



Case Study on Food Security, Livelihoods and Customary Tenure Recognition in Cambodia



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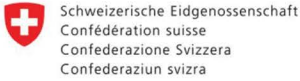
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Table of Contents

List of Tables & Figures	... i
Acronyms and Abbreviations	... ii

01 OVERVIEW	
1.1 Situation of the Livelihood, Food Security, and CT Recognition in Cambodia	... 1
Obtaining collective land title	... 2
1.2 National Policies on Livelihoods, Food security, and CT recognition in Cambodia	... 2
Livelihoods and Food Security	... 2
Sub-decrees on Economic Land Concessions (2005) and Social Land Concessions (2003)	... 3
CT Recognition	... 5
1.3 National commitments/ declarations related to VGGT, RAI, and SDG with respect to Livelihoods, Food security, and CT recognition in Cambodia	... 6
VGGT	... 6
CSDG	... 7
FPIC	... 8
RAI	... 8

02 COMMUNITY CASE STUDY	
2.1 Customary Tenure norms in the Communities	... 9
Customary Tenure of Indigenous Bunong in Kbal Romeas village, Kbal Romeas commune, Sesan district, and Stung Treng province	... 9
Customary Tenure of Indigenous Kui in Bangkeoun Phal village, Romtom commune, Rovieng district, Preah Vihear province	... 11
2.2 Livelihoods and food security situation in select communities (situation, opportunities and threats)	... 12
2.3 Description and analysis of links between CT norms and livelihoods and food security objectives	... 12

03 RECOMMENDATIONS	
Best practices for replications	... 13



List of Tables

Table 1. Communities involved in the study	... 8
Table 2. Types of land and corresponding remarks	... 10

List of Figures

Figure 1. Kbalromeas Community Map	... 9
Figure 2. Bangkoeun Phal village map	... 10



Acronyms and Abbreviations

ASMP	Agricultural Sector Master Plan
CLT	Collective Land Title
CPA	Community Protected Area
CT	Customary Tenure
EIA	Environmental Impact Assessment
ELC	Economic Land Concessions
FAO	Food and Agriculture Organization of the United Nations
MoI	Ministry of Interior
NSDP	National Strategic Development Plan
NTFP	Non-Timber Forest Products
RAI/CFS	Responsible Investment on Agriculture and Food Systems
SDC	Swiss Agency for Development and Cooperation
SDG	Sustainable Development Goals
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VGGT	Voluntary Guidelines on the Governance of Tenure
VNR	Voluntary National Review



Overview

1.1. Situation of the Livelihood, Food Security, and CT Recognition in Cambodia

Agriculture has the potential to be an engine for economic growth and food security in Cambodia. However, productive assets such as land and other natural resources have been widely destroyed. Land issues have increased since the country adopted a free market economy in the early 1990s. Privatization, large-scale infrastructural development, tourism, foreign investment, and agro-industry have led to heightened pressure on the availability of land for poor local people. This resulted in the increasing trend of large-scale land acquisitions, inadequate protection of land rights, and a high incidence of disputes.

According to Open Development Website, there is a record of 286 economic land concession, 297 mining concession, and 46 special development zone by May 3, 2016. The transfers of land to external investors and users, both foreign and domestic, significantly affect local communities' existing livelihoods and opportunities for development in both positive and negative ways.

Generally, land is a vital productive asset and the primary source of livelihoods, especially for rural low-income families. In Cambodia, about 75% of people earn their income mainly from agricultural production, so access to land is a major issue in attempts to reduce poverty and social inequity. In particular, this form of globalization is challenging the livelihoods of the indigenous peoples in Cambodia. Indigenous communities comprise about 1.4% of the population, and reside mainly in the northeast of the country, which is a thinly populated area with extensive forest cover and natural resources coverage. Indigenous communities rely essentially on customary land rights that are not registered thus enjoy only limited protection from the state. Making land available to investors for commercial crops and cattle raising threatens traditional cultivation agricultural practices and the livelihoods of indigenous peoples based on forest, natural resources, and non-timber forest products (NTFPs). It has been argued that the issuing of economic land concessions and mineral concessions amounts to the violation of the rights of indigenous peoples (NGO Forum, 2008).



Collective land rights take multiple forms in Cambodia, the most prominent of which is the collective land title available to indigenous communities. Indigenous communities in Cambodia have strong cultural, spiritual, and economic ties to the land with distinct cultural identities. Although the Cambodian government recognizes collective land rights in its land law 2001, issuing land titles for indigenous communities has been slow and fully aligned with the customary land use of the indigenous peoples. Some communities have worked for 4–8 years with significant help from NGOs before achieving collective land titles. NGOs have claimed that this slow progress has resulted in the degradation of the land and natural resources, affecting heavily indigenous communities' livelihoods and food security.

Obtaining collective land title

The Land Law of 2001 recognized the collective land titles for the indigenous peoples. By 2009, Sub-decree No. 83 on Procedure of Registration of Land of Indigenous Communities was developed and put into practice. The sub-decree No.83 does not align well with the indigenous customary land use in the country, which recognizes only five types of land: residential land, actual farm land, sacred forest, shifting cultivation land, and buried sites of the indigenous peoples. However, Sub-decree No.83 provides the framework by which indigenous communities can acquire collective title. This involves three stages:

- a. The Ministry of Rural Development issues a letter of recognition that the community is an indigenous community. (As of January 2021, 152 communities had achieved this).
- b. The Ministry of Interior registers the community as a legal entity. (150 communities have achieved this).
- c. The Ministry of Land Management, Urban Planning, and Construction surveys the land and ultimately issues titles. (30 communities have been granted land titles).

1.2. National Policies on Livelihoods, Food Security, and CT recognition in Cambodia

The RGC has a long-term vision of transforming Cambodia into an upper-middle-income country by 2030 and a high-income nation by 2050. In this connection, the RGC also aspires to modernize the agricultural sector to become competitive, inclusive, and resilient to climate change, achieving environmental sustainability. This can increase farmer household incomes, and create prosperity and welfare for the Cambodian people through the new scope and approach. This can catalyze the shift from 'extensive' to 'intensive' farming by focusing more on productivity enhancement and agricultural diversification, which has a lot of potential and market demand, including livestock farming and business aquaculture.



The Agricultural Sector Master Plan (ASMP) 2030 was prepared in accordance with the long-term vision of the RGC, and in line with the RGC's development policies and strategies. The main targets to be achieved in this master plan consist of (1) increasing the agricultural growth by around 3% to 4% per annum, from 21,913 thousand million Riel in 2018 to 31,852 thousand million Riel by 2030; and (2) increasing the agricultural labor productivity from USD 1,839 in 2018 to USD 4,625 per capita per annum by 2030.

Therefore, the Ministry of Agriculture, Forestry and Fisheries has identified its central strategic policy to achieve the agricultural development target in the next ten years. This policy aims to increase agricultural growth with high competitiveness by providing high-quality services that result in a secure and safe food supply, considering sustainable land, forestry, and fisheries resource management.

The Ministry of Agriculture, Forestry, and Fisheries is strongly committed to implementing the Agricultural Sector Master Plan 2030 by executing its defined actions stipulated in the Master Plan. The fruitful results will be achieved efficiently and effectively with the increase of domestic financial support and external assistance from development partners, and the involvement of concerned stakeholders in speeding up the implementation of this Master Plan.

Sub-decrees on Economic Land Concessions (2005) and Social Land Concessions (2003)

There is also no specific recognition of customary claims in the 2005 Sub-decree on Economic Land Concessions. Article 4 requires prospective economic land concessions (ELC) to carry out an environmental and social impact assessment, prohibits involuntary resettlement of lawful landholders, and requires public consultations with territorial authorities and local residents (RGC, 2005c). These provisions, however, have only been superficially implemented. Customary tenure is also little considered in the Sub-decree on Social Land Concessions beyond requiring a social and environmental impact assessment (Article 9) and giving preferential treatment to an applicant who has lived in the area for some time (Article 11) (RGC, 2003). Sub-decree on Environmental Impact Assessment (1999)

The 1999 Sub-decree on Environment Impact Assessment (EIA) does not mention the need to consult with local communities. A proposed draft of EIA Law to replace the existing Sub-decree seeks higher standards for assessing development project impacts, including strengthening public consultation and evaluating effects on local communities. However, the passing of this legislation has been delayed while a more comprehensive Environmental Code is completed (see section on 'Improved Policy Opportunities for Customary Tenure Recognition'). Article 30 of the draft EIA Law requires consultation with communities and identifying areas with cultural and social significance.



Article 31 further requires focusing on issues raised by women and the most vulnerable. Assessments for resettlement also require “that compensation for lost assets is fair, suitable and acceptable as equivalent to the market price” (Article 32). Assets are undefined but presumably could include customary land and resources. Article 24 is the only article that addresses explicitly customary rights among ethnic minority groups, calling for “strong heed and special considerations” to “avoid negative impact on the custom, tradition, culture, livelihood, and the property of ” these groups. NGOs, however, have raised concerns that the current draft of this law allows projects to go ahead if there is still disagreement with local groups after a “free, prior and informed consent” process (Muyhong and Baliga, 2015).



Sub-decree on Organization and Function of the Cadastral Commission (2002)

The 2002 Sub-decree on Organization and Functioning of the Cadastral Commission is a further reference to the recognition of customary tenure but has generally not been made use of to strengthen customary claims. This commission is tasked with resolving disputes over untitled land. Article 5 allows for including representatives of village authorities and/or local elder trustees to join as ad hoc members of the District/Khan Cadastral Commission. Interestingly, Article 6 states that “disputes conciliation shall be conducted following customary rules along with cadastral techniques.” Legislation related to decentralization such as the Organic Law (2008 – on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans) and the 2001 Law on Commune/Sangkat Administrative Management both enshrine the principle of decentralization and mandate subnational levels to prepare management plans in protecting land and natural resources. The Organic Law also mandates the sub-national councils to mediate local land conflicts. While there may be opportunities to use these laws to promote customary rights and management, the powers of both of them over customary resources appear weak.

There are still many locations in Lao PDR where a “traditional” food system is practiced. In some remote villages, households source their food seasonally through a combination of agricultural production, foraging, wild food sources and local marketplaces. With the disappearance of forest coverage and an increasing population, these traditional food system choices and diets are changing as access to wild foods declines, often being replaced by less nutritious food products. Securing these traditional food systems that primarily provide for the most vulnerable communities in Lao PDR should be a key consideration in transitioning to a nutrition-centered approach to food, focusing on the nexus between accessing food and the increasing risks of zoonotic diseases (UN Laos, 2021).

Customary Tenure (CT) Recognition

Customary tenure (CT) is a system of means, local rules, institutions, and practices governing the access, use, and management of land, forests, fisheries, and other resources, which have gained social legitimacy over time and use and become embedded in the fabric of society.

As mentioned in the 2001 Land Law, collective land titling for indigenous communities recognizes Indigenous Communities and their right to claim a collective land title (CLT) over their customary lands, albeit with some significant exclusions as explained below. Article 23 recognizes land management according to traditional customs, even before titling, and Article 25 allows for the communal titling of lands where indigenous communities carry out traditional agriculture. Communal landowners have “all of the rights and protections of ownership as enjoyed by private owners” (Article 26). This includes the right of transfer if the community decides to. However, land classified as ‘state public land’ that is included in the title cannot be transferred (e.g. burial grounds, spirit forests and reserved land). Traditional authorities are given the responsibility for exercising the community’s ownership rights according to their customs (Article 26). The community is also required to allocate an “adequate share of land” to a community member who wishes to leave the community “for the purposes of facilitating the cultural, economic and social evolution of members” (Article 27).

From this, communal land titling, in the eyes of some government officials, is a temporary measure to allow indigenous communities to evolve and slowly assimilate into mainstream society. A 2009 Sub-decree on Indigenous Communal Land Registration specifies the lands eligible for inclusion in a CLT and outlines the procedures for registration and titling.



Eligible land includes residential land, agricultural land, fallow or 'reserve' land used for shifting cultivation, spirit forests, and burial grounds (Article 6). Importantly, forestland, which is classified 'state public land', cannot be included in communal titles. Moreover, spirit forests and burial grounds, also classified as state public land, are limited to seven hectares each. The sub-decree also differs slightly from the Land Law, which recognizes indigenous communities as the traditional owners of their land. In the sub-decree communal land is an allocation of state land. Again, this differs from international agreements such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Voluntary Guidelines on the Governance of Tenure (VGGT), which recognize customary indigenous land and resources as legitimate rights not requiring land allocations by the state.

1.3. National commitments/ declarations related to VGGT, RAI, and SDG with respect to Livelihoods, Food security, and CT recognition in Cambodia

Voluntary Guidelines on the Governance of Tenure (VGGT):

Endorsed in 2012 by the Committee on World Food Security after a participatory process of consultation and negotiation, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) represent an unprecedented international consensus on tenure governance. The VGGT is the international global instrument on tenure and a key accepted reference point for responsible practices that can be used by different actors working on the land tenure, fisheries, and forests.

In Cambodia, the Ministry of Environment organized a four-day national workshop on the VGGT from the 5th to 8th of June, 2018, in collaboration with the Food and Agriculture Organization of the United Nations (FAO) and with the support of the Swiss Agency for Development and Cooperation (SDC). H.E Kim Nong, Deputy Director of the General Directorate of Administration for Nature Conservation and Protection of the Ministry of Environment, stressed in the opening ceremony that "the rapid growth of population and the declining of natural resource in both quality and quantity leads to many problems that can impact food security. The government of Cambodia does prioritize the land tenure issue. As FAO is bringing a new lesson and tool to us, I hope we can absorb new knowledge about these VGGT and generate an instrument to work and support the government to deal with this problem."

In practice, there is no real evidence of implementing VGGT. A lot of land were given away to economic concession projects to the detriment of local farmers. Lack of consultation, disclosure of information, and not following FPIC principles for those development caused many land disputes in Cambodia.



Cambodia Sustainable Development Goals (CSDG)

Cambodia enthusiastically supports the agenda set out by the Sustainable Development Goals (SDGs) 2016-2030. Following the endorsement of the SDGs at the UN General Assembly in late 2015, the RGC has worked to adapt the goals to the national context and has crafted a fully localized framework – the Cambodian SDGs (CSDGs). In addition to the global 17 goals, an 18th goal requiring the clearance of landmines and unexploded ordinance was added. The final framework comprises 18 CSDGs, 88 nationally relevant targets, and 148 globally and locally defined indicators. This underlines the level of nationalization of the SDGs and commitment of the RGC. The process underpinning Cambodia's first Voluntary National Review (VNR) began in late 2018, led by the Ministry of Planning. As with the CSDG Framework, the VNR relies on a broad consultative process. It has adopted a whole of government approach - drawing in line ministries and agencies, and local administrations; and a whole of society approach - open to civil society and business actors; with regular consultations taking place throughout the process. The VNR reports on efforts to adapt and deliver the SDGs in Cambodia. This has been done by establishing institutions and mechanisms, creating the CSDG Framework, incorporating the CSDGs within national planning, building tangible links between CSDGs and public budgets, and launching advocacy and citizen engagement strategies. The VNR also reviews progress, and to date, this has been promising, with a majority of CSDG targets rated as "ahead" or "on track". This is especially true of the six prioritized goals (Education, Decent Work and Growth, Reduced Inequalities, Climate Action, Peace and Institutions, and SDG Partnerships). Moreover, these six are within the RGC's strategic planning priorities, as set out in the Rectangular Strategy Phase IV (RS-IV) and the National Strategic Development Plan (NSDP) 2019-2023. However, RGC recognizes that it is early in the implementation process that sustained efforts are needed and has set out concrete delivery proposals on management oversight, monitoring and evaluation (M&E), data, and resourcing.



Free, Prior and Informed Consent (FPIC):

The RGC adopted a National Policy on the Development of Indigenous People to apply the concept of FPIC in Cambodia in 2009, which aims to promote indigenous peoples' livelihoods. The RGC also created a National Land Registration Policy, adopting the sub-decree No. 83, which specifically related to the procedures for land registration by indigenous people. By August 2017, 18 indigenous communities have received collective land titles, illustrating the official recognition of their rights over their land by the RGC. Similarly, 124 communities were officially recognized by the Ministry of Rural Development, and 111 communities were qualified as formal legal entities by the Ministry of Interior. These recognitions are positive steps; however, the lack of enforcement often leaves indigenous people vulnerable to adverse impacts by business activities. While in some situations, Cambodian domestic law requires an impact assessment and consultations before development projects can proceed, communities are often not even informed before development projects begin to affect their land and livelihood. Most of the time, no meaningful attempt is made to seek their views on how the projects may impact them. No consultations are held to discuss the possibility of mitigating any possible negative impact on their rights. Recognizing and effectively implementing the concept of FPIC would help ensure that the rights of indigenous people in Cambodia are respected in practice. The following two cases illustrate the difficulties indigenous communities face in Cambodia and the far-reaching consequences of the lack of respect for the principle of FPIC.

Responsible Agricultural Investment (RAI):

Principles on Responsible Investment on Agriculture and Food Systems (RAI/CFS) introduced by FAO in 2018 would be a valuable guideline for Cambodia, specifically the Principle 4: Youth Empowering and Encouragement for carrying out and benefiting from RAI/CFS. Cambodia consists of a significant number of young farmers ages 15 to 30 years old, and smallholders and young entrepreneurs working in the agriculture sector. Unfortunately, the capacity to apply RAI/CFS and youth empowerment in various development programs, together with the level of awareness among relevant actors on the RAI/CFS and youth empowerment, is very limited.



Community Case Study

Two indigenous communities were selected for the case studies to report the situation of Livelihood, Food Security, and Customary Tenure Recognition in Cambodia.

Table 1. Communities involved in the study

No.	Communities used case studies	Customary Tenure
1	Bangkoeun Phal village, Romtom commune, Rovieng district, Preah Vihear province.	Formally recognized as Community Protected Area (CPA) and process of the Collective Land Title.
2	Kbal Romeas village, Kbal Romeas, Sesan district, Stung Treng province.	The government does not recognize the CT yet. But the community uses their indigenous customary rights to access and control their land and resources.

2.1 Customary Tenure norms in the Communities

The two selected communities have practiced their customary land, and natural resources consumption for many generations up to the present. Indigenous Kui in Bangkoeun Phal of Preah Vihear province has practiced their customary norms and recognition by the government to their customary tenure based on the different forms recognized by different laws, policies, and even different government agencies. While the Bunong community in Kbal Romeas has continued practicing their customary norms normally, the government has issued no official recognition until now.

Customary Tenure of Indigenous Bunong in Kbal Romeas village, Kbal Romeas commune, Sesan district, and Stung Treng province.

For many generations, the indigenous Bunong in Kbal Romeas has been practicing their customary land and natural resource use and management. At the same time, they have access and control over their land and natural resources as closed-up boundaries/domain cover their land and natural resources as presented on the map. The indigenous communities here have divided the whole area into small parts, which have different purposes and uses based on their customary practices, as shown in the map's legend.



Figure 1. Kbalromeas Community Map

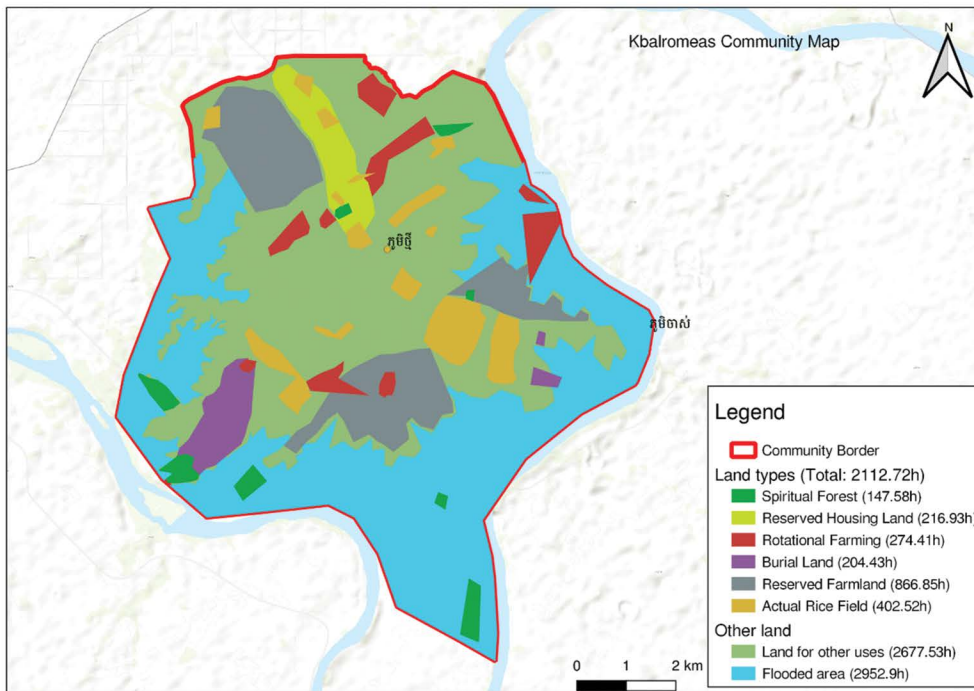


Table 2. Types of land and corresponding remarks

No.	Type of Land Use	Land Size(in ha)	Remarks
1	Farming (rice field and Chamka)	402.50 ha	(including the land under flooded water, but community can farm some parts)
2	Reserved Farm land	866.85 ha	As traditional practices, this land is reserved for new couples and those in need of land for farming.
3	Spiritual forest	147.58 ha	This forest is considered sacred. Community members and outsiders only go there for ceremonial festivals.
4	Reserved Resident Land	216.93 ha	Traditional practices are observed. These lands are reserved for new couples and those in need of building a residence or house.
5	Rotational farming	274.41 ha	It is the forest area also, but community members can do their traditional shifting cultivation farm, mainly traditional crops.
6	Burial Land	204.42 ha	This is referred to as “ancestor village” which is dedicated for those who died. It has its structure similar to the resident area.
7	Flooded Land	2,952.90 ha	This area used to be the old village resident and farm land that was flooded due to the development of Lower Sesan II Hydropower dam
8	Other land use	2,677.53 ha	To keep the free flow of buffaloes and cows and connecting boundaries.

Customary Tenure of Indigenous Kui in Bangkeoun Phal village, Romtom commune, Rovieng district, Preah Vihear province

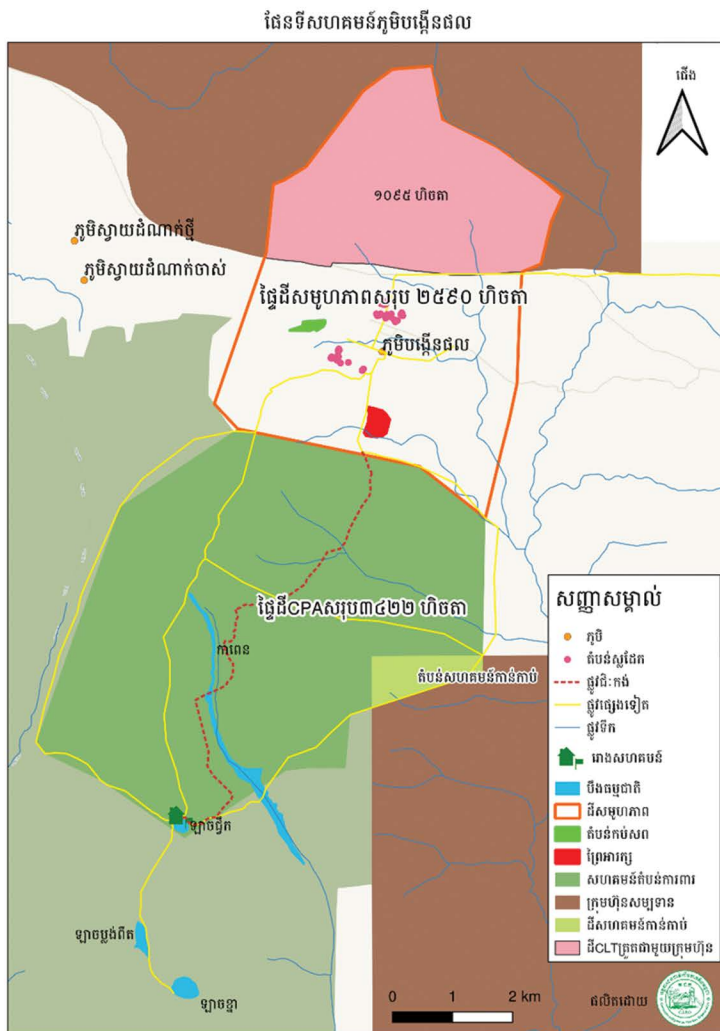


Figure 2. Bangkeoun Phal village map

Bangkeoun Phal village is located in the northern part of Cambodia in Romtom commune, Rovieng district of Preahvihear province. It was known as a Kui community that lives far from Khmer people, sharing similar culture and good understanding of the forest and natural resources. The village is surrounded by mountains that have been identified as golden mountains and iron mountains (Phnom Dek). With a total population of 854, 445 are females and consist of 184 households. The Indigenous Kui in Bangkeoun Phal has continuously practiced and asserted their rights to customary land and natural resources use and management. This has been a key leading to partial recognition of customary tenure in different contexts based on the government policies. For instance, in 2014, the traditional elders group existed in the villages was officially recognized by the Ministry of Interior (Mol) as Indigenous Kui legal entity, and was technically referred to as the “Indigenous Peoples Community Committee” for Collective Land Title management.



In 2012, the Ministry of Environment recognized the Choam Pen Community Protected Area with a total forest land of 3,422 ha. Based on the results of FGD with the communities, formal recognition of their customary tenure is just one of the important factors for their land tenure. At the same time, strong solidarity and unity are still needed among community members themselves for the protection of their resources.

Even though the government recognized customary tenure to select communities as highlighted in this case study, these forms are not yet aligned to IP's situation. The government reserves the right to take back the land and forest given to the community if not properly managed. For instance, the CPA tenure recognition form provides the community rights to use within 15 years only. It can be extended based on the performance of the community or vulnerability to be taken back by the state.

2.2 Livelihoods and food security situation in select communities (situation, opportunities and threats

The two selected communities, Bangkeoun Phal and Kbal Romeas currently have enough food supply for families' consumption. The majority eat two meals per day, and few eat three meals per day. They locally produced most of the food. The typical food items that they consume in every meal are cooked rice and traditional food made from meat, vegetables, and wild food collected from their forest. In a peak season, the harvest for NTFP could be surplus so they could sell some of the excesses to get extra income for the families. There is a shortage in meat, vegetables, and other wild foods during the dry season due to increased local demand amidst deforestation and illegal hunting. To fill the gap, community members have to buy about 50 percent of vegetable and meat from market.

The two selected communities said that they lost honey, resin, vines, and other products indigenous communities once collected from the forests. The land concessions and development project negatively impacted local villages. Forced evictions of a number of families in villages can contribute to food insecurity in the long run. Although communities resist displacement, their choices are impacted by the activities of these development projects.

2.3 Description and analysis of links between CT norms and livelihoods and food security objectives

The case presented here in this country report involves indigenous communities. Based on the FGDs with the two selected communities, there is a very close link between customary tenure, food security and livelihood, especially the land and forest tenure, which is very important in community development interventions.



This places emphasis on building people's endowments of assets to enjoy sustainable livelihoods. A livelihood is sustainable when it can cope with, and recover from stresses and shocks, and maintain or enhance its capabilities and assets both at present and in the future while not undermining the natural resource base. In this context, a livelihood comprises the capabilities, assets (including both material and social resources), and activities required for a means of living. Property rights to land, together with labor, form the most common endowments used to produce food for home consumption and cash crops that allow the family or individual to pay for other needs such as health and education. Property rights to land are thus one of the most powerful resources available to people to increase and extend their collection of assets beyond land and labor to the full portfolio necessary for sustainable livelihoods assets.

Recommendations

Best practices for replications

Based on the case studies, ensuring customary tenure is not only dependent on the official recognition by the government alone but also requires the strong solidarity, participation and unity among the community members to uphold, practice, respect, and protect their customary land and natural resources use for sustainability.

The two communities are well aware of the existing customary tenure forms in Cambodia that they can make use for their customary land and natural resource use. Though those combined recognized forms do not align fully yet to their customary practices, recognized tenure forms (Community Protected Area and Collective Land Title for this community) can provide partial protection to their land and natural resources, as well as their internal practices.



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