall assessment was slightly above average, and was based on 32 indicators; with 8 best, 8 good, 5 intermediate, 3 poor, and 8 worst. See Figure 16 (below):
With regards to Access to Justice, Claim for an Environmental Harm involved an economic land concession in Mondulkiri province.

In the Economic Land Concession in Mondulkiri Province case, the overall assessment was somewhat below average, and was based on 41 indicators, with 5 good, 23 intermediate, 9 poor, and 4 worst. See Figure 17 below:
With regards to Access to Justice, other involved a case on land taking in the Phnom Penh Dey Krahorm Community.

In the land taking in the Phnom Penh Dey Krahorm Community, the overall assessment was somewhat below average, and was based on 41 indicators, with 1 good, 25 intermediate, and 15 poor. See Figure 18 below:

![Figure 18: Land Taking in the Phnom Penh Dey Krahorm Community](image)

**Indicator Key**
- Dark Green: Best
- Light Green: Good
- Yellow: Intermediate
- Orange: Poor
- Red: Worst
- Grey: No assessment made
III. CONCLUSION

Access to Information
One common thread among the cases involving Access to Information was that those cases involving non controversial or sensitive domestic issues, such as those dealing with the bird flu outbreak, flooding, and climate change received higher score assessments from the researchers. Natural disasters and crises, such as disease outbreaks and flooding have a great impact on rural communities. Also, in these situations, the potential for panic and rumor, which can potentially lead to social unrest. The government therefore appears more willing and able to proactively provide the public with the requisite information in these cases.

On the other hand, those cases involving issues dealing with economic land concessions, mining projects, and the garment factory, often involve clashing economic interests, as well as power imbalances between parties (such as poor rural villagers, factory workers and wealthy/powerful economic interests).

Those cases that involved issues in which there is no apparent immediate crisis or emergency, and which there was little apparent public awareness or interest, (such as city air quality monitoring and city tap water quality) received average or slightly below average scores, mainly due to a lack of proactive effort by the relevant agencies to provide information to the public. Some of this can be attributed to a lack of knowledgeable and trained staff, but can also be due to governmental budgetary constraints, which can impede the timely and accurate release of information to the public.

Public Participation
One common thread among the cases involving Public Participation was that those cases involving policy frameworks or administrative orders scored higher that those dealing with actual practice or policy implementations, such as the case dealing with inclusion of indigenous peoples in Deforestation and Forest Degradation. Cases involving large projects, such as hydroelectric power projects, also received lower assessment indicators. This would indicate that government agencies lack the resources and training to effectively implement participation. Or, it could also indicate a lack of will of the government to encourage public participation, particularly in large scale infrastructure projects.

As with the public participation cases, non controversial or sensitive domestic issues, such as those dealing with fisheries and climate change policy received higher score assessments from the researchers.

Access to Justice
In the Access to Justice cases, the legal frameworks provided broad support for the principles of access to justice, both in the constitutional level, statutory level, and executive level or sub decree level. Yet in practice, these rights were not enforced or provided through proactive efforts by the courts and / or governmental authorities. This was especially true in large land and development projects, which are promoted by wealthy and powerful interests. According to the case studies, courts and governmental authorities are often unwilling or unable to provide ordinary citizens with the opportunity to bring complaints, receive redress, or consult with governmental authorities and developers regarding the social, environmental, and economic impacts on community livelihoods and health.
IV. RECOMMENDATIONS

Access to Information

1. The law on the Access to Information should be adopted with international standard in Cambodia.

2. To enable public access to accurate information a simple and open mechanism should be used which makes available information on all economic land concessions granted and proposals under consideration, including concessions not exceeding 1,000 hectares of land. Information should include location, size, use and status of concessions, and comply with the requirements of the Sub-Decree on Economic Land Concessions. This information should be made available at a local level. Government should publish information beyond the current legal requirements on the internet. This includes information related to their functions, the type and form of records held, relevant laws and policy documents, audited accounts, services to the public, achievements and so on. In the case of Cambodia where even senior civil servants often find it difficult to obtain official documents and hold on to their hard copies, it would be unrealistic to expect the general public to have access to reports, studies, EIAs, gazettes or laws in print. As a result of advances in information technology it is possible to maintain basic websites for all public institutions, to provide meaningful information in electronic format which is regularly updated.

3. The governments of the Mekong River should improve access to information and the involvement of communities in decision making. The notification system should similarly be improved to use more advance technology that is accessible to local communities.

4. Development of information, education and communication materials should be targeted to the public on the right issues and address the root causes of environmental emergencies. With specific regard to indigenous and local communities, efforts should be made to provide information in the different languages and dialects spoken in the national territory. In addition, it should be ensured that information is also made available in remote areas, possibly with the collaboration of local authorities. In areas of high illiteracy rates, non-print media such as the radio should be used. When working with communities, special attention should be paid to the fact that they may have power and gender structures of their own, and every possible effort should be made to support gender equity without being disruptive. Project or activity proponents should take the initiative in disseminating information to potentially affected persons about their legal rights and the modalities of exercising them. Concentration of information activities matching the annual and monthly seasonal availability and accessibility by a farming household in Cambodia and technical pre-conditions (equipment) for effective disclosure of information both at sub-national and national levels should be included in information requirements and supported in budgets to further improve the government development plans.

5. A mechanism for air quality data dissemination should be made available to the public by any of the following (1) place notices in public areas in order to keep the community informed about current and trends of air quality in the city, (2) a monthly report in the newspaper (3) posting on the Ministry of Environment and Ministry of Public Transport’s website. Offering encouragement or incentive to field staff who collect air quality data in order to produce reliable data regularly.
Civil society and the media should pay more attention on environmental problems especially air pollution, as it is vital for human health. By doing this it is more likely to reach the mass public.

More publicity on the drinking water quality in Phnom Penh and other cities in Cambodia to the public through the media. An upgrade of the existing resource center for public research, making more documents and reading material available in libraries and resource centers and greater cooperation between public, private institutions and civil society to promote water quality information to the public.

Access to public information from the government should be free of charge or at a minimal cost which is clearly stated and disseminated to the public.

Local communities [especially those who are most likely to be affected] should demand information relating to a project, specifically the compensation and resettlement plan which the company has to consult with. There are no grounds for asking the local communities to believe in hearsay about the project unless there is a formal meeting or discussion between the company, local authority and the communities.

There is a need to strengthen the demand for accountability and build civic competencies. There is also a need to empower people (the public) to “be heard”. Media is not fairly treated and people are easily confused due to their unclear position. It is also important to note that the media is normally perceived as a partner of convenience, expected to report only on successes and praise achievements. The public bodies should encourage independent and balanced journalism to lay the foundation for informed social, economic and environmental choices.

There is a need to break the culture of secrecy amongst Cambodians. This requires successfully building trust amongst better informed citizens to participate in decision-making processes. Thus the public will better understand their role, which in turn should reduce friction, misunderstandings and unwarranted criticism. As a result, officials will have better and more comprehensive information upon which to base their work.

A capacity building programme on access to information, especially for government officials who are responsible for disclosing and disseminate public information should be initiated.

Public Participation

1. The government’s legal and policy framework: plans, policies, sub decrees and laws should be open for public participation and involvement in decision making from relevant stakeholders and should be published and distributed nationwide to the public.

2. Public participation in regulatory decisions has been mentioned in some existing Cambodian legal frameworks but there was very limited enforcement. Government agencies should take action to enforce legal frameworks to promote public participation.

3. Public awareness is strongly needed in the Cambodian environmental legal framework, around regulatory decisions and project level decisions.

4. The initial environmental and social impact assessment process should be reviewed to ensure that any potential consequences from the proposed development project are minimal. A clear process of promoting public participation of key stakeholders should be clearly included in this revision to ensure the proper assessment of environmental and
social values. Together with this guideline, The Corporate Ecological Service Review (ESR) or Corporate Social Responsibility (CSR) should also be made for the purpose of standardizing the assessment.

5. The Cambodian government should review recommendations from the World Commission on Dams for the purposes of integrating best practices for hydropower development into Cambodia’s energy sector. As well as policies regarding effective public participation and the minimization of the hydropower development impact on the environment and communities.

6. The government institutional structure must be well set and empowered through institutional capacity building, combating corruption, and enhancing justice. Policies should be well written and focus on a participatory approach to the implementation mechanisms needed to be clearly integrated.

7. The government and private sector should identify key persons to address queries or problems during IESIA and the project. The environmental and social impact is a priority and must be addressed by the government and private companies. Though IESIA is not participatory but already approved, the strategic implementation and monitoring plan should be participatory and efficiently carried out, especially the compensation plan for the possible damages.

8. In terms of public participation, some development projects have not employed the national, regional or global recognized best practices for participation. Both the government and private companies should be more proactive and participatory oriented at the commencement of the project and especially during the construction, operation and transfer phases.

9. Due to the limitation of Cambodia’s resources, foreign investment should demonstrate a commitment to help Cambodia enhance and strengthen the local legislatives and preferably adopt the best practices of recognized standards of investment (including the public participation of the key stakeholders).

10. Transparency and accountability for both the government and local and foreign investments need to be considered and enhanced at the commencement of the project. This can be done by participatory investment bidding, and disclosure of information about the project. The government of Cambodia needs to ensure this acknowledgement within the policies and its implementation.

11. Local communities need to become better informed and involved in understanding the proposed activities of the companies and local authorities in order to keep track of what is happening and what is going to happen. Be ready for any participation regarding the project. Often, report to the company (if possible) or the local authorities or the local NGOs about what is affecting livelihoods and the natural resources. Always seek advice and comments from local authorities or NGOs in regard to the impacts of the project.

12. The Government should offer more substantive, systematic dialogue between CSOs and development partners, using existing mechanisms eg Cambodia Development Cooperation Forum and Technical Working Groups, etc. The Government should be open and receptive to ongoing and ad-hoc communication with civil society organizations during which ideas are heard and respected.

13. More public consultations/dialogues and hearings need to happen among the affected people, private companies and the government agencies in order to avoid conflict, as well as balance the benefit of sustainable natural resource management.
Access to Justice

1. Strengthen law enforcement and implementation in a fair and accountable manner, particularly the Law on Environmental Protection and Natural Resource Management, The Land Law, Law on Mineral Resources Management and Protection, The Forestry Law, The Fishery Law, Law on Governance of Water Resources, Labor Law, Organic Law, Sub-Decree on Environment Impact Assessment Process, Sub-decree on Addressing the Socio-Economic Impacts of Development, The sub-decree on Air Pollution Control and Noise Disturbance, Sub-Decree on Fishing Lot Cancellation, Sub-Decree on Community Forestry Management, Civil Procedure Code, Criminal Procedure Code; Sub-decree on Procedures of Registration of Land of Indigenous Communities, Sub-Decree for Economic Land Concession, Royal Degree on National Authority on Land Dispute Resolution…etc. The Government should enhance its legal and judicial reform mandate, especially the much-needed training of its officials on the access to justice procedures, and available resources and services to which anyone can access when he or she has any problem.

2. The judiciary should act independently and impartially when hearing a case to ensure that the rights of all parties are fully upheld and equally addressed. As well as watching/monitoring to ensure court-case procedures are respected by the public including the media.

3. The raising of public awareness on access rights and laws related to environment and natural resource and complaint mechanisms should be done to ensure the understanding and accessibility for affected people, vulnerable groups including illiterates and minority groups.

4. The Government should establish a mechanism to enable communities or their representatives to initiate actions or challenge the validity of a private companies’ license. As well as challenging economic land concessions for mining or plantation and participatory monitoring of the private companies’ compliance, and call for their review or cancellation. Ensure that all new economic land concessions, including those that do not exceed 1,000 hectares, comply fully with the provisions of the Land Law and Sub-Decree on Economic Land Concessions. In particular, ensure that public consultations and genuine environmental and social impact assessments are conducted prior to granting concessions, with the effective participation of local populations. Assist families in rural communities to register their interests in land, in accordance with the Land Law. Review all existing economic land concessions for compliance with the Land Law, Sub-Decree on Economic Land Concessions and concession contracts, and ensure they do not encroach upon land possessed and used by communities, including forested areas.

5. The Government has to urgently adopt a national housing policy and properly implement the 2001 Land Law, particularly in accordance with the internationally accepted principle of the rights to adequate housing.

6. The Government should try to avoid forms of forced or violent evictions. If inevitable, it should be carried out only as a last resort, after the resettlement and relocation is properly addressed in advance. Full participation and consultation ahead of any forced eviction involving the community, the company, and authorities must be made in an open and transparent manner and fair compensation must be also provided. The government provides communities with remedies to deal with the past, present and future impacts of the development projects.
7. Neighboring governments should negotiate a long term agreement on cross border water management issues and natural resource issues to establish a concrete process or mechanism for resolving claims and determining appropriate redress. This should include specific timetables so as to avoid further delays which have plagued the issue to date.