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**NGO STATEMENT TO  
THE 2006 CONSULTATIVE GROUP  
MEETING ON CAMBODIA**

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## **PREFACE**

In this publication, NGOs working in Cambodia have provided observations and recommendations on important Cambodian development issues, reflecting on progress throughout 2005.

The NGO community in Cambodia welcomes its inclusion in the process of contributing to development policy and in assessing progress. It strives to engage in this process in a positive manner offering a pro-poor, experience-led contribution both to debates surrounding poverty reduction and through its own poverty reduction activities.

NGOs, as development institutions, can contribute much to poverty reduction plans by sharing the observations and conclusions arising from their development experience. NGOs, in their day-to-day duties, work closely with poor and vulnerable groups and therefore are in a strong position to communicate the needs of these groups to decision-makers.

NGOs have been active in Cambodia since the fall of the Khmer Rouge in 1979. Following the restoration of Western development aid in 1992, they actively contributed to meetings of the International Committee on the Reconstruction of Cambodia (ICORC), which were held each year from 1993 to 1995. Since 1996, NGOs have attended the annual Consultative Group meetings, and each year they have presented a detailed statement on NGOs' issues and recommendations for the development of Cambodia. This NGO Statement is intended to contribute to the policy dialogue and inform the discussions at the 2006 Consultative Group Meeting on Cambodia held in Phnom Penh on March 2-3, 2006.

NGOs in Cambodia hope that this publication may provoke debate and be an important reference tool for NGOs, the Royal Government of Cambodia, donors, consultants, and development agencies seeking to contribute to poverty reduction in Cambodia.

## **ACKNOWLEDGEMENTS**

These NGO sectoral and issues papers were prepared through the voluntary effort of many NGOs, both local and international, based on their experience of development work in Cambodia. The NGO or NGO sectoral group which led the drafting of each sectoral paper is listed in the "List of Contributors" on the page 12. Drafting of the Main Statement and the editing of the Sectoral papers was coordinated by the NGO Forum on Cambodia. The NGO Forum on Cambodia expresses deep appreciation to all NGOs who contributed to this publication.

## ACRONYMS AND ABBREVIATIONS

ADB	Asian Development Bank
AIDS	Acquired Immune Deficiency Syndrome
ASEAN	Association of Southeast Asian Nations
CC	Cadastral Commission
CCC	Cooperation Committee for Cambodia
CCSP	Commune Council Support Project
CDC	Council for the Development of Cambodia
CDPO	Cambodian Disabled People's Organization
CDW	Child Domestic Worker
CEC	Commune Election Committee
CEDAC	Centre d'Etude et de Developpement Agricole Cambodgien
CG	Consultative Group
CHRAC	Cambodian Human Rights Action Committee
CMAA	Cambodian Mine Action and Victims Assistance Authority
CNCC	Cambodian National Council for Children
COMFREL	Committee for Free and Fair Elections in Cambodia
CPA	Community Protected Areas
CPP	Cambodian People's Party
CSD	Center for Social Development
CSEC	Commercial Sexual Exploitation of Children
DAC	Disability Action Council
DCDM	District Committee for Disaster Management
DIPECHO	Disaster Preparedness for European Community Humanitarian Office
DoF	Department of Fisheries
ECHO	European Community Humanitarian Office
EFA	Education for All
EIA	Environmental Impact Assessment
EMIS	Education Management Information System
EMO	Election Monitoring Organizations
EOD	Explosive ordinance disposal
EPZ	Export Processing Zone
ESP	Education Strategic Plan
ESSP	Education Sector Support Program
FACT	Fisheries Action Coalition Team
FDI	Foreign Direct Investment
FUNCINPEC	National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia
GTZ	German Technical Co-operation (Deutsche Gesellschaft für Technische Zusammenarbeit)
HAP	Humanitarian Accountability Project

HDR	Human Development Report
HEI	Higher Education Institutions
HIV	Human Immunodeficiency Virus
HMA	Humanitarian Mines Action
HSSP	Health Sector Strategic Plan
IFM	Independent forest monitoring
ILO	International Labor Organization
IMF	International Monetary Fund
IOs	International organizations
ITC	International Trade Centre
JMI	Joint Monitoring Indicators
LDCs	Least Developed Countries
MAFF	Ministry of Agriculture, Forestry and Fisheries
MDGs	Millennium Development Goals
MEDiCAM	The membership organization for NGOs active in the health sector in Cambodia
MFA	Multi-Fiber Agreement
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MoE	Ministry of the Environment
MoEF	Ministry of Economy and Finance
MoEYS	Ministry of Education Youth and Sports
MoH	Ministry of Health
MoNASRI	Ministry of National Assembly-Senate Relations and Inspection
MoSALVY	Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation
MoT	Ministry of Tourism
MoWA	Ministry of Women's Affairs
MOWRAM	Ministry of Water Resource and Meteorology
MRC	Mekong River Commission
NA	National Assembly
NAA	National Audit Authority
NACD	National Authority for Combating Drugs
NCDM	National Committee for Disaster Management
NCFP	National Community Forest Program
NCRMWEC	National Commission for Reform and Management of Weapons and Explosives
NEC	National Election Commission
NEP	The NGO Education Partnership
NFE	Non-Formal Education
NGO	Non-Governmental Organization
NGO-CRC	NGO Committee on the Rights of the Child
NGOF	NGO Forum on Cambodia
NPRS	National Poverty Reduction Strategy

NSDP	National Strategic Development plan
NTFP	Non Timber Forest Products Project
PAP	Priority Action Program
PCDM	Provincial Committee for Disaster Management
PEC	Provincial Election Committees
PWDs	Persons with Disabilities
RCAF	Royal Cambodian Armed Forces
RGC	Royal Government of Cambodia
SCM	Supreme Council of the Magistracy
SEZ	Special Economic Zone
SRI	System of Rice Intensification
TWGH	Technical Working Group on Health
UNCRC	United Nations Convention on the Rights of the Child
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
UXO	Unexploded ordnance
WB	World Bank
WFP	World Food Programme
WTO	World Trade Organization



## **I. MAIN STATEMENT OF NGOS TO THE 2006 CONSULTATIVE GROUP MEETING**

### **(i) Introduction**

The Prime Minister, Samdech Hun Sen, in his speech at the Conference of the Ministry of Land Management, Urban Planning and Construction on 6 February, welcomed the role that civil society can play in policy dialogue and monitoring, likening civil society's feedback to a "reflection" through which the Royal Government of Cambodia (RGC) can understand its own strengths and weaknesses, and make improvements.

The work of Cambodian NGOs and civil society organizations spans a broad range of development issues and involves close engagement with Cambodians of all walks of life and socio-economic status. As such, civil society is well placed to assist the RGC by sharing our grassroots knowledge, and providing valuable feedback and suggestions regarding development policy and implementation.

In 2006, the RGC published the National Strategic Development Plan (NSDP), which outlines its development priorities for the next five years. Ensuring implementation of the NSDP is the RGC's main challenge for 2006. The NGO community welcomes the opportunity to engage with The RGC and its development partners in discussing these priorities and approaches to their implementation, in a range of fora including the Technical Working Groups (TWGs) and this Consultative Group (CG) meeting.

The NGO community hopes that the implementation and monitoring phase of the NSDP will be at least as inclusive as its planning phase, with regular opportunities for meaningful participation and feedback. We believe that such a collaborative process of policy development and implementation is critical to the realization of the goals of the NSDP and to improving the lives of all Cambodians, particularly those living below the poverty line.

### **(ii) Priority Issues**

Compared to the early 1990's, it is clear that Cambodia has experienced considerable progress. The country is more peaceful and political liberalization and market-based economic development have produced significant dividends. There is greater prosperity and poverty has been reduced from an estimated 47 percent in 1993 to 35 percent in 2004. As noted in the World Bank's Poverty Assessment, the initial change in circumstances in the early 1990's led to a country-wide improvement of living conditions.

Subsequent government policy choices have promoted the development of thriving urban manufacturing and services sectors that have contributed significantly to the economic growth that the country has enjoyed over the last years. However the fruits of economic growth have not been enjoyed equally among Cambodian society. Instead the benefits of growth remained with only a relatively small elite that resides in the urban areas. In order to be able to achieve the Cambodian Millennium Development Goal on poverty reduction, economic growth needs to become more equitable. To achieve this, the development efforts of the RGC and donors need to reach the majority of the poor in the rural areas, especially through supporting and stimulating small-scale agriculture in the countryside. The NGO community welcomes the emphasis that the NSDP puts on improving the lives and livelihoods of the rural poor through securing property rights, equitable access to common property, increased investments in agricultural extension services, and the delivery of health and education services.

However, the RGC should bear in mind that increasing economic opportunities is only one dimension of improving people's livelihoods. Reducing poverty depends as much on whether poor people have the ability to effectively voice their concerns with the authorities regarding their opportunities for economic progress. By expanding citizens' involvement in, and influence over, how they are governed, democracy brings principles of participation and accountability to the process of human development. The expansion of political freedom that comes with democracy is a desirable outcome in itself, but democratic institutions and processes are also critical to the achievement of human development. A well functioning electoral process in a multi-party democracy makes politicians more likely to respond to people's needs and aspirations. Only when the poor and vulnerable have the chance to draw attention to the difficulties they are facing, and are able to seek some sort of justice, can equitable growth occur.

The NGO community notes a lack of progress on some of the commitments made by the RGC during the Consultative Group meeting in December 2004. Indicators of progress on these commitments need to be rolled over into 2006. Excluding these important indicators from the current set of Joint Monitoring Indicators (JMIs) would signal a failure to deliver on agreed actions and furthermore it would weaken the credibility of the dialogue between the RGC and its partners in the Consultative Group.

The NGO community wishes to support the RGC in its efforts to achieve critical development objectives. In order to be effective in this supportive capacity, the NGO community has the obligation to play the role of social conscience, and to voice its concerns when government actions seem not to match stated policy objectives. Towards this end, the NGOs would like to stress a number of key-issues under the following subheadings: good governance, human development, and agriculture and natural resource management.

#### **Good governance**

The NGO sector recognizes the development and publication of the Legal and Judicial Reform Strategy published by the RGC in 2003 and wishes to reiterate its great interest in seeing the effective and efficient implementation of these reforms within the sector. Respect for the rule of law is critical to equitable and sustainable development in Cambodia. A large number of key existing institutions should be subject to fundamental reform, including the National Election Commission (NEC) and the Supreme Council of the Magistracy (SCM). It is fundamentally important that these institutions be independent and non-partisan in nature and membership. The NGO sector stresses in particular the need for the SCM to be reformed. Until the SCM is a truly independent and effective body there will be no possibility of real judicial reform.

NGOs also call on the RGC to establish, as soon as possible, an Anti-Corruption Commission and a National Human Rights Commission that meet international standards. That is to say, they should be independent, non-partisan, competent and credible. Furthermore the RGC needs to address the need for the creation of new laws to ensure that the legal system is able to deal with ongoing, critical problems. All of these laws must be reviewed and debated by legislators, the government and civil society to ensure that their passage comports with acceptable international standards and human rights principles in order to genuinely serve to strengthen the rule of law and democratization. These new laws (many of which are already in draft form) need to include, as a matter of priority, a new Penal Code and a law on criminal procedures, a law on access to information, a framework for civil legislation, and a system of administrative complaints.

Laws also need to be passed to deal with specific critical problems that continue to plague Cambodia. The NGO sector acknowledges initiatives and actions taken to move Anti-Corruption legislation to the forefront of discussion and debate. However, we firmly recognize that more work must be done to ensure adherence to international standards before the finalization and enactment of the Anti-Corruption law. Such work includes the passage of laws related to the transparency of the financial management of political parties, and on the enforcement of the declaration of assets chapter under the

Anti-Corruption law, which should ensure that all the members of the RGC declare their assets before and after taking office.

Key issues and recommendations from the NGO community concerning the political will to fight corruption and the need for the Access to Information Act are outlined in the "Governance and Transparency" sectoral paper. Details on institutional reform, the need to create new institutions and laws, and amendments to the Constitution can be found in the sectoral paper on "Rule of Law".

### **Human Development**

Two cross cutting issues affecting human development are the need for better implementation of existing laws and the persistent problems regarding adequate and timely release of budgetary allocations.

Concerning the first point, the NGOs are calling on the RGC to make a major effort to make all stakeholders, including law enforcement agencies, aware about the laws on domestic violence, rape, and human trafficking. Situations where police and officials are reluctant to interfere and refuse to investigate cases of domestic violence, regarding them as private matters, are not acceptable. Key issues and recommendations from the NGO community concerning this matter are outlined in the sectoral paper on Gender and Poverty Reduction.

Concerning the second point, the NGOs fully agree with the NSDP's assertion that there are "continuing and persistent problems in regard to adequacy and timeliness in release of budgetary allocations, which need to be quickly overcome" in order to achieve stated government policies. Timely and adequate disbursements would undoubtedly contribute to improved service delivery in health and education as it enables better planning at the local level, stimulates staff retention, and removes one cause of corruption. The NGO community therefore encourages the RGC to continue to work towards improving public financial management. Key issues and recommendations related to government budget disbursements are outlined in the sectoral papers on Education and Health.

### **Agriculture and natural resource management**

There is a need to re-orient the focus of the agricultural sector from the awarding of large-scale land concessions to support for small-scale agriculture<sup>1</sup>. Findings quoted in the World Bank's Poverty Assessment show that improving production of small-holder agriculture in the rural areas is the quickest route lifting the majority of the Cambodian poor out of poverty. NGO and RGC efforts to promote low input methods of increasing agricultural productivity (such as the "system of rice intensification") and to develop a niche market for organic products appear to be particularly promising, and should be expanded.

To promote the development of small-scale agriculture the RGC needs to pursue policies that: i) ensure farmers' property rights, and stop and revert, the practice of land-grabbing from the poor owner-cultivators; ii) secure the land tenure system; iii) cancel all existing concessions which are larger than allowed by the Land Law or which negatively affect community livelihoods and relocate these to smallholders or common property access; iv) step up investment in small and medium-scale irrigation systems which are manageable by farmers themselves; v) improve market access for the rural communities by providing all-weather roads; vi) improve rural education to respond to the needs of the rural youth, especially in terms of agricultural skills, environmental conservation, and community development; and vii) increase public awareness on sanitation, health and nutrition.

Experience has shown that self-help and community-based producer organizations, (e.g., farmer associations or cooperatives, saving groups, etc.) are keys to rural development in Cambodia, as they bring economic benefits to small farmers and enable farmers to play effective roles in overall

community development. Thus, existing programs with participatory approaches to assist farmers to organize themselves (e.g., Farmer and Nature Net) should be assessed and further developed for nationwide support of farmer organizations.

Besides stimulating small-scale agriculture there is a great need for improved management of forests and protected areas in order to ensure the long term development prospects of rural communities, including indigenous minorities. Too often development planning ignores the real contribution that natural forests make to the national economy and local livelihoods. Therefore the issues of logging concessions, land concessions and plantation schemes remain key threats to Cambodia's forests, and need to be tackled. The NGO community is calling upon the RGC to increase transparency of the state management of natural resources through the disclosure of existing contracts and compliance status of contracts governing not only economic land concessions, but also mining concessions, fishing lots and military development zones, and continued disclosure of the status of review of forest concessions.

A key indicator of governance and good land management is how the most vulnerable sectors of society are treated. Indigenous communities in Cambodia are now losing their land at a greater rate than ever before. The long-term development prospects for indigenous minority communities should be protected by putting a stop to illegal land sales and commencing communal land titling without delay.

Key issues and recommendations from the NGO community on these issues are outlined in the sectoral papers on "Forestry and Plantations Development", "Land Reforms", and "Trade and Economic Development".

### **(iii) Moving Forward**

In the accompanying message to the National Strategic Development Plan, Prime Minister Samdech Hun Sen writes that: "It is time now that resources begin to be properly directed and effectively used to maximise benefits for the disadvantaged and the deprived to lift them into the mainstream".

The NGOs would like to continue to contribute to RGC's efforts to improve the livelihoods of the poor and vulnerable groups in society. In addition to their day-to-day projects in the villages, there are several ways in which the NGO community could consider complementing the RGC in its efforts:

- NGOs need to discuss how they can make NGOs' involvement in the Government-Donor Technical Working Groups more effective.
- NGO research needs to be more widely shared. To ensure that this research is known and understood by government policy-makers, face-to-face meetings with government officials may be the most effective and appreciated method of getting ideas across.
- NGOs need to start a dialogue with the Ministry of Planning and the Council for Social Development on how NGOs may best contribute to the monitoring of the new National Strategic Development Plan.

The constructive role that civil society desires to continue to play in Cambodia's development process can best be encouraged by the RGC by: i) providing an enabling environment in which NGOs and associations can freely and responsibly operate; ii) ensuring that freedom of expression is protected; iii) encouraging the growth of a free and responsible media; iv) ensuring disclosure of information to all stakeholders, and v) meeting and building relationships with NGOs on a more regular basis.

It is our belief that through our concerted efforts as the RGC, donors and civil society, we can overcome the hurdles to Cambodia's economic and social development, thus improving the livelihoods of Cambodian people and allowing them to lead lives of worth and human dignity.

## II. SECTORAL PAPERS

### LIST OF CONTRIBUTORS

<b>Sectoral Papers</b>	<b>Contributors</b>
Rule of Law.....	CHRAC
Governance and Transparency.....	The Center for Social Development (CSD)
Election Reform.....	Election Sectoral group / COMFREL
Decentralization & De-concentration.....	Commune Council Support Project (CCSP)
Resettlement.....	Resettlement Action Network
Education.....	The NGO Education Partnership (NEP) & EDUCAM
Health.....	MeDiCAM
Indigenous Minority Affairs.....	The NGO Forum on Cambodia (NGOF)
Gender in Poverty Reduction.....	The Gender and Development Network
Humanitarian Mines Action.....	Cambodia Campaign to Ban Land Mines (CAMBAN)
Child Rights.....	NGO Committee on the Rights of the Child (NGOCRC)
Tourism.....	World Vision
Disaster Management.....	Humanitarian Accountability Network in Cambodia
Agriculture and Rural Development.....	Centre d'Etude et de Developpement Agricole Cambodgien (CEDAC)
Land Reform.....	The NGO Forum on Cambodia (NGOF)
Forestry and Plantation Development.....	The NGO Forum on Cambodia (NGOF)
Hydropower.....	NGO Forum on Cambodia (NGOF) / 3S Working Group
Trade and Economic Development.....	The NGO Forum on Cambodia (NGOF)

## **RULE OF LAW**

### **(i) Introduction**

The past year did not demonstrate enough tangible developments or advancements toward reform and strengthening of the rule of law, a sector that is vital to a healthy, well-functioning, viable and democratic government and state. Therefore, once again, NGOs call upon and insist that the RGC and National Assembly provide considerable attention and support to strengthen the institutions that are meant to uphold the rule of law and protect human rights in Cambodia, and to encourage respect for the Cambodian Constitution.

### **(ii) Key Issues**

The RGC has had the entire past year to take actions that indicate their genuine commitment to the promises made during the 2003 national election campaign and the agreed conditions before the formation of the new government. Yet, the record of initiatives and actions that would show a strong desire to tackle endemic problems of poverty and corruption, and to create a healthy legal system promoting liberal democracy and human rights, remains disappointing and mixed at its best.

#### **Institutional reform**

The NGO sector again recognizes the development and publication of the Legal and Judicial Reform Strategy published by the RGC in 2003. It reiterates its great interest in seeing the effective and efficient implementation of these reforms within the sector.

The NGO sector further reiterates that a large number of key existing institutions should be subject to fundamental reform including the National Election Commission (NEC), the Supreme Council of the Magistracy (SCM), the Constitutional Council, the Cadastral Commission and the National Audit Authority. Their position within the overall system needs to be written into the Constitution so that they are protected and provided with legal force and stability. Fundamentally, they need to be independent and non-partisan in nature and membership, which requires the creation of a selection committee to nominate the members of these institutions. They need to act in a competent and credible manner, which requires the strengthening of quality human resources, skilled staff, and sufficient financial resources. These bodies need to be monitored by mechanisms within the National Assembly and Senate in a way similar to the nine commissions of the National Assembly and the Senate.

The NGO sector stresses in particular the need for the Supreme Council of Magistracy (SCM) to be reformed. Until the SCM is a truly independent body there will be no possibility of real judicial reform. All SCM members must be non-partisan: they must resign from their political parties and break all their political affiliations. Similarly, all judges, prosecutors must be non-partisan and must also resign from any political parties they belong to. Such steps must be taken to break down political influences that have taken hold of the judiciary. Political influence of the police force is also a major problem which causes police to act outside the law. These patterns must be broken down. Police must be independent: they must resign from any political parties and break all their political affiliations.

#### **Non-existing institutions and law**

New commissions, including at the very least an Anti-Corruption Commission and a National Human Rights Commission, should be established as soon as possible to international standards; that is, they should be independent, non-partisan, competent and credible.

The new government will need to address the need for the creation of new laws to ensure that the legal system is able to deal with ongoing critical problems. All of these laws must be reviewed and debated by legislators, the RGC and civil society to ensure that their passage comports with acceptable international standards and human rights principles in order to genuinely serve to strengthen the rule of law and democratization. These new laws (many of which are already in draft form) need to include, as a matter of priority, a new Penal Code and a law on criminal procedures, a law on access to information, a framework for civil legislation, and a system of administrative complaints.

The NGO sector reiterates that a law on access to public information is essential to create a transparent government, reduce corruption and promote confidence in the government of its citizens. Without freedom of information laws, lawyers cannot properly defend their clients in court as they do not have the right to request information from government agencies which could be required as evidence to support their client's case. The RGC must deliver its promise to civil society and international donors, made at the December 2004 Consultative Group meeting, to begin preparatory work on establishing a legislative framework for access to information and make all efforts to bring relevant legislation before the National Assembly for debate and passage in 2006, as well as allowing informal access to information by the public in the meantime.

Laws also need to be developed to regulate key institutions and provide a framework for good governance and accountability in the public sector. The current law on demonstrations should be replaced by the new one. There should be also a Statute on Magistrates, at the very least safeguarding the integrity of the appointments processes and ensuring that judges and prosecutors are non-partisan and enjoy personal and judicial independence, unaffected by personal influence or private interest. Further, the new government needs to develop a Statute on Armed Forces and a Statute on Civil Servants.

The Statute on Civil Servants should be amended to ensure the political impartiality of civil servants and to safeguard their integrity and accountability as well as provide just rules of recruitment and promotion on merit. The Statute on the Armed Forces and the Police Act should be amended to mandate that the armed forces and police be depoliticized and non-partisan.

Laws also need to be passed to deal with specific critical problems that continue to plague Cambodia. The NGO sector acknowledges initiatives and actions taken to move Anti-Corruption legislation to the forefront of discussion and debate, and also applauds the passage of new domestic violence legislation. However, we firmly recognize that more work must be done to ensure adherence to international standards before the finalization and enactment of the Anti-Corruption law, such as laws related to the transparency of the financial management of political parties, and on the enforcement of the declaration of assets chapter under Anti-Corruption law, which should ensure that all the members of the RGC declare their assets before and after taking office. Additionally, on the domestic violence law, we need to ensure the effective and meaningful creation and implementation of all necessary regulations to give the law its intended effect and positive impact. Legislation to combat trafficking in human beings still remains a worthy goal.

Finally a National Congress Law must be created soon to fulfill the promise laid out in Chapter XIV of the Constitution. By enabling “the people to be directly informed on various matters of national interest and to raise issues and requests for the State authority to solve” an effective National Congress will support the strengthening of politics at all levels of society and improve public participation within the political life of the country and transparency in public processes.

### **Amendments to the Constitution**

Events in the past year continue to demonstrate a worrying lack of respect for the Constitution amongst Cambodian politicians and legislators.

The apparent disregard of the Constitution – the highest law in the country – is indicative of the extent to which Cambodia functions under the Rule of Law. NGOs have previously recommended amendments such as requiring a simple majority to form a government, thereby averting the political crises that have developed following every national election since the Paris Peace Accords. But major constitutional amendments such as these should not be made for political expediency, but following sustained, consultative deliberation and only during the course of a genuine governmental mandate.

Especially troubling during 2005 has been the continued threat to freedom of speech and expression, rights guaranteed under the Constitution. Repression in these areas continue to take the form of arbitrary denials of peaceful protest movements along with the use of criminal defamations laws to silence legitimate political opposition and commentary. The continued practice of the Executive Branch in issuing decrees followed by pronouncements and practice giving such decrees force of law is a clear usurpation of the Legislature’s constitutionally mandated legislative powers and clear violation of the fundamental constitutional principle of separate and independent branches of government. Finally, there continues to be too many examples of the Executive’s influence and interference in the functioning of the judiciary (perhaps most notably the Prime Minister’s so called “iron fist” policy), which, as the Legislative branch, is constitutionally guaranteed to be independent.

Much greater attention should still be given to fulfilling existing constitutional requirements, such as the creation of the National Congress described above.

### **Code of conduct**

There are at least three points to be considered: firstly, the code of conduct for magistrates (which is developed by their professional association on basic principles enshrined in the law); secondly, the code of conduct for civil servants (which should be all adopted in the form of a law); and thirdly a code of conduct for public officers (members of the government and elected representatives), the principles of which should be adopted by constitutional norm (especially when it comes to incompatibilities).

Codes of conduct are essential to good governance and necessary in developing accountability and responsibility in the government. These codes of conduct must be actually enforced and implemented.

If the codes of conduct are to be effective it is necessary for a mechanism to be created in the National Assembly and the Senate whereby members of the RGC, National Assembly and Senate can be sanctioned if they violate the codes of conduct.

### **(iii) Recommendations**

The civil society is optimistic that the three parties will accept the following recommendations for the benefits for the whole nation:

- Undertake reform of existing institutions such as the NEC, SCM, Constitutional Council and National Audit Authority to ensure their independence, transparency, adequate capacity as well as reinforcing their legal positions in the Constitution and developing effective monitoring systems.
- Ensure that members of the SCM are non-partisan and are not members or associates of any political parties.
- Establish commissions such as an Anti-corruption Commission and National Human Rights Commission which are independent, non-partisan, competent and credible.
- Develop and support the passage through the National Assembly and Senate of new legislation including a Penal Code, Civil Code, Criminal Procedures Law, Anti-corruption Law, Access to Information Law, Demonstrations Law, and Anti-trafficking Law.
- Develop laws to ensure that key institutions such as the judiciary are non-partisan.
- Ensure that judges and prosecutors are non-partisan and are not members or associates of any political parties.

- Ensure that police are non-partisan and are not members or associates of any political parties.
- Develop new laws on financial management of political parties and on the declaration of assets which will ensure that all members of the RGC must declare their assets before taking office.
- Amend the Constitution to support and strengthen the process of establishing a democratically elected government, including allowing only a simple majority in a national election to allow a government to be established, and limiting the number of terms a prime minister can serve to two.
- Establish a mechanism in the National Assembly and the Senate which will sanction members of the government, the National Assembly and Senate if they violate the code of ethics.

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## GOVERNANCE AND TRANSPARENCY

### (i) Introduction

During the past year Cambodia made its first appearance on several international rating systems: Transparency International's Corruption Perception Index and the World Economic Forum Growth Competitiveness Index to name two, Cambodia ranked near the bottom on both of these. In addition, a team of international technical advisors, approved by the Ministry of National Assembly-Senate Relations and Inspection (MoNASRI) to provide technical assistance on the draft Law on Anti-Corruption, has recently assessed that the draft law is below international standards and will not meet the monitoring indicators agreed upon in last years CG meeting. Given these findings and promises from the government to make the fight against corruption an essential party of its Rectangular Strategy, it is disconcerting that the draft Law on Anti-corruption, currently before the Council of Ministers, fails to meet international standards.

### (ii) Key Issues

- Transparency and Corruption: The RGC recognizes that corruption is a common, pervasive and destructive phenomenon and has made fighting against it as part of the heart of its rectangular strategy to promote growth, employment, equity and efficiency. For the first time, Cambodia has appeared on Transparency International's Corruption Perception Index, ranking 130 out of 158.
- The Anti-Corruption Law and Political Will: An Anti-Corruption Law that meets international standards has not yet been passed despite government's pledge to do so in the last year's CG meeting. International experts, including the United Nations Office of Drug and Crimes which houses the United Nations Convention Against Corruption, have concluded that the draft law as released to the public in November 2005 is below international standards and will not fulfill the monitoring indicators set by the government in 2004. Few corruption cases have made it to the courts.
- Public Administration Reform: The reform and streamlining of public administrations are often undertaken for reasons other than combating corruption, and many examples of useful programs can be found in the work of the development agencies of Governments, intergovernmental and non-governmental organizations. Reforms undertaken for other purposes will usually be consistent with the additional goal of reducing the opportunities for corruption and, in many cases, will have anticorruption elements specifically incorporated.
- Independent and Effective Auditing: Responsible management of public funds builds trust between citizens and government. Audits provide a check and balance against corruption and public audit reports increases government transparency. For an audit authority to be effective, it must be independent. Although the National Law on Audit passed in 2000 provides appropriate stipulations for an independent NAA, some external factors hinder this independence. The law mandates that the NAA develop and manage its own budget, but the Ministry of Economy and Finance, whom the NAA audits annually, approves its budget and disburses the funds monthly. Although an article in the law asserts that reports issued by the Auditor General are public documents, subsequent articles provide exceptions that have resulted in no publicly available audit reports to date.
- Financial Disclosure: The principle of disclosure can also be effectively applied to the making of political contributions. Disclosure ensures that such contributions are legitimate attempts to

support a particular political faction and not attempts to bribe or buy influence with politicians who are already in government or may later assume power.

### **(iii) Recommendations**

#### **Recommendations for the RGC:**

- Strengthening the Political Will to Fight Corruption: The leadership of the RGC must guarantee that the law on anti-corruption includes internationally agreed upon standards. These include, among others, the establishment of an independent anti-corruption body with an autonomous budget and full investigative powers to carry out its investigative mandate. The law should also provide for protection of whistle blowers. A law meeting international standards should be passed by the second GDCC meeting in 2006.
- Transparency within Political Parties and government appointments: Political parties should undergo major reforms to be more transparent. As in other poor countries, party nominations for elections in Cambodia are often determined by the amount of money given to the party treasury. Without strong, accountable, transparent, and effective political parties, government institutions act for personal benefit rather than the national interest. This results in a stifling of political debate; removes necessary checks and balances, and erodes the rule of law.
- Access to Information Act: It is impossible to fight corruption and ensure good governance without a free and impartial media. Access to information, and freedom of expression in both public and private media should be guaranteed. But it should be remembered that as Cambodia is a poor country, free access to all public information is still not possible. Some information, like laws should be supplied free of charge; and some information, like the history of correspondence of the government should be available for a fee that reflects at least a part of the cost of collecting the information. Civil society recommends that the government move forward with a policy paper on Access to Information as soon as possible which will provide the framework for a Access to Information Act.
- Whistleblower Protection Act: In cases where the informant/whistleblower is a "breakthrough", particular precautions may be taken, in some cases, there may be additional legal liabilities for disclosing the information involved. The protection may apply for the informants/whistleblowers from both the public and private sectors. Additional protection in such cases must include shielding the informant/whistleblower from civil litigation in areas such as breach of confidentiality agreements and libel or slander, and in the case of public officials, from criminal liability for the disclosure of RGC or official secrets. Such protection may extend to cases where the information was incorrect, provided that it was disclosed in good faith.
- Independent and Effective Auditing: National Audit Authority's audit reports are a critical tool in the fight against corruption. The National Law on Audit must be clarified through implementing sub-decrees. Procedures for collaborating with the National Assembly and other government bodies must be developed. Most importantly, for the work of the NAA to have a positive impact on the Cambodian government, its reports must be made public through the National Assembly as mandated by law, and the findings within must be acted upon by the RGC.
- Financial Disclosure. In such cases, disclosure requirements can be used to assist in the enforcement of legal requirements, such as bans on large single donations or the anonymity of donors, particularly if both the donor and recipient are required to make the necessary disclosures

**Recommendations for International Financial Institutions and Donors:**

- Donors must ensure that their funds are having a positive impact on the poor and the vulnerable, that they are not fuelling corruption. To do that, donors need to have better harmonizing among themselves, and need to be more active in promoting integrity and preventing corruption. Donors also have a key role to play in encouraging and deepening the government-civil society dialogue. Donors are encouraged to conduct spot audits of their funds to ensure that the funds are reaching the intended targets.
- Make increases in development aid conditional on progress in governance reform (not only legal and institutional formalities but their effective implementation or enforcement), political accountability and financial transparency.
- Ensure that all aid funds are reflected in recipient RGC budgets and subject to legislative and other oversight mechanisms.

**Recommendations for Civil Society:**

- Monitoring Government Transparency and Accountability: Civil society, including independent media, has a critical role to play in monitoring a country's public financial accountability and, especially in public expenditure tracking. More generally, it is very important to recognise that public accountability depends on a strong and vigilant civil society that has the skills and the resources to monitor the RGC's performance and challenge it when it detects malfeasance. Donors should actively and determinedly nurture relevant civil society organisations, helping them build the capacity to play this role
- Civil Society Outreach: In order to ensure the proper enforcement of law, as well as proper civil administration procedures that are free from all forms of corruption, NGOs and the RGC should proactively engage in an education campaign to solidify and consolidate civil society's knowledge of legislation that affects them and their interactions with Cambodia's public. General messages about corruption, legislation and tools might be published or broadcast in the general public news media, while more intensive measures such as public meetings or more targeted materials can be directed at those directly involved in processes seen as vulnerable to corruption, using media appropriate for the purpose.

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## **ELECTION REFORMS**

### **(i) Introduction**

At the beginning of 2007, the next Commune Council Elections will be held, for which the preparations will start within the course of this year. The third National Assembly Election, which took place on 27 July 2003, drew praise from both national and international monitoring organizations for the improved organization and implementation of the electoral process in Cambodia. Yet, there were major criticisms raised as to the neutrality of the election institutions due to violence and lack of access by the media.

This statement will highlight implemented results, and raise some more priority issues that demand immediate reforms before the 2007 Commune Council Elections. This statement will also raise some priorities including village chief selection and encouragement of gender equity in political representation. The following Priorities and Recommendations represent the views gained from discussions amongst election monitoring organizations (EMOs) and other Human Rights and democracy NGOs.

### **(ii) Key Issues**

#### **Restructure the NEC with clear procedures for recruitment and selection written into the Constitution**

Although the National Election Commission (NEC) was reduced prior to the 2003 election, from 11 to 5 persons, it was noted that problems arose in relation to the procedure for selection, including the failure to follow open guidelines. Thus the selection of candidates for the NEC was made by the Ministry of Interior, which is under the control of the RGC and regarded as being led by the ruling party. Three of these candidates are selected by the Ministry of Interior's CPP-appointed Co-Minister and the other two are selected by the Ministry of Interior's FUNCINPEC-appointed Co-Minister before being submitted to the Council of Ministers for approval and the National Assembly for the final vote of approval.

If we examine the composition and membership of electoral bodies, it would appear that most are from the ruling party with a small number from FUNCINPEC. According to a study carried out by the Committee for Free and Fair Elections in Cambodia (COMFREL), in the Provincial Election Commissions (PEC) 70 percent of officials were affiliated with the CPP, 20 percent with FUNCINPEC and the other 10 percent from the public. Several parties were unhappy at this balance and raised the issue of whether the NEC and its subordinate bodies were in fact neutral. A lack of trust in the bodies that organize the election and enforce the election law ultimately undermines the overall process and final result.

#### **The electoral system should be revised to encourage independent candidates:**

The Cambodian electoral process remains based upon a system of proportional representation of political parties. There are concerns that the current system a) does little to promote the rights of local citizens and independent groups who do not want to engage with any political party to run in commune council elections, and b) encourages party loyalty over public service.

At the same time the system gives political leaders power to list representative candidates of commune/sangkat council. Elected members of commune/sangkat council have been threatened with expulsion from their positions, if they did not work towards the parties' interests. The stranglehold of

the large parties over the political process combines with the current system to prevent independent candidates from running for election.

### **Women should be encouraged to participate in politics**

A quota should be established ensuring that women make up at least 30 percent of those on political party/RGC positions. In the 2002 and 2003 about 16 and 25 percent (respectively) of registered candidates for Commune Council and National Legislature elections were women. However, the number of female candidates actually elected was low: only 920 women equaling 8.2 percent of the 11,261 Commune Council members were elected. Among those women, only 34, or 3.7 percent, are chief of the 1,621 communes. This is because the political parties did not have the real will to encourage and provide the opportunity for women to be elected [and put female candidates in a low position on their party lists].

### **Strengthening the competence and power of an independent tribunal to deal with election law violations**

According to the Election Law, the NEC has two important roles in managing elections and dealing with electoral conflicts. The NEC and its commissions play multiple judicial roles in election related rulings in administrative and civil proceedings, which is in contradiction with the Cambodian Constitution 1993 article 130 "Judicial power shall not be granted to the legislative or executive branches." Despite playing a judicial role, the NEC once again in the 2003 election, failed to effectively enforce the complaints procedure, especially in dealing with serious cases such as vote buying and intimidation. A large number of cases, in particular at the CEC level were dealt with through procedures of conciliation rather than a hearing. This conciliation procedure did not deter electoral violations; rather it seemed to encourage perpetrators to continue to act and increased the culture of impunity.

### **Access to Media**

Media access is largely controlled by the ruling party. During the 2002 Commune Council Election, the RGC and in particular the NEC, discouraged radio and TV broadcasting on roundtable and campaign programs. Furthermore, the NEC did not clearly explain whether campaign programs on roundtable discussions were allowed on electronic broadcasting at the national or local level. However, compared to previous elections, it can be concluded that there was progress made on campaign broadcasting in the 2003 election. This has been a result of activities undertaken by national and international civil society in establishing programs such as voter education, political debates, and unbiased political news broadcasts.

### **Strengthening non partisan Election Monitoring Organizations (EMO):**

Based on previous election monitoring experience, we are concerned by the acts of the RGC/ruling party that try to create a mechanism of actively using their influence to affect the neutrality and work of NGOs' monitoring the election. For instance, in the 1998 National Election, the RGC/ruling party supported one candidate as the NGO representative on the NEC, though there was displeasure expressed by civil society. Since 2002, the year of the Commune/Sangkat Council Election, the RGC/ruling party tried to establish an NGO Coordination Committee on Monitoring Elections aimed at controlling EMOs, which may affect the independence of EMOs as a result. During the 2003 National Election, the ruling political parties supported a particular group of NGOs consisting of about 76 organizations. They are non-government organizations, but their actions absolutely support all acts of the ruling party. These factors caused public confusion regarding the neutrality of EMOs.

### **Village Chiefs selection**

In fact, "Village" (Phum) is not included in territorial administration prescribed by the Constitution, but article 30 of the Commune Council Administration Law states that "*for the purpose of improving the effectiveness of Commune/Sangkat administration, each Commune/Sangkat Council has to recruit a village chief under supervision of Commune/Sangkat....The Minister of Interior has to issue an*

*instruction on the process and procedures in recruiting the village chief, replacing the village chief and his/her assistant."*

Article 23 of Sub-decree 22 ANKR. BK states that the "*village chief represents all villagers in the village....*".

The RGC promised to recruit village chiefs, deputy chiefs and village committee members as soon as possible in 2006 in accordance with the decentralization policy implemented at the commune level. According to the results of a survey by the Center for Advanced Studies conducted by Western Watts, Inc. and Ayres, McHenry & Associates, Inc., (sponsored by IRI) from 5 January to 10 February 2004, 90% of people support the election of village chiefs.

However, overall one can see that the ruling party has no will to support the election of village chiefs and even attempts to appoint a percentage of village and deputy chiefs. There are concerns that if village chiefs are appointed by political parties, this would create obstacles to local development, including political discrimination, a loss of solidarity and social unity, decreased effectiveness of administration/management, lack of transparency in electing its representatives in the village and reduced participation rights and self-determination of the people, which is assured by the Constitution.

### **(iii) Recommendations**

#### **Structure of the National Election Committee**

- Restructure the NEC with clear procedures for recruitment and selection written into the Constitution.
- Amend Chapter 3 of the National Assembly Election Law and Chapter 2 of Commune Council Election Law in relation to the NEC. In particular:
  - Recheck the structure of the NEC, keeping a five-person membership but making sure that they have not served as political representatives, or held positions in the RGC or key national institutions within 3 years of being appointed to the NEC.
  - Members should be independent, neutral, non-politically affiliated, competent and with a record of ethical behavior.
  - Members should hold a higher education advanced degree, and/or have been in a post such as a judge for an extended period, and/or be of good reputation. Female candidates should be encouraged.
- In terms of the nomination procedure - a recruitment commission should be made up of representatives of political parties, such as members of the National Assembly, non-governmental organizations and the Cambodian Bar Association.
- The names of candidate's should be released to the public in order to encourage their feedback before being submitted to the National Assembly for confirmation.
- Members of the electoral body should have the same immunity or privileges that National Assembly members have.
- To strengthen the function and competence of NEC members, an independent body should be established. This body should have the right to punish NEC members if they violate the election law.

#### **The electoral system should be revised so as to encourage independent candidates:**

- The Electoral System should operate on a mixed-voting system (individual and proportional systems combined) to provide the opportunity for independent individuals or groups to contest the election.
- Political party and non-political party candidates should be able to enter the election in all constituencies.

**Encourage women to participate in politics**

- Establish a quota of at least 30 percent of female candidates on all political party's lists. This quota should also be stated in the electoral legal framework or the policy of each political party in order to provide women a more effective opportunity to take part in social and political affairs.
- Female candidate's names should alternate with male candidate's names starting from the top of the candidate list.

**Strengthen the competence and power of an independent tribunal to deal with election law violations**

- Increase the provision of information to and training of court officials, the police, and the general public on election complaints procedures.
- Establish bodies to conduct hearings independent of the NEC.
- Establish a Department of the NEC in charge of filing and proceeding election complaints.
- All appeals of election hearing rulings should be brought directly to the Constitutional Council. The Constitutional Council should not further investigate the issue, but rather rule on the evidence presented to them.
- The police at all levels should coordinate with polling staff of the sub-committee or department of investigation of the NEC.

**Media Access**

- In order to improve information and debate, and the media's coverage of political platforms, guidelines and laws must be established for ensuring access to information for both state and private run media.
- State-owned media outlets should provide airtime free of charge to NGOs for voter education programs.
- The law on broadcasting media should be established for TV and Radio.

**Village chief selection:**

- The Ministry of Interior should prepare a Directive on the procedure for conducting village chief elections, which are under the organization of Commune Councils. The elections should be simple, confidential, cost-effective and allow for the participation of local civil society.

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## DECENTRALIZATION & DE-CONCENTRATION

### (i) Introduction

In its “Rectangular Strategy”, introduced in previous CG meetings, the Royal Government of Cambodia has given high priority to decentralization and de-concentration (D&D) as a central element of a broader process of governance reform. Experience with decentralization & de-concentration in recent years suggests that while remarkable progress has been achieved, many challenges remain to realizing the potential inherent in the reform process, and to linking D&D reforms more effectively to broad governance and poverty reduction goals.

Cambodian civil society has played an active role in supporting and facilitating the implementation of the decentralization reforms, working at multiple levels to increase Commune Council capacity, to support flows of information between stakeholders, to resolve conflicts, and to promote active citizen engagement with structures of governance at all levels. Civil society remains committed to supporting the development of effective D&D reforms, in partnership with the RGC and donor agencies. It is on the basis of this practical experience and commitment to positive engagement with the RGC in supporting the D&D process, that the following key recommendations are proposed.

### (ii) Key Issues

#### **D&D Strategic Framework and Organic Laws**

***Key Indicator: (D&D JMI 1) A first draft of the Organic Laws to create the legal framework for the policies contained in the Strategic Framework for D&D is prepared, these are then consulted on by government and other stakeholders, and then finalized and submitted to the National Assembly and Senate for approval. (draft)***

The RGC’s “Strategic Framework for Decentralization and De-concentration Reforms” adopted in mid-2005, provides a general framework for the development of an Organic Law on the governance of Province/Municipality, District/Khan and Commune/Sangkat as required by Chapter 13, Article 146 of the Constitution. The Organic Law is intended to provide a coherent legal foundation for democratic sub-national governance, based on principles of democratic representation, participation, public sector accountability and effectiveness, and poverty reduction. The enactment of such a law will constitute a major step in the D&D reform process.

The development of the Organic Law and supporting laws and regulations is a complex undertaking -- one which implies the resolution of many practical and political issues affecting the roles and functions of administrative and political structures at all levels, and one which will have a broad impact on the lives of Cambodian citizens.

NGOs are concerned that the drafting process remains opaque and provides only limited opportunity for public discussion and/or civil society participation. NGOs want to ensure that the Organic law provides a clear institutional framework for regular and meaningful citizen participation in decision-making and accountability processes in sub-national governance structures. NGOs therefore strongly repeat the 2005 CG recommendation that there be a transparent and consultative process in drafting the Organic Law, including an open discussion of the electoral system for commune and district councils, with participation from all stakeholders. In this light, it is also recommended that the procedure adopted for the selection of Village chiefs be direct election on the basis of individual candidacy.

Active engagement by civil society in the policy making process is key both to the design of effective public policy and to its eventual implementation. NGOs have a powerful role to play in increasing citizen understanding of new laws and structures and consequently in ensuring that citizens are able to participate effectively within the new D&D framework.

**Commune Development and Investment Planning Process**

The existing Commune Development and Investment Planning process is intended to be highly participatory, but in practice community participation in the prioritization of issues has declined as planning processes have often failed to address the issues prioritized at village and commune levels and as sufficient funding for plan implementation has not been available. Procedures to ensure adequate attention to the overarching goal of poverty reduction have also been missing. Although considerable attention has been devoted to planning functions at the Commune level, there has been limited emphasis on ensuring that adequate resources are available for the implementation of planned activities. Fiscal decentralization and local revenue generation remain areas deserving of considerable attention in future.

**Commune/Sangkat Decision-making and Financial Accountability**

Despite the introduction of formally participatory governance structures, traditional authoritarian decision-making processes continue to prevail at the Commune level, with many decisions taken unilaterally by Commune chiefs or commune councils without input from those affected by them. Transparency and accountability have remained limited despite the introduction of Accountability Teams at provincial and municipal levels, and guidelines to govern Commune financial management. NGOs remain concerned about ensuring the effective implementation of audit requirements, as well as expanded citizen access to information, on the basis of which public officials can be held accountable.

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## **RESETTLEMENT**

### **(i) Introduction**

The development of many different sectors, including trade, tourism and construction has been increasing. There are many infrastructure projects that receive funding from the RGC, multi- and bilateral development banks or other private sources. While development projects in these sectors bring lots of benefits to the public, they also cause several negative effects to the people; for example, some projects force thousands of families to resettle temporarily or permanently.

According to a development project survey, many families are affected by the Vietnam-Takeo electrical cable connection project. In the same manner, thousands of people are affected by road rehabilitation (such as National Roads no.1, no.2, no.4, no.5, no.6, no.7, no.56, and no.68, and road refurbishments in the city) and other development projects that involve resettlement such as sewage canal rehabilitation, rehabilitation of dams to prevent flooding, irrigation projects and illegal constructions where local authorities' do not intervene.

According to a survey conducted by NGOs working with poor, urban communities there are 62,249 poor households in 569 areas of Phnom Penh and in its outskirts. Similar situations occur in the urban areas of all 24 provinces. Most of these poor people face eviction by development projects; the most at risk are those who live on public land.

During the last few years, resettlement and evictions have increased sharply. The affected people became poorer and poorer due to the fact that they received no compensation or that compensation was not equivalent to the value of the land and housing they lost. In addition, they had to spend a lot of money on resettlement costs such as transport, travel and expenses for public services in their new location. The new locations they move to are located far way from the city, hospital, school and work place causing difficulties and inconvenience for themselves and their children.

### **(ii) Key Issues**

Development projects requiring resettlement are often implemented without compliance to clear legal procedures, transparency and the principles of fair compensation for resettlement. This leads to a situation where affected people face eviction by local authorities without compensation or any appropriate and fair support.

In addition to forced expulsion, affected people face serious consequences and losses such as:

i) not being granted the right to relocation; ii) spending much time to prepare new living quarters leading to short and medium term poverty with the poorest people being most affected; iii) loss of jobs and income; iv) children that cannot attend school; v) loss and damage of personal property; vi) concerns on safety and security; vii) lack of public services in the new location; viii) a break-down of social relations; ix) fear and emotional distress caused by threats and the use of force by the project implementers, who give them no alternative but to leave on the terms given them.

The major issues that cause serious relocation problems are the lack of a resettlement policy and legislation to protect affected people against development projects, such as a sub-decree on "Resettlement". Moreover, there is a lack of enforcement and proper implementation of existing legal safeguards, such as the Constitution, the Land Law, and the International Convention on Economic Social and Culture Rights.

### **(iii) Recommendations**

The recommendations on resettlement issues in Cambodia are as follows:

- The RGC should speed up the passing of the “National Resettlement Sub-decree” and then introduce it for implementation with standards that apply to all projects. At the same time, existing laws should be enforced to ensure transparency on compensation and protect the affected people. It also needs to include a clear definition on legal procedures for compensation. New draft policies related to relocation should be publicized to ensure transparency and relevant NGOs should be involved in the consultation.
- The RGC should prepare and implement land use and relocation plans. In Cambodia, development planning should include the precise number of affected people and the scope of their losses as recognized in the policies and legal safeguards. Compensation for property should be appropriate and fair in compliance with the constitution and the land law and should include costs for: i) relocation, ii) restoration of livelihoods, iii) environmental protection, iv) obtaining new land and compensation for any delays faced in obtaining new land, v) obtaining land rights in the new location, vi) any other measures related to relocation and the consultation mechanism to provide affected people with rights to advocate for fair compensation and the protection of their rights.
- The affected people and other stakeholders should be able to participate at all stages of development projects and be fully informed from the beginning of the project planning to the end of the project. The procedures concerning planned resettlements should be publicized to the affected people and relevant stakeholders, and affected people should be informed of the compensation scheme. However, the affected people should be granted the right to get involved in discussions and consultations on development projects, and be provided options related to their compensation and relocation.
- With regard to compensation, the RGC or development project’s owner should give fair and appropriate compensation to the affected people in advance, prior to project implementation. The compensation should be assessed based on market price by an independent assessment body.
- The RGC should provide affected people sufficient time before starting eviction. Infrastructure and public services such as access to water, electricity, roads, schools, markets and health centers should be planned in advance to support the affected peoples’ basic needs in their new location. The RGC should monitor the changes of people’s livelihood and the well-being of the resettled people.
- To reduce poverty, the RGC should avoid resettlement wherever possible and use this option as a last resort.
- There should be programs at the relocation site like job creation, vocational training, small agriculture, and small credit schemes for income generation.
- Inter-ministerial committees should be established to facilitate planning and implementation of relocation projects. All relevant institutions should be involved and coordinate with one another because the committee’s key role in implementing the project.
- Short, medium and long-term human resource development is necessary to strengthen the capacity of officials involved in resettlement.
- Donor countries should compel the RGC to ensure transparency and accountability in resettlement issues. Donors should play an important role as external monitors for resettlement activities related to their projects.

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## EDUCATION

### (i) Introduction

As stated in the National Strategic Development Plan 2006-2010: “Education is a crucial factor in human development and closely contributes, in a myriad of ways to poverty reduction, including by providing scope for better awareness to avail of opportunities for economic progress.” As such the RGC’s long term goals are to provide nine years of quality basic education for all by 2010 and to achieve Education for All (EFA) by 2015.

The NGO community recognizes that the achievements of the education sector within the RGC this past year have been many and will be long-lasting. Some of the most notable are:

- SWAp Review Meeting in June 2005 gathering Ministry officials, donors, lenders, NGOs and stakeholders to share a vision and steps to achieve it;
- the completion of the ESP/ESSP 2006-2010 in a collaborative process;
- the production of the National Strategic Development Plan;
- the on-going bi-monthly Ministry/Donor/NGO meetings for direction and decision-making;
- the on-going collaboration of NGOs and the RGC in implementing the Japan Fund for Poverty Reduction, the work for disabled, and vulnerable children;
- the relatively high level of disbursement of Priority Action Program (PAP) 2005 and the Public Expenditure Tracking Survey which indication that the money does get to the schools;
- the new projects within the donor and NGO communities for education, e.g. USAID, World Bank, ADB, EC;
- good evaluations available on which to build future work;
- the new admissions process for mixed merit and need-based scholarships to higher education institutions;
- better understanding of and wider implementation of Child-Friendly School principles; and
- progress on the Fast-Track Initiative.
- NGOs are involved in every aspect of education—from higher education to early childhood, formal basic and secondary, informal, non-formal, special education, teacher training and work around issues of gender, children’s rights and HIV/AIDS. A review of NGO engagement is available through the office of the NGO Educational Partnership. ([nep@online.com.kh](mailto:nep@online.com.kh))

### (ii) Key Issues

#### Access and Inclusion

There are disagreements around the data on primary enrollment from which conclusions can be drawn, but in general, enrollment is up: Net enrollment: 2005 EMIS 90.1%, 2005 Household Survey World Bank 79.1. The Education Management Information System (EMIS) data also shows that there are about 180,000 geographically “hard-to-reach” primary school age children (60% of whom are girls) who have no access to primary education. Conversely in cities, there is anecdotal evidence that the schools are there, but the informal tuition fees make the cost of education, for the poorest of city residents, too high. In both city and rural areas, less than one-half of the children entering primary school complete the six-year cycle. Additionally, the issue of late school entry and the lack of Early Child Development services, is a significant factor in school completion rates especially for poor and otherwise disadvantaged children.

Secondary enrollment rates during 2005 have improved, however with a 25% Net Enrolment Rate (NER) for secondary school, Cambodia is among the lowest in the region. We need to ask what the

reasons are for the low enrolment rate, as well as the continuing high repetition and dropout rates and address those causes from both the supply and demand sides. One supply side issue is the need for more lower-secondary school services in remote areas.

### **Finance**

The PAP continues to be a mechanism that has some success when the money is disbursed, but because it is late and often less than promised, it does not help schools and departments to plan and implement programs with any regularity. As of 31 December, 2005 the disbursement rate for the year was 57.98%. The same can be said for allocation of the total education budget. The EFA-Fast-Track Initiative indicative framework requires Government spending on education to be at least 20% of total budget—the new budget for 2006 estimates 18% and in the last five years, the RGC has not delivered on its budget commitments in any of the social sectors including education.

### **Vocational and Non-Formal Education**

Given the fact that less than half of Cambodian children now complete primary school, the importance of vocational education and associated literacy programs cannot be over-estimated. While children in Cambodia become literate by the middle of grade three, the majority drop out, some just at that point. Poverty is directly linked to a lack of competency in literacy and numeracy, and Cambodia's poor are doomed to remain poor without flexible programs that address the needs of the large number of out-of-school children.

## **(iii) Recommendations**

The following priorities have been identified by NGOs working in education:

1. NGOs strongly support the National Strategic Development Plan (NSDP), which identifies the “continuing and persistent problems in regard to adequacy and timeliness in release of budgetary allocations,” (NSDP p.22) as critical to achieving stated government policies. NGOs reiterate the need for a higher level of allocation and distribution of funding to ensure that teachers are adequately paid for their work and that the educational reforms outlined in the ESP and ESSP can be implemented. The unplanned and competing priorities in the Ministry of Economy and Finance results in the irregular release of funding to the MoEYS. Unless these problems can be efficiently resolved, it is difficult to justify the current shift towards direct budgetary support.

### **Recommendations:**

- Ensure that Ministry of Finance concentrates on its role of financial planning and that the MoEYS is allowed to take responsibility for the administration of the sector budget.
- Ensure transparency, predictability and accountability in the allocation and disbursement of funding. Utilize the developing banking system for the transfer of cash to local level.
- Ensure that funding mechanisms and levels are clear so that informed judgments can be made regarding performance against benchmark indicators.
- Reform PAP funding so that it drives the system rather than perpetuating previous difficulties.
- Agree to create a glossary of financial management terms to clarify the operational meaning of terms such as budget, allocation, commitment, mandate, disbursement, expenditure, financial year limits etc.
- Link teachers' salaries to the cost of living and ensure that there is a clear plan to increase teachers' salaries to represent a living wage over the medium term. Develop effective and efficient human resource systems so that education staff is rewarded for additional duties and proven effective performance.
- Provide clear guidelines and adequately fund effective training, follow-up support and supervision to ensure that schools and clusters can plan effectively for school improvement (instead of rushing to expend a windfall delivery before the reporting period has expired).

- Continue to improve the effectiveness and efficiency of textbook distribution to ensure targets in the ESSP are met.

2. There are serious teacher shortages, particularly in remote areas, which results in high primary school pupil/teacher ratios; for example 80:1 in Siem Reap, 77:1 in Koh Kong, 73:1 in Pailin, 69:1 in Kampong Speu<sup>2</sup>. Large classes undermine the push towards quality improvement. Redeployment strategies are not working effectively due to inadequate incentives, lack of housing or rental allowances for high costs areas, cultural issues associated with with female teachers being away from their families and unacceptable, lengthy delays in receiving salaries and incentives.

**Recommendations:**

- Ensure wider use of locally residing contract teachers by providing them with opportunities for training and upgrading so they have some prospect of entering the teaching service
- Pay salaries and allowances on time.
- Lower the entry point to pre-service training for local students to the end of Grade 9 for districts where there is no upper secondary school.

3. Corruption at all levels is hampering the reform process. Schemes, in a number of areas, to obtain illegal payments for manipulating the deployment and promotion of teachers are still a serious concern. The gap the published national policy and the reality in schools and institutions continues to compromise the quality of education for Cambodian children. This discrepancy results in unofficial payments to teachers, charges for additional lessons that students are pressured to attend, payments for jobs and for places in university and exam passes etc. These informal costs adversely affect individuals' access to education and particularly discriminate against the poor. Unofficial payments also jeopardize relationships between school staff and the community in as much as staff, who wish to act professionally, and therefore with the greatest potential to implement reform, are the ones most likely to leave the education sector. Achieving quality improvement and eliminating unofficial fees is not possible without realistic teachers' salaries, that are paid on a regular basis.

**Recommendations:**

- Regulate and thereby utilize unofficial payments so that they can be effectively and transparently redeployed to provide services to vulnerable children and to pay teachers.
- Review teachers' salary improvement projections with the prospect of providing an acceptable level of payment in the medium term (see 1. above)

4. The production of national ESP, ESSP, EFA and NPRS has been commended in the first section of the report. However there is now a proliferation of plans, goals and documents and a large number of monitoring activities set up to follow these processes which appear to cover the same

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<sup>2</sup> EMIS - Education Statistics and Indicators 2002-2003

ground. These need to be prioritized into concrete and realistic action plans with targets for implementation.

**Recommendation:**

- Harmonize, integrate and prioritize the various plans and fund them adequately (expenditure rather than allocation only) so that there is consistency of goals and implementation of educational priorities and strategies.
- Co-ordinate and rationalize the monitoring processes

5. Models of good practice have been highlighted in the first section of the report. There is a growing body of evidence, being developed by some educationalists at the grassroots offering effective strategies for school management and better quality teaching and learning. Drawing on the good work being done by many NGO's working the area of education, the MoEYS could develop teachers guides for the 4 main subject areas in primary schools, which would result in improved teacher effectiveness. These tyoes of initiatives are sometimes undermined by a lack of understanding, on the part of officials at divisional, provincial and national level, of successful school improvement procedures. Decision makers at all levels should be selected on the basis of technical competence rather than on seniority or preserving existing practice.

**Recommendation:**

- Ensure that officials at all levels are aware of current initiatives, that they have experience of observing best practice and are willing to constructively support improvement strategies through positive encouragement.
- Select the best school and classroom practitioners for decision making posts in schools and the system in general.

6. The NPRS highlights the need for a high quality tertiary sector, both to improve the weak teaching capacity throughout the sector and to spearhead the development process in Cambodia. Increased access through proliferating, unregulated private Higher Education Institutions (HEIs) is not the answer. Students/parents pay hard-won tuition fees for unclear quality and value, and public HEIs remain unsupported by government and are required to accept 50% free students

**Recommendations:**

- Clarify the respective roles of the MoEYS/Dept of Higher Education and the newly created Accreditation Committee of Cambodia regarding the Royal Kret of March 2002.
- RGC/Donors/NGOs will work in collaboration to address key quality and regulatory issues, as well as create long-term policy on scholarships, institutional autonomy, merit-based salaries, research, etc

As NGOs, working in the education sector in Cambodia, we see ourselves operating in partnership with the RGC and the Ministry of Education, Youth and Sport to address these recommendations; they are offered in a spirit of partnership and with our willingness to work together for the good of the children of Cambodia.

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## HEALTH

### (i) Introduction

The good health of a nation's population is important for that nation's security, prosperity, and economic development and as such it is within the responsibility of governments to promote it to the best of their ability. The Royal Government of Cambodia (RGC) in general and the Ministry of Health in particular recognize this responsibility and the past several years have seen much effort to promote a healthier population. Yet, the responsibility for health promotion does not rest with governments alone, and the goal of a healthy nation is shared by the NGO community in the health sector as well as other stakeholders. MEDICAM, as a membership organization of more than 100 NGOs working in Cambodia's health sector, is pleased to have participated in this effort.

The last several years have seen progress in a number of areas. Some achievements worth highlighting include: 1) Increased budget and spending by the RGC in the health sector reflecting the priority given to health issues within the government. 2) The development of new healthcare policies, strategies and guidelines are a welcome addition and represent the continuing effort to rebuild Cambodia's public health infrastructure. 3) An increase in coordination is seen in many areas. An example is the improvement in the annual operational planning process with decentralization and the inclusion of different stakeholders. 4) An increase in functionality of some of the structures within the Ministry of Health such as the Technical Working Group on Health (TWGH). 5) Progress in the implementation along with positive outcomes are seen in a number of areas of the Health Sector Strategic Plan (HSSP). Improved immunization rates and a decrease in HIV prevalence are notable examples. Lastly, 6) Cambodia's successful proposals to the Global Fund to fight AIDS TB and Malaria (GFATM) in rounds 1,2,4 and 5 makes it one of the more successful countries in the region to obtain additional funding to fight these three important diseases. It reflects a relatively good collaboration between stakeholders in this innovative public-private partnership

Both health NGOs and civil society acknowledge and appreciate the efforts of the RGC to include them in the policy and planning dialogues and as partners in their implementation. As partners in health with the MoH, NGOs have contributed significant resources in the planning and implementation of health sector projects and as such share in the successes noted. But as partners and implementers, NGOs are likewise in a good position to note the difficult challenges that lie ahead. Thus, MEDiCAM allows itself periodically to summarize in the form of this position paper some of the main issues that it sees facing the development of the health sector in Cambodia. The issues and recommendations below are not intended to be comprehensive, nor are they able to be detailed. It is hoped they will articulate the NGO perspective on important selected topics in health.

### (ii) Key Issues and Recommendations

While some progress in the health sector has been made over the past several years much more remains to be done. Achievement of critical outcomes such as the Millennium Development Goals (MDGs) as well as the successful implementation of the Ministry of Health's Strategic Plan (HSSP 2003-2007) will require sustained effort, increased leadership and coordination, an application of additional resources in some areas and a more efficient utilization of resources already at hand throughout the health sector. Examples include:

**1) Budget "dry season":** Most of the issues raised in MEDICAM's last position paper remain relevant but will not be explicitly repeated to avoid redundancy. Nevertheless, the issue of regular and

timely cash disbursements to the implementers of health policy at the operational level is important enough to bear repeating.

**MEDICAM again calls on the RGC to show transparency and accountability for policies designed to reduce delays in budget disbursement during the first part of the year.**

**2) Promote equal access to quality medical services throughout Cambodia:** This shared goal requires a multifaceted response. Improvements in equity, access and quality are all interrelated. A number of studies continue to suggest that the poorest segment of Cambodia's population benefit the least from improvements in the health system. Distance and long travel times to facilities remain a barrier, particularly in rural areas where the majority of Cambodia's poor live. A maldistribution of trained providers often results in understaffing and absenteeism at health facilities once they are reached. Even when health services are available and staffed, the poor are often forgotten due to concerns that they can not afford it. Lastly, concerns about perceived low quality, poor staff attitudes and unavailability also contribute to the poor shunning the public health system. Unavailability is usually because of the dual roles public providers have in both public facilities and their own private practices.

Thus, solutions must include overcoming distance and travel obstacles, creating effective policies and incentives for providers to work in remote health posts, health financing and insurance schemes that provide the poor with affordable care, and improvements in quality of services and provider attitudes and behaviors. Specifically, MEDICAM encourages:

- A) The RGC along with donors and other stakeholders develop a clear policy and strategic plan that addresses recruitment, training and adequate salary of health providers in such a way as to ensure a more equal distribution in the rural health posts. This need is felt most acutely with trained health providers (THPs) in maternal health. Significant increases will be necessary if Cambodia is to meet MDG #5 regarding maternal survival and other goals.**
- B) Promote the MoH policy on Quality Assurance and solicit the NGO community in its implementation and in the effort to develop a method of accreditation.**
- C) Invest in the ongoing training in quality as well as in behavior change to health care providers at all levels of the health care system.**

**3) Health System Strengthening:** Health system development is a complex issue which necessarily varies from country to country. Nevertheless certain necessary components are well established and include government stewardship, stable health financing mechanisms for essential health services, and competent human resources appropriately deployed to implement health service delivery. In addition to the recommendations in section 2, MEDICAM encourages policymakers to:

- A) Focus on improving effective public sector management of health through building capacity in health data collection and information systems, procurement and logistical systems, decentralized management and mechanisms to enhance central-provincial communication.**
- B) Engage the private sector. MEDiCAM recognizes the need for regulation and Quality Improvement within this sector yet private providers are often the point of first contact and deliver the majority of health services in Cambodia. Properly utilized, the private sector can extend the coverage of interventions and improve health system performance. Innovative ways to create effective public-private partnerships should continue to be explored.**
- C) Involve communities and civil society as an ally to the public health sector to aid in communication and intervention at a grassroots level.**

**4) The Way Forward:** MEDICAM believes the needs and challenges facing the health care system in Cambodia can only be met through a unified approach which involves all the stakeholders working together in a coordinated and cooperative manner. In pointing out needs and opportunities for improvement in the health sector, the NGO community recognizes that it too has many areas needing improvement. MEDICAM will call on the health NGO Community in health to promote increased collaboration, coherence and accountability by joining with all stakeholders and the RGC to develop a strong health care system and to improve the health of the population with all stakeholders and the RGC. It will encourage NGOs to work in harmonization with the Ministry of Health's strategic goals in a way that makes the NGO community more effective partners with other stakeholders in the health sector.

MEDICAM remains convinced that NGOs are a vital and necessary partner for achieving the RGC's health objectives. A huge amount of field experience, technical expertise, technology, human resources and financial resources resides collectively within the NGO community. MEDICAM believes that these resources could be more fully and effectively utilized in an environment of increased cooperation and understanding. Thus MEDICAM encourages:

**A) The Ministry of Health, NGOs, civil society and their multilateral and bilateral donors to agree on a broad framework for the roles of NGOs that maximizes partnership and minimizes misunderstanding, competition and mistrust.**

Many specific health issues remain to be addressed in Cambodia. Meeting MDGs such as reducing child mortality; improving maternal health; combating HIV/AIDS, TB, malaria and other infections; preparing to meet emerging threats such as avian influenza; and dealing with the increasing burden of chronic non-infectious disease are but a few examples. MEDICAM believes that the recommendations outlined above will contribute to successfully meeting these challenges and help provide better health and enhanced lives for the people of Cambodia.

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## INDIGENOUS MINORITY AFFAIRS

### (i) Introduction

Indigenous minority communities in Cambodia are located in 14 different provinces including Kratie, Mondolkiri, Ratanakiri, Stung Treng, Kompong Thom, Koh Kong, Pursat, Kompong Speu and Sihanoukville. While the majority of Indigenous minority people live in the largely forested areas of the north and north-eastern part of the country many other provinces have indigenous people's in some villages and sometimes even within villages of predominantly Khmer people.

There is a growing awareness that indigenous people are an important consideration in the development of Cambodia. Because indigenous people face barriers of language and non-mainstream culture they are often more vulnerable to negative impact of development. Because of this, the treatment of indigenous people can often be used as an indicator of the degree to which development is taking into account equity, governance and participation.

The Royal Government of Cambodia (RGC) is required to protect the rights of indigenous peoples under obligations derived from several international instruments<sup>3</sup>. In 2001 the RGC formed the Department of Ethnic Minorities within the Ministry of Rural Development. This department has become responsible for the progress of the General Policy for Highland Peoples Development first drafted in 1997. The policy has recently been revised and a draft of the National Policy on Indigenous People Development has been submitted to the Council of Ministers in December 2005.

In addition to the draft National Policy on Indigenous People Development, the National Strategic Development Plan (NSDP) contains language recognizing the specific needs and protecting the rights of indigenous peoples:

- RGC is committed to pursue strategies and actions that will target the most needy and least served people, including indigenous people (para. 4.05).
- NSDP strategies should recognize the specific needs of indigenous peoples covering complex inter-linkages of economic, social, cultural, legal, political and other issues (Annex III).

Registration of indigenous people's land rights is among the priority actions envisaged for the land reform process (para. 4.50).

### (ii) Key Issues

**Land Rights:** Numerous land studies have shown that indigenous minority people operate a well-developed land allocation and land management system that relies on communal decision making through traditional structures. Individual land titling and land sales bypass this system, threatening the collective nature of indigenous minority communities. Because individual land ownership undermines the collective solidarity of indigenous communities, and because it is this collective nature of communities that counterbalances a high degree of vulnerability created by being minority cultures

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<sup>3</sup>This includes the International Convention on Economic, Social and Cultural Rights (ICESCR), International Convention on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Cambodia is a signatory to all three conventions. The Royal Government of Cambodia is currently also considering the ratification of the International Labour Organisation's Convention 169, the main international instrument wholly dedicated to the protection of indigenous peoples.

and languages, the opening up of communal lands to individualisation is seen as a trend inherently destructive of indigenous communities therefore an abuse of collective rights and the individual rights of the majority within indigenous communities.

Provincial governments in Ratanakiri and other provinces have been working with partner organisations on programs to promote land security through community based natural resource management. In Ratanakiri, this has resulted in provincial recognition of many community natural resource management areas. This is a positive step for initial land security. These agreements have, however, been seriously undermined by individualisation of land ownership brought about by illegal sales and grabbing of land.

In 2001, the RGC passed a new Land Law that contains provisions for indigenous minority communities to gain title to their land, either in the form of individual titles or as collective title. In this law an indigenous communities land can be defined as residential land, agricultural land and land kept in reserve as part of the traditional rotational cultivation system. This must be respected if there is any hope for equitable and effective development for indigenous peoples.

Legal instruments that define the requirements for legal recognition of communal land ownership have yet to be written. The first required are those to allow recognition of indigenous communities as legal entities. The Ministry of Interior has recently been active and supportive in developing model statutes that indigenous communities can adopt or adapt for use in the legal registration process. It is essential that this drafting continues as rapidly as possible.

The Ministry of Land Management, Urban Planning and Construction has already implemented a pilot project in order to register the lands of indigenous communities. A national task force was created which continues to work on the pilot project. Unfortunately this process has been exceedingly slow and a large amount of indigenous community land is being lost in the meantime. It is essential that the process be speeded up.

Despite these initiatives with regard to drafting legal instruments, land alienation remains an exceedingly alarming and ever-growing problem. Of particular concern are a proliferation of “land concessions” issued by the RGC in provinces like Kompong Thom, Stung Treng and Kratie. These land concessions aim at establishing industrial agricultural plantations like rubber and cashew nut. They remove native forest and reduce indigenous minority people into positions of subservience and poverty, their natural resources being removed from their management and use.

Also of concern is the continuing growth of land “sales” that involve misinformation, coercion, threats, bribes to officials and other illegal mechanisms.

These problems have almost always been seen to arise from local officials, often in collaboration or under threat from higher level officials or business people, starting the illegal sale of land. Many know that it is illegal but that knowledge is undermined by outside business influences offering large incentive for illegally approving land sales. When this happens it opens the door for widespread and anarchic selling of community land, something that is illegal under the 2001 land law. In some cases whole communities have “become drunk” and have entered into a cycle of self-destructive land selling that has started with a local authorities sanction, it has ended in near-total dissolution of some communities and has also resulted in the blaming of indigenous people for the problem.

If the problem is to be addressed it is imperative that responsibility for the problem lies with the local authorities and the law enforcement agencies. According to a number of community land forums in 2005, however, it is these local authorities and the law enforcement agencies who are the source or the main agents in the illegal sale of land. In recent time it has also been apparent that some people in higher level authorities, some business people, military and police have been a major source of the problem. The courts too have been seen to be protecting the interests of the rich and powerful at the expense of respecting the law.

Indigenous community leaders and indigenous rights workers agree that unless there are real reforms in the legal systems and unless perpetrators of all the illegal sales face the retribution and punishment within the laws, there will be no improvement in the situation. If that is the case the National Strategic Development Plan will have little meaning in the face of the illegal dispossession and exploitation of indigenous communities.

**Forestry issue:** Like all communities using forest for livelihood support in Cambodia, indigenous minority people do not have secure management rights for the forest areas they traditionally use and manage. Land alienation means that indigenous minority people shift their agricultural areas into forest areas. They are then blamed for forest clearing. It is true that indigenous people are often initially seen as the people involved in this sale of land and clearing of new forest areas but it is important to remember that it all comes about as a result of a failed implementation of the legal system.

Forest coupes intimidate indigenous minority communities and deprive these communities of developing their own secure and sustainable livelihood support. The logging coupe for timber for the national assembly was set up without proper consultation with indigenous communities. Although a step in the right direction in the way of more professional forest management, the process clearly shows a lack of respect for cultural and social forestry matters. It goes ahead without sufficient strong efforts to stop illegal logging and land grabbing in other indigenous people's areas. Indigenous people therefore think that they are supporting the national government and are happy to do that but they also feel let down by the RGC in other ways and areas.

The guidelines to support the Sub-decree on Community Forestry has been delayed but are nearing completion. This may offer more scope for indigenous minority people's management and use. There is a strong need to carefully monitor this to ensure that the community forestry actually serves the needs of poor communities.

- It is imperative that the community forestry sub-decree implementation includes community traditional management rights in mature forest and forest concessions, not just degraded forest.
- It is imperative that community forestry be granted over larger areas of traditional domains of indigenous people and not just restricted to token areas close to villages.
- Many areas of forest, especially spirit forest, burial forests and small areas of forest exist amongst agricultural land need to be included in the collective land title. It is important that these areas be allowed to enter into communal title and not be separated out as "community forestry". The latter is insignificant recognition of the importance of these areas to indigenous communities. Excluding these forest areas will also have the effect of drastically slowing the mapping processes required for communal land, reducing land security for the majority of indigenous minority people.

### **Education:**

The overall educational situation in Cambodia is slowly improving as a result of the ongoing Education Sector Program (ESP), which is annually reviewed and adjusted. Especially the abolition of school fees has increased the enrolment figures. The Priority Action Planning has improved the quality of school environment and teacher training. Having said that, progress is only slow and the drop out rate is still high in the first three grades of primary education. The gender disparity becomes higher in secondary education where fewer girls participate.

There is a lack of qualified teachers who are willing to be posted in remote places. This is particularly the case in areas with indigenous populations. In many of the state schools the attendance of the students is poor, teachers are often absent and textbooks not always available.

One positive aspect has been the support for developing bi-lingual education that promotes the development of literacy in indigenous languages as a bridge to Khmer literacy and has been

implemented through a community schools management program. NGOs are working in close cooperation with the Ministry of Education, Youth and Sports to create a model for bi-lingual education in formal education. These NGO's report very positive support from the Ministry level and would like to see that support being taken up more fully at provincial level, and are beginning to see that.

Plans have also been recently made for the commencement of a teacher training facility in Ratanakiri, which will provide in-service training. The supply of teachers who can speak local languages as well as Khmer should expect to increase in the future and this is considered a positive development for education for indigenous people in Ratanakiri. The Cambodian Ministry of Education is keen to expand the work that has been done on bilingual education to state schools in the whole north east of Cambodia. Workshops involving education officials and NGOs have already taken place and further implementation plans are in discussion.

Non-Formal Education (NFE) — both bilingual and monolingual — continues to produce positive results, possibly reinforced by the deficiencies within the formal education system. This form of education remains literacy based and has had much success, as indigenous minority communities have been given the flexibility to manage classes at the time most suited to their seasonal and daily lives. Another feature of the NFE has been indigenous minority people have been the teachers and have been able to use indigenous languages to support Khmer literacy.

On the less positive side, post literacy NFE materials and classes remain seriously lacking. These classes would be to support people developing their literacy skills past very basic Khmer literacy.

**Health:** Health indicators among indigenous minority people in Cambodia are still among the worst in the country. Indigenous minority people continue to report frequent incidents of corruption and abuse at the hands of non-indigenous health staff. This has led to indigenous minority people being very untrusting of the health system and less likely to follow its directions and services. Many of the attempts to rectify this situation have been frustrated by inefficiency in the public health system. Recent moves to outsource health services may offer a short-term solution to this, but reform of the national health system will also be required in the longer-term to develop health assistance responsive to indigenous minority peoples' needs.

**Hydro Electricity Dams:** In previous years extreme problems have been reported as a result of hydro-electricity dams located on the Sesan River in Vietnam that flows through Ratanakiri and Stung Treng provinces in the northeast of Cambodia. The dams have resulted in deaths from flood and irregular river flows.

These dams are being built without adequate assessment of past impacts, rectifying the problems or first conducting serious future environmental and social impact assessments. International donor agencies and multilateral banks continue to support and validate their construction by supporting associated projects like power line construction. In this way, large international institutions effectively undermine the lives of indigenous minority people in northeast Cambodia. There are very strong local concerns that large-scale industrial power generation and the model of industrial development that it supports have profound and long-term negative impacts on the lives of indigenous minority people.

While these problems continue, they are likely to be increased by more dams already commenced or being planned in Vietnam. The situation is getting critical and could see the decimation of indigenous communities along these rivers.

**Tourism:** There is currently the opening up the north-eastern provinces of Cambodia to rapid and large road access and extensive tourism development. The Asian Development Bank has funded, via loans, the development of an international airport in Ratanakiri under the guise that rapid economic and tourism development will reduce property.

This model, in relation to tourism, is however, based on the concept that indigenous minority people will have access to and want tourism development. Without access to education and training services it is unlikely that indigenous minority people will be able to have a sufficient voice in neither tourism management nor access to tourism incomes.

Another alarming thing has been that land alienation in areas of tourism attractions has been pronounced. It is essential that land security and education be strengthened before further promotion of tourism into indigenous people's areas. To do otherwise can be seen as promoting too-rapid development and social destruction.

In this context, tourism could further contribute to the marginalisation of indigenous communities.

- Tourism development needs to be controlled and managed until barriers to sustainable and equitable tourism development are removed. Current policies of rapid expansion of tourism are misplaced and potentially highly destructive.
- Education in relation to issues associated with tourism needs to be provided in a culturally appropriate manner as a matter of priority. There is huge potential for dispossession, illegal land trading, social disruption, human trafficking if this is not addressed.

**Decentralisation: Dependency or self-management:** Much is made of the decentralization processes now underway within the RGC which intends to offer real opportunities for promoting indigenous peoples' self-management. However, in many indigenous minority peoples' areas much money is being directed into 'development' without adequate support for true community development and human development support. In many areas predominantly non-indigenous minority people in government and NGO projects deliver sometimes nationally or regionally designed projects in non-indigenous languages. In this scenario, per diems and similar financial support are being used to acquire participation in the activities of development agencies.

It should also be noted that many times, in the process of illegal land sales commune councils and other local RGC officials feature prominently. In many cases this has been representative of an extension of poor-governance down to local level and has eroded trust of local authorities by communities.

The effects of this are starting to be seen in the form of dependency, loss of community self-management and community disempowerment. Without indigenous minority people being actively involved in their own development and without local alternatives to the industrial development models now being promulgated many severe social and economic problems can be expected to arise, as they have in other indigenous communities in the world with similar conditions.

- A major review of the impacts on indigenous minority people from different development approaches is required.
- Local authorities need to respect the traditional management structure of indigenous communities and not follow the corrupting and personal interests of outsiders if they are to be effective in supporting community development of their own communities. It is imperative that the higher levels of the decentralisation process are aware of the situation and put a stop to it, holding wayward local authorities accountable to the law.
- In many cases the process has gone so far that some villages have basically disintegrated. To avoid this cultural revitalisation programs need to be developed and implemented in a way that will help people in communities come together again in a way that allows them to move forward and pursue their own development in a culturally appropriate but progressive way. These, will, however, require an improvement in governance in local authorities.

### **(iii) Recommendations**

- It is absolutely essential for indigenous people's development and survival that the anarchic land sale and forest logging situation be addressed. It is having severe and catastrophic effects on indigenous communities and is undermining the potential for community development into the future. If the land law is not properly implemented many marginalised, dispossessed and lost communities will be the consequence. This will result in a loss of cultural diversity and create a great burden on the Cambodian society at large.
- The Royal Government of Cambodia should ensure the speedy adoption of the National Policy on Indigenous People Development recently submitted to the Council of Ministers. This is essential, as Cambodia needs a National Policy for allowing indigenous peoples to guide their own development. Any possible impediments to ratifying this policy need to be identified and openly debated.
- Many development visions being implemented in indigenous minority people's areas are based on economic development models and do not follow the self-determination principles of the Highland Peoples Development Policy drafted by the IMC in 1997 nor international conventions related to indigenous peoples' rights. A careful review of development philosophies and strategies needs to be undertaken to correct this situation.
- Donors have developed safeguard policies with regard to indigenous peoples and the impact of projects on indigenous communities. It is important that the donors remind the different actors and the public that these operational policies and procedures exist and need to be followed.

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## **GENDER IN POVERTY REDUCTION**

### **(i) Introduction**

Men and women often experience poverty differently because of their different social roles, responsibilities and resource management duties at the household and community level. They have different poverty reduction priorities and are affected differently by development interventions. If these differences are not sufficiently accounted for, and gender equality issues in each sector are not identified and addressed, poverty reduction interventions can reinforce poverty among women rather than reduce it. From an efficiency point of view, there is a need for gender equality considerations in any poverty reduction strategy. Greater gender equality correlates with greater poverty reduction and economic growth. Therefore gender inequalities can impose large costs on the well being of the poor, diminish their productivity, and reduce the potential for poverty reduction and economic growth.

The National Constitution contains explicit language in its provision for equal rights for women, equal status in marriage, and equal pay for work. The Constitution also provides for equal rights for women in property inheritance, divorce proceedings, access to education and jobs. However, cultural traditions continue to limit the ability of women to exercise their equal rights, as women are customarily seen as men's subordinates. Cambodian women tend to suffer more seriously from the impacts of poverty and are generally in a disadvantaged position to enjoy their rights.

Gender equality and its link to achieving poverty reduction featured prominently in the different sectors of the National Poverty Reduction Strategy (NPRS). Unfortunately, the progress made in 2005 towards the achievement of more gender equality, as outlined in the NPRS, is not satisfactory since little effective and practical actions have been undertaken. Although the RGC has made several policy and legislative reforms towards greater gender equality, such as the adoption of the law on domestic violence, its efforts towards full and effective enactment of the law and policies are not satisfactory. More effort is needed for effective implementation of the laws and policies.

For 2006, it is hoped that the strategies outlined in the new National Strategic Development Plan will be fully implemented and lead to the desired incorporation of the concept of gender equality in sustainable development in Cambodia.

### **(ii) Key Issues**

#### **Health**

Despite many initiatives undertaken by the RGC and other stakeholders, women are more vulnerable to health risks than men: throughout the country HIV/AIDS, illness, and injury are more common among women. In the rural areas, where more than 80 percent of the nation's population resides, this gender disparity is even more extreme. In these rural areas there is limited access to education, basic health services (services for gynaecological treatment are especially rare) and broadcasted information. Poor services and high poverty levels in the rural areas lead to increased rural-urban migration. Unfortunately, migrant workers (especially females) are then often exposed to greater risks, such as poor living conditions, poor diets, HIV/AIDS, unwanted pregnancies, prostitution, sex trafficking and gender-based violence.

In 1995, with the introduction of the birth spacing policy, contraceptives have become widely available. Twenty-four percent of women are currently using contraceptives and Cambodia has experienced a period of fertility decline from 5.4 to 4.0 children per woman of reproductive age. The coverage of maternal health services still remains low and there is still an unmet need for birth spacing. At the same time, many women do not have access to safe abortions.

Every year, a huge number of women die and suffer from pregnancy related complications because of their poor access to maternal health care. The maternal mortality ratio in 2000 was 450 per 100,000 live births and the infant mortality ratio in 2003 was 97 per 1,000 live births. The main medical causes of maternal mortality include the following: Post partum haemorrhage, eclampsia, obstructed labour, unsafe abortion, sepsis, malnutrition, and HIV/AIDS.

Generally, health expenditure in the public sector is very low and only amounted to 2.1 percent of GDP in 2002<sup>4</sup>. The introduction of cost recovery in the health sector reduces the access of women in minority and low income groups to healthcare which further prolongs women's vulnerability to health problems.

### **Education**

Illiteracy is a barrier to the poor improving their lives. Illiteracy excludes women from development process. Compared to men, women are disproportionately overrepresented in illiterate groups both among youths and adults. Although boys and girls start on equal footing in primary school, dropout rates among girls increase faster than among boys at each grade, particularly after completion of the secondary level. The lack of education is detrimental to the fight against poverty as poverty rates are higher for households in which the head of the household has had either no formal education or only some primary schooling. In this light, RGC allocation (as a percentage of GDP) for education is too low. In 2002, RGC allocated 1.8% of the total GDP to education in the country. The share of education in household consumption expenditure of the poor is less than 1.1 percent.

In the year 2002/03, enrolment rates of girl students in primary and tertiary education were 91% and 2% respectively<sup>5</sup>. Women are generally underrepresented in enrolment figures of primary, secondary and tertiary education which explains the high female illiteracy levels of 35.9% of adult women (age 15 and above) and 21.1% of young women (ages 15-24). Net enrolment among girls in rural areas for lower secondary school is 12.6%; in upper secondary schools it is only 4.1%<sup>6</sup>. The literacy rate among rural women is 55.6% compared to a 77.5% literacy rate among their male partners. The proportion of female students in Grades 10-12 has remained approximately 34% from 1995 until now<sup>7</sup>. Only 2% of female students completing secondary school begin a tertiary education.

Access to education for girls is improving and the inclusion in the NPRS Action Plan of targeted scholarship for girls from poor families is welcomed. This commitment needs to be supported by the allocation of real resources to ensure it reaches those who need it most in an ongoing and sustainable fashion. At the same time, action needs to be taken to ensure that the high dropout rate for girls from schools is addressed.

Lack of public access to legal education is a serious issue in the country. A huge proportion of the population, particularly rural, poor women do not have any access to legal education and awareness, leaving them vulnerable to human rights abuses and exploitation. This is also the case in relation to access to RGC information and decision-making. Their poor access to government information, decision-making and legal awareness excludes them from development processes.

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<sup>4</sup> UNDP (2005) *Human Development Report 2005*, New York, UNDP

<sup>5</sup> UNDP (2005) *Human Development Report 2005*, New York, UNDP.

<sup>6</sup> National Institute of Statistics (2004) *Report for the Cambodia Socioeconomic Survey 2004*, Phnom Penh, NIS.

<sup>7</sup> UNIFEM et. al. (2004) *A Fare Share for Women, Cambodian Gender Assessment, 2004*, Phnom Penh, UNIFEM.

### **Gender-based violence**

Gender-based violence in Cambodia is a serious issue and the number of reported cases of domestic violence, rape, and trafficking is rising. A forthcoming report of the Ministry of Women's Affairs (MoWA) on domestic violence reveals that 25% of women have experienced some sort of violence by their husbands. Many socio-cultural factors, including poverty, lead to an increasing number of cases of domestic violence in the country.

After the passing of the law on domestic violence in the National Assembly on September 16, 2005, Cambodia has laws in place on domestic violence, rape and human trafficking. These laws are an important symbol of the RGC's commitment to reduce gender-based violence. However, passing laws is not enough to address gender-based violence and the effective enforcement of the laws remains a challenge. Generally, police and officials are reluctant to interfere in domestic violence and often refuse to investigate the cases of domestic violence, regarding them as a private matter. Similarly, substantial efforts have not yet been undertaken by the RGC to disseminate the law among the law enforcing agencies and the judiciary system. Traditional norms and moral codes disfavour women to fully exercise their rights preserved in these laws. Stigmas are attached with sharing domestic problems (domestic violence) outside their homes, and so, women are discouraged from filing cases of domestic violence with law-enforcement agencies.

Despite police actions like raids and temporary closures of brothels, human trafficking is still on the rise in the country. Human trafficking networks—run by powerful figures and their allies – many of them RGC officials, soldiers, or police officials, are not being prosecuted. Unfortunately, RGC provides little support to raise social awareness on this issue.

### **Women in leadership**

Increasing the role of women in mainstream politics and decision-making in RGC ministries and departments in Cambodia, remains a slow process with only small numbers reaching a level of real power. Only 12 women (9.8 percent of total seats) were elected as National Assembly Members in the 2003 elections—an increase of 5 compared to the 1998 elections.

Following the 1998 election, there were only 2 female ministers among the 25 ministries and 4 female Secretaries of State out of a total of 50. At the time this was an improvement, though there are still no female provincial governors. Previously there were only 4 women in politically appointed positions and no female ministers, secretaries of state or provincial governors. Only 14 percent of senior officials and managers, and 33 percent of professional and technical workers in public sectors are women.

Prior to the 2002 Commune Elections there was discussion of developing a quota of 30 percent of seats for women. However, this suggestion was rejected and only 8.5 percent of the elected councillors were women. The involvement of a larger number of women in politics at the local level would be an important step in developing both a culture of acceptance of women in power, as well as fostering the empowerment of women who have a valuable contribution to make to the future of the country.

### **Economy and agriculture**

In Cambodia 65 percent of agricultural labour and 75 percent of fisheries production are in the hands of women. Poverty cannot be reduced unless policies, programs and budget equitably address Cambodian women's needs. Rural women are responsible for 80 percent of food production, and more than 65 percent of women are farmers. Half of those women are illiterate or have less than a primary school education. 78 percent are engaged in subsistence agriculture, compared to 29 percent for men. In rural areas, only 4 percent of women and 10 percent of men are in wage employment.

Women-headed households are more likely to work in agriculture than male-headed households, and yet they are also more likely to be landless or have significantly less land. Nearly 80 percent of these workers are primarily engaged in subsistence agriculture with women comprising 56 percent of the

primary work force in subsistence agriculture, and 54 percent of the workforce in market-oriented agriculture. The majority of women are also unpaid family workers.

Access to quality extension services is a serious issue for both men and women farmers, and women have significantly less access to what little extension services and training are available. Agricultural research and extension are not focused on the activities of women farmers; even though men and women tend to specialize in different tasks. No strategy has so far been undertaken by RGC to mainstream gender in agriculture and agricultural extension services.

Although more than 70 percent of Cambodia's population are employed in agricultural production, between 12 percent and 15 percent of them have no agricultural land. The access of the poor to other natural resources such as forest, fisheries and related resources is constrained.

### **Women with Disabilities**

Persons with Disabilities (PWD) are discriminated against at all levels of society. This causes PWDs to live in isolation, excluded from mainstream society, and with no access to equal rights and opportunities. Disabled women face double discrimination – as women and as PWDs.

Disability issues seem to be ignored by the RGC. At the most recent Disability Day (December 3, 2003) it was said that less than 2 percent of Cambodian people are PWDs. But the World Bank estimates the number of PWDs living in Cambodia at 20 percent.

In water and sanitation, disabled women are most vulnerable. There is no appropriate toilet or bathroom for women with disabilities. In many cases they are living in an unhealthy environment.

People with seeing, hearing and speaking impairments have no access to education. Most of them cannot read or write. Moreover children with disabilities cannot go to school or stop going to school because the building have no ramps.

Disabled women suffer more from domestic violence. Their husbands often abandoned them after they become disabled. There are many cases of disabled women being exploited. Poverty can only be reduced when the needs of the most vulnerable groups are addressed –especially, women with disabilities.

### **Judicial system**

The Judicial system lacks independence, competency and transparency. The country has made little progress in reforming its judicial system. High-ranking officials and political party leaders are not prosecuted even when they commit serious crimes. Police detains suspect and torture them, attempting to extract confessions from suspects without access to lawyers.

### **Land issue**

Access to land is a crucial factor for poverty alleviation and food security. Secure access to land, particularly for women, remains a pressing issue in Cambodia. Land confiscation continues to be a major issue throughout the country. Many land conflicts involve ownership claims by powerful groups and individuals. Concessions granted to private companies by RGC lead to increasing landlessness. Women, particularly of female-headed-households, are more affected than men by this policy and land grabbing.

## **(iii) Recommendations**

- That gender equality considerations in different sectors of the NSDP adequately address the particular needs of women and gender analyses are conducted prior to implementation.
- Ensure that health care services, especially maternal and child health care services are available in rural areas. The RGC needs to allocate a larger budget to the health sector.

- Ensure that affordable health care services are available for low income and migrant workers in cities like Phnom Penh.
- Ensure that there is an increase in the RGC's budgetary allocation for education, particularly for expansion of female education through scholarships for female students throughout the country.
- Ensure that grassroots initiatives are in place to educate and sensitize people on gender issues, particularly the women themselves.
- The RGC needs to make a major effort to make the stakeholders, including the law enforcing agencies aware about the laws on domestic violence, rape, and human trafficking.
- Ensure that gender disaggregated data and information, which illustrates the status of gender equality in different sectors, are widely disseminated.
- Enact quotas for women in commune councils, national assembly, and managerial and professional positions in the government.
- Ensure that agricultural extension programmes, including technology transfer and skills-development programs, include more women in service delivery.
- Strategies and budget allocations are needed for people with special needs, particularly women with disabilities.
- There is a need for program intervention to improve the leadership skills and willingness of potential women leaders both at local and national levels to increase their participation in decision-making bodies such as the National Assembly, and Commune/Sangkat Council.

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## HUMANITARIAN MINES ACTION

### (i) Introduction

Although some real progress has made in 2005 in the areas of planning, stockpile destruction, Mine Clearance, Mine Risk Education, Research, Victim assistance and data management, some improvements and reforms remain to be achieved if Cambodia wants to meet its objectives and its commitments towards the Mine Ban Treaty. If the current pace in mine clearing persists it seems likely that the GoC will seek to extend the Article 5 deadline of March 2010. However there is substantial scope to increase the elimination of the mine/UXO problem as current approaches could be carried out more result-oriented and more efficient, both in terms of time and costs.

Some institutional and operational changes have been initiated that need to be confirmed if Cambodia wants to continue to mitigate the threat posed by mines and UXO among the most affected communities and contribute to poverty alleviation and overall development. Given that the mine clearance deadline is only five years from now and the fact that the number of casualties in Cambodia is still among the highest in the world, some of the urgent initiatives include or will include:

- a focus on heavily mined border areas where most mine casualties occur;
- reducing suspected areas by listing and assessing the areas already reclaimed by villagers; and
- a more results orientated / cost efficient operations to minimize the time needed to eliminate the mine / UXO problem.

The Royal Government of Cambodia (RGC) continues to actively support the Mine Ban Treaty and NGOs are willing to maintain their operations as long donors are committed to keep supporting (HMA) until threat is reduced to an acceptable and tolerable level.

*Mol Mov is the head of 8-member family who migrated from Takeo province to Pailin 4 years ago in search of alternative means of subsistence. When arriving in Tum Nob village in the commune of Stoeng Trang, he was advised by a land owner to settle in an uncleared mine field. Mol Mov had then to demine the land before cultivating it. In one year he found and cleared more than 50 hazardous devices and an 11 year-old boy was injured and his brother killed when deliberately handling a UXO. After one year, the owner has asked Mol Mov to vacate the reclaimed land and find other land to cultivate. Mol Mov will now have to leave the land he has worked on, to settle his family on other mined land elsewhere.*

### (ii) Key Issues

**Issue A.** The National Authority has shown increased and more pro-active interest in its coordination with operators and donors through more regular coordination meetings, the Technical Working Group and the Mine Action Forum. Particular improvements in the areas of support to Mine Action Planning Units (MAPUs) for appropriate prioritization and distribution of demined land, Mine Risk education, data management and accreditation have been noticed. Yet, interest has to be confirmed in particular through the completion of the reform of the Cambodian Mine Action and Victims Assistance Authority (CMAA).

**Issue B.** Continuous attention to the development of adapted working methods and cost reduction has been noticed among operators also under the guidance and pressure of donors. Led by the persistent level of Mine and UXO casualties in Cambodia, this must also go with the development of refined strategies in the field of Explosive Ordnance Disposal (EOD), the recognition of the work achieved by

the informal sector, including village deminers, the development of a systematic QA system, the development of a thorough analysis capacity of the data collected and the maintenance of the level of funding for HMA in Cambodia.

**Issue C.** Victim Assistance – Needs of survivors include medical service, physical rehabilitation and psycho-social support, socio economic integration and the law to protect the rights. There is a good database on casualties but little on assistance to the survivors. To ensure sustainability and avoid unnecessary segregation of survivors or the families of those killed or injured, assistance should be viewed as part of general development planning for their community as a whole. However, at the same time, there should also be specific activities targeted at landmine survivors and other persons with disabilities including ensuring access to appropriate rehabilitation facilities and aids, and opportunities for socio-economic reintegration.

**Issue D.** The role played by the local communities in the guidance planning and implementation of demining operations must be recognized and supported by the formal sector and further explored in anticipation of the phasing out of existing resources for HMA. Empowering local people to take leadership on their mine and UXO problem can lead to substantial threat mitigation and problem resolution.

### **(iii) Recommendations**

#### **To the Royal Government of Cambodia:**

- Finalise the reform of the CMAA;
- Develop a national data analysis and interpretation capacity to guide the sector that is coordinated, cohesive and inclusive of all stakeholders;
- Develop a UXO/EOD strategy that includes potential governmental bodies;
- Clarify the role and the capacities of RCAF;
- Increase the support to MAPUs;
- Increase government funding to the sector;
- Increase government support to mine victims for reintegration; and
- Pass the Disability Law.

#### **To the Donors:**

- Maintain level of funding for HMA in Cambodia, possibly as multi-year commitments;
- Support the identification of alternative strategies and innovation through research and development of pilot projects;
- Ensure that funding to support casualty reduction, assistance to mine victims and community development is maintained at high levels.

#### **To the NGOs:**

- Work closer to community needs. Propose alternative strategies to empower communities and make mine action more sustainable;
- Sustain efforts in reducing cost per square metre;
- Maintain high level of coordination with The RGC and within the HMA sector as well as with Development organizations; and
- Recognise that mine survivors and people living in mine affected communities have particular needs and include their needs in both development and rehabilitation programs.

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## CHILD RIGHTS

### (i) Introduction

This statement on Child Rights is complementary to other documents as children's rights are relevant to every sector. It has been prepared by the NGO Committee on the Rights of the Child (NGO CRC) which is a coalition of 40 national and international NGOs working together on raising awareness of the rights of children, advocacy, and monitoring of the implementation of the UN Convention on the Rights of the Child in Cambodia.

The Royal Government of Cambodia (RGC) ratified the UN Convention on Child Rights in 1992. Since then, efforts have been made to implement this Convention in such a way to improve the situation of children in Cambodia. In 2000, the UN Committee for Children made a 31-point recommendation list for Cambodia to better implement the UN Convention on Child Rights.

To this end, the RGC has subsequently developed public policy concerning children, strengthened its leadership, commitment, and increased resources for various government institutions working with children, so that poor and vulnerable children can equally benefit from Cambodia's development.

“ We must speak together about investment on children. The welfare of children is not only an obligation of social morality, but also a key to sustainable economic growth in the future and a contributing element in the heart of poverty reduction strategy”.

### (ii) Key Issues

#### **1. Implementation and Monitoring of the UN Convention on Child Rights**

The Cambodian National Council for Children, established in 1995 under a Sub-Decree, is a coordination entity for advocacy, and monitoring of the implementation of the UN Convention on the Rights of the Child in Cambodia (a signatory State) to effectively promote the rights of children in Cambodia, the Cambodian National Council for Children has established 4 Sub-Committees (inter-ministerial): i) the Sub-Committee on Counter Trafficking and Exploitation of Children, ii) the Sub-Committee on Child Labour, iii) the Sub-Committee on Legislation, and iv) the Sub-Committee on Small Children Development, as well as national policies associated with children such as the "Cambodia fit for children" policy and the National Plan of Action Against Trafficking and Sexual Exploitation of Children, 2000-2004.

At the same time, it is noted that the Cambodian National Council for Children (CNCC) has not functioned well due to the lack of personnel (all staff are borrowed from other ministries) and the fact that the Council falls solely under the control of the Ministry of Social Affairs and Youth Rehabilitation. Since its Chairman is a Minister, it is difficult to make contact with him and other high-ranking members. If the Council were chaired by a Deputy Prime Minister, then it's functioning would be improved. Furthermore there is substantial room for improvement in the Council's operations since: i) the Council's structure and activities do not cover all places throughout the country, ii) it does not have a database management system to follow-up on cases or monitor the implementation of the UN Convention on the Rights of the Child.

#### **2. Drugs**

The RGC has made vigorous efforts in its fight against drugs through a number of actions and initiatives: i) the establishment of the National Authority to Combat Drugs, ii) the establishment of Anti-Drug Departments and the Provincial Anti-Drug Structure throughout the country, iii) passing the Law on Drug Control, iv) the introduction of a 5-year Master Plan to Combat Drugs, v) issuing the

10-point recommendations of Deputy Prime Minister Sar Kheng, and vi) various cooperative efforts on combating drugs with other countries such as Thailand, Laos, Vietnam and China. Though many measures have been carried out by the RGC the number of drug users has increased.<sup>8</sup> According to the Report Cambodia had 5,502 drug users in 2004, which increased to 6,876 in 2005. Further, it is estimated that the real number of drug users is 5 or 10 times as high. It has been estimated that 30 percent of all drug users are children.

At present Amphetamine Type Stimulate (ATS) abuse has been adversely plaguing poor youth which leads to other social misbehaviour. Furthermore there is great concern over the spread of HIV/AIDS infections through sharing needles, intravenous injection and unsafe sex. Furthermore it is noted that Cambodia does not have enough centres to treat, care for, and rehabilitate those children addicted to drugs. While drugs produce many undesirable effects on social security and health, the awareness raising campaign of the impacts of drug abuse has unfortunately not yet reached out to the students' and community.

### **3. HIV/AIDS**

The RGC has been very successful in preventing the spread of HIV infection through the establishment of the National AIDS Authority, the National Centre for HIV/AIDS and Dermatology, and their offices in all provinces in the country.<sup>9</sup> The campaign for 100% condom use throughout the nation has achieved good results namely the decrease in infection rate. In 1997, the prevalence rate was 3.3%, which decreased to 2.6% in 2002 and decreased further to 1.9% in 2003. In 2003, there were 123,100 people in Cambodia living with HIV and 19,880 people living with AIDS. The RGC has provided more anti-retroviral drugs to HIV/AIDS infected people, and up to June 2005 the Royal Government has provided the medicine to 11,000 people of which 1,000 were children. This strategy helps to reduce the number of orphans whose parents have died of AIDS. This success has been achieved through joint efforts of the RGC, NGOs and various donors.

H.E. **Hong Sun Huot** said that <sup>10</sup>“in the past 15 years around 100,000 Cambodian people have died of AIDS and left approximately 100,000 orphans. These orphans have been abandoned and ignored by community and relatives, and discriminated; these children are forced to leave school in order to work to support their younger sisters and brothers; children lack food, refuge, and study material. They face many hazards such as trafficking, prostitution and drug abuse”.

### **4. Child Abuse**

The RGC has strengthened its laws and provincial law enforcement institutions in response to child abuse, such as the establishment of the Police Department of Human Trafficking and Minor Protection, and their offices in all the provinces and the review of the law on The Suppression Of Kidnapping, Trafficking and Exploitation of Human Persons. According to information obtained by the NGOs Committee for the Rights of Children, child abuse has increased during recent years. The report states that in 2002-2005 there were 866 cases of child abuse of which 455 were rape cases. Among the rape cases, 24 % involved children below nine years old, 44 % involved children within the age of 10-14 years, and 32 % were children within the age of 15-17 years old.

In 2005, the Committee received 139 rape cases in which there were 142 girl victims: 32 girls less than 9 years, 69 girls between 10-14 years, and 41 girls between 15-17 years. Most of these cases happen in Banteaymean Chey, Kampong Thom, Battambang Kandal provinces and Phnom Penh. For the perpetrators among these 139 cases, there are 142 perpetrators; 104 have been in pre-trial detention; 4 are in prison; 3 are at large; 22 are on bail and 9 are unidentified status.

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<sup>8</sup> Report of early 9 months of 2005 by the National Authority to Combat against Drug

<sup>9</sup> 2005 Report the National Center for Dermatology and Venereology

<sup>10</sup> Quoted from Kampuchea Thmey, No. 747 dated 2 June 2005

The increased figure shows the decrease in social morality and law enforcement. Many cases are resolved by compromise outside the court system.

#### **5. Child Labour : Domestic Worker**

The RGC has made various efforts to address the issue of child labour in Cambodia including: i) the establishment of the Sub-Commission for Child Labour, ii) the establishment of the Department of Child Labour, iii) the ratification of the ILO 182 Convention against the worst forms of Child Labour, and iv) issuing some Prakas by the Ministry of Social Affairs.

Notwithstanding these efforts, child labour remains a severe. Cambodia has more than 1.5 million child labourers, of whom 250,000 are working in the most severe forms of child labour. Research by the National Institute of Statistics in 2003 shows that there were 27,950 children working as domestic workers in Phnom Penh. These children do not have an opportunity to study and most of them are facing exploitation and abuse, both physical and verbal, every day. Some NGOs and government institutions are working on the issue, but they lack sufficient experience, and sometimes there is limited coordination from concerned authorities and the homeowner.

#### **6. Justice System for Children**

The RGC has made an effort to improve the juvenile justice system. The Ministry of Justice has issued guidelines regarding the implementation of existing national and international law on juvenile justice and another draft law on minors.

However, Cambodia is lacking many laws and regulations concerning its justice system for children. Cambodia has enacted the Law on Aggravating Offense, under which the best interests of children are not always well served. There are some provisions regarding the detention period of children under criminal law. However, there are no provisions or guidelines saying that the arrest, detention or deprivation of the freedom of children should be carried out only as a last resort. Many old detention centres/prisons do not separate the children from the adult inmates. When children serve their prison term together with adults they gain many bad experiences from those adults.

The Cambodian correctional system does little to provide such rehabilitation services to detainees as psychological and physical treatment, and assistance re-integrating into the community. The situation for children is similar as there are few education or rehabilitation programs of for them.

### **(iii) Recommendations**

#### **1. Implementation and Monitoring of the UN Convention on Child Rights**

In response to the child issue, which is a priority issue in the society, the Cambodian National Council for Children should:

- be an institution chaired by a Deputy Prime Minister;
- have its own staff for the normal functioning of the Council;
- have more human and financial resources; and
- establish an information management system to follow-up on the implementation of the Convention on Child Rights.

#### **2. Drugs**

The Royal Government of Cambodia should:

- carry out a nationwide campaign to combat the importation, use, trafficking and production of drugs;
- increase the budget for the National Authority to combat drugs more effectively; and
- build more centres to care for and treat victims of drug abuse.

#### **3. HIV/AIDs-**

The Royal Government of Cambodia should:

:

- Provide more retroviral drugs to people free of charge;
- Create programs to support orphans whose parents have died of AIDs; and
- Further solicit help for orphans from the community, and combat discrimination against HIV infected children, and orphans whose parents have died of HIV/AIDs.

#### **4. Abuse, Trafficking and Sexual Exploitation of Children**

The Royal Government of Cambodia Gent should:

- Strengthen the enforcement of Criminal Law in punishing perpetrators;
- Get rid of obscene magazines and pornographic video CD/cassette through the strengthening of the Inter-ministerial Prakas No. 14 dated 9 February 2000;
- Strengthen the education of social morality in the community.

#### **5. Child Labour: Domestic Worker**

The Royal Government of Cambodia Gent should:

- Develop a national plan to end the most severe forms of child labour;
- Facilitate opportunities for children serving as domestic workers to receive an education, and educate homeowners regarding their moral and legal responsibilities to the children they employ;
- Carry out a national campaign to draw attention to children serving as domestic worker, and
- Create a community-based mechanism to follow-up on cases of severe abuse.

#### **6. Juvenile Court**

The Royal Government of Cambodia Gent should:

- Accelerate the passage of the Draft Law on Justice for Minors and establish a juvenile court. Law and policy should ensure that arrests of children be made as a last resort, and the deprivation of their freedom be a duly short period;
- Immediately separate children in detention from adult inmates, and ensure the provision of education and rehabilitation programs for children in prison, and
- Create a formal compromise system in the legal system for children committing minor offences, to prevent such cases from being sent to court.

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## TOURISM

### (i) Introduction

Cambodia is becoming an increasingly popular tourist destination. Foreign tourist arrivals to Cambodia jumped from 463K in 2001 to almost 1.5 million in 2005. Despite Birdflu fears in nearby countries, the number of tourists arriving in Cambodia still remains high. The importance of tourism is reflected in the income earned and jobs created. The 2005's earning was 777 million US Dollars and created approximately 180,000 local jobs. Tourism is one of the six priority areas for The Royal Government of Cambodia (RGC).

Along with the benefits of tourism, there is also the negative side of attracting unwanted social problems such as drugs, prostitution, and human trafficking. Paedophiles and sex tourists seek out places with weak law enforcement and weak judicial systems. The demand of children for sex does not come from only foreign tourists; domestic tourists also take part in exploiting children. To date, the number of sexually exploited children remains unclear.

To address the problem of sexual exploitation of children, World Vision, in partnership with the Ministry of Interior, UNICEF and other international organizations works to strengthen the application of existing mechanisms to prosecute offenders and protect children.

Working towards the country's National Poverty Reduction Strategy (NPRS) and the five-year national plan against trafficking and sexual exploitation of children, the Ministry of Tourism signed an Agreement with ILO IPEC on the 29th of September 2005, to promote Child Safe Tourism and prevent trafficking of children and women; it also seeks to involve many partners in the tourism sector such as government, private business, members of the work force, and communities. Other governmental entities who will also take part in the initiative includes: The Ministry of Labour Vocational Training, The Ministry of Social Affairs Veteran and Youth Rehabilitation, The Ministry of Womens Affairs, and the Ministry of Interior.

Some of the activities that the group will carry out include capacity building of the entities working in the tourism sector, raising awareness through public campaigns and TV programs, and social services for victims and individuals vulnerable to trafficking. In an effort to generate more jobs, the RGC is promoting the production and the use of local products.

### Progress

Some of the progress made to date includes hotlines set up in key cities such as Phnom Penh, Sihanoukville, and Siem Reap. Through the inter-governmental agencies, the Ministry of tourism conducted the Launching Action Program on Promoting Child Safe Tourism Polices to Prevent Trafficking in Children and Young Women for Labour and Sexual Exploitation in Cambodia on 22 September 2005.

- There have been 11 Child Safe Tourism Commissions set up at the Municipal and Provincial Tourism Office: Phnom Penh, Siem Reap, Kratie, Prey Veng, Kampong Cham, Oddar Meanchey, Svay Rieng, Sihanouk Ville, and Banteay Meanchey, Takeo, Ratanakkiri.
- There were 545 TOT Manuals printed. About 10,150 Safe tourism booklets handed out to the tourism industry. There were 9,500 safe tourism booklets printed and distributed. There were 6 TOT Trainings completed with 360 participants.
- Awareness raising activities of SECT at community level in which 2,492 children of whom 1,380 are girls, 145 parents, 99 local authorities, 5 teachers, and 44 child peer groups.

- The MoT has developed its 5 Year Plan of Action that includes child safe tourism that can also address income generations from 2006 to 2010.
- The CST Commission of the MoT has learned to take initiative to prevent children from being trafficked. They had set up various Memorandums of Understandings with other organizations to fight against sex tourism at regional, national, provincial, and community levels.
- The MoT has set up the TOT Team within their tourism departments to train on prevention of Sexual Exploitation of Children. Some of those trained have also linked with other program such Seila Program of UNDP and AIDS Program of the RGC in providing the training sessions to target people in communities.
- The MoT had conducted the consultative workshop on the Development of Strategic Plan, Operational Guidelines and Training Manual in Promoting Child Safe Tourism Policies to Prevent Trafficking in Children and Young Women for Labour and Sexual Exploitation in Cambodia on 10-11 January 2006. The Action Plan, Operational Guidelines and Training manual to be used in the three pilot areas (Phnom Penh, Siem Reap and Sihanouk Ville) are finalized.
- The Prevention of Child Sex Tourism is integrated into the new 5 Year Plan of Action 2005-2009.

## **(ii) Key Issues**

Though it appears that many issues have been addressed with respect to combating sexual exploitation of children in the tourism industry, Cambodia is far from being a safe place for children. There is still a belief that cracking down on those who sexually exploit children will hurt the tourism industry. For instance, operations such as hotels, guesthouses and Karaoke bars are still not respecting the regulations set forward by the MoT. The owners do not take the training session seriously and often send middle management representatives with little implementation power to workshops.

The gap between the rich and poor is still widening as children, trapped in poverty and sometimes violent family life, drop out of school and live on the streets where they easily fall prey to substance abuse, child labour, and sexual abuse. Sometimes they are even sold into sex slavery where they have to work and pay off an exorbitant sum of money to their merciless “owners”.

## **(iii) Recommendations**

### **Recommendations to the Royal Government of Cambodia:**

- That the RGC undertakes a campaign of education for its people in de-linking the connection between income generation and the use of children. In a poor country where children are often used as economic goods, there is a strong need for government to take the lead in valuing children as the future population of the country, not to be sold and bought.
- That the MoT continues to work with the Child Safe Tourism Project and ECPAT (Child wise Australia) to develop the capacity to monitor how it can effectively fulfil its role.
- Political will is needed to ensure that new regulations to protect children can be implemented. For this reason a planned process of rolling out new frameworks are needed with targets set for monitoring.
- Given the economic benefits that flow from the tourism industry, it is recommended that a proportion of the revenue generated be reinvested in training and ensuring child protection standards agreed to by the RGC are enforced by the tourism sector. This process needs greater practical leadership from the MoT and the Ministry of Interior to ensure that the RGC, not only NGOs, represents children on this issue. This may take the form of budget provision, setting targets, and agreements with key bodies in the private sector and holding the industry and individuals accountable.
- That the provincial Child Safe Tourism commissions be technically and financially resourced to fulfil their function.

- That licensing conditions for tourism businesses to protect children from being used in prostitution be monitored and enforced by the MoT.
- That the RGC makes a financial commitment to the protection of children and follows the of the Asean Tourism code.
- The MoT works with the tourism industry to set up a monitoring team on the implementation of industry codes through private tourism business sector.
- Adopt and Strengthen national legislation against the sexual exploitation of children in tourism, including extra-territorial laws and regulations allowing the prosecution of nationals for child sex offences committed abroad and to ensure strict enforcement of these laws.
- Conclude bilateral agreements to facilitate extradition, mutual assistance or any other form of international cooperation in the field of prosecution of persons engaged in trafficking and sexual exploitation of children.
- Designate focal points within the national tourism administration to work with other related government departments and national commissions to prevent the sexual exploitation of children. Implement practical measures to assist with the protection of children, such as setting up telephone hotlines.
- Launch national awareness-raising campaigns against the sexual exploitation of children in tourism, in coordination and cooperation with the tourism industry and concerned local NGOs. Support these campaigns with training programmes for tourism personnel.
- Include provisions on the prevention of sexual exploitation of children in the National Tourism's Master Plan.

#### **Recommendations for Donors:**

- Ensure that funding to support tourism infrastructure development such as airports also makes provision to counter negative social consequences, which may affect children.
- Hold the RGC accountable for its management of the tourism sector in Cambodia in the interests of protecting the future of the country, the children by implementing the Conversion on the Rights of the Child.
- Hold the RGC accountable for its fiscal management of revenue generated from tourism so that it can reinvest back into a child safe tourism environment by improving the quality of law enforcement.
- Continue to work with the RGC and the NGOs to reduce poverty and violence in Cambodia so that children will not be driven by circumstances at home to live on the streets and fall prey to sexual exploitation from tourists, domestic or foreign.
- Ensure that monitoring the negative social consequence of infrastructure or Structural Adjustment programs is built in to funding agreements.
- Ensure NGOs or civil society groups are supported to research and monitor emerging issues.

#### **Recommendations for NGOs:**

- NGOS working to provide training options for Cambodians entering the tourism labor market need to include components of child safe or child wise tourism training materials. They need to support the child safe messages as they prepare others.
- NGOs working to promote child protection need to use the 24-hour police hotline to report any cases they suspect tourists or tour facilities sexually abusing children.
- Continue working towards poverty reduction, gender equality and reduction of violence in the homes and society.

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## **DISASTER MANAGEMENT**

### **(i) Introduction**

Over the last few years, Cambodia has been devastated by flood and drought. In 2000 flooding resulted in 347 deaths and more than 3.5 million people were affected (NPRS, 2002). In 2002, the National Committee for Disaster Management (NCDM) reported total damage from natural disasters at 33 million US dollars (ECHO, 2002). Natural disasters (flood and drought) most acutely affect poor households. Floods cause homelessness and low production (i.e. rice and fish spawning). This leads to a cycle of debt and poverty. Rice and fish are the staple diet of Cambodia (Ramage, 2003). Flood and drought ensure that vulnerable groups continue to suffer poverty and food insecurity (NPRS, 2002).

Flooding of the Mekong River is a recurrent event. The Royal Government of Cambodia (RGC) prioritizes disaster management as one of the major strategies for poverty reduction in Cambodia (NPRS, 2002). Better intervention and a more effective approach will increase environmental sustainability and improve resource management, reducing the vulnerability of Cambodian people who are living on flood plains (ECHO, 2003). Therefore, different disaster management interventions are recommended (ECHO, 2003). In addition to natural disasters, human made problems have had significant impacts on these vulnerable communities.

### **(ii) Key Issues**

- Continued lack of disaster-related information dissemination. Some NGOs and the Red Cross have set up early warning systems for floods in some places, with cooperation from the RGC (NCDM). However, the warning system is still limited with unclear roles and responsibilities within the existing structure on the disaster response process.
- Human and financial resources for responding to disasters are still limited. Except for the limited budget of the NCDM for emergency response, the RGC has not made a specific budget allocation in 2005 and 2006 for disaster preparedness/mitigation and capacity building.
- Public participation in disaster risk management is still limited, as disaster risk management concepts have not been integrated into Commune Council development plans and some international agencies and Local NGOs have not integrated disaster risk management concepts into their normal/social development plans.
- Relief distributions have not been accountable and transparent.
- Complaint handling mechanisms were not established widely in disaster response areas.
- Women and children were still at high risk during disasters and their voices were not heard.

### **(iii) Recommendations**

Development and poverty alleviation initiatives should be encouraged, as they can result in increasing family assets and agricultural productivity. This may be through rehabilitation of infrastructure and emphasizing multiple livelihood components such as managing natural resources and accessing credit.

#### **Recommendations for the RGC:**

- Government should work closely with the International Strategy for Disaster Reduction (ISDR) to implement the Hyogo Framework for Action 2005-2015.

- Government should allocate funding for disaster preparedness and mitigation at the grass roots level and integrate it into the sub decree
- The NCDM should continue to play an effective coordination role in strengthening collaboration between all local disaster management institutions and ministries to carry out agreed upon action plans.
- There should be a commitment to accountability and transparency among government institutions.
- The government should integrate a disaster risk management component into Commune Council development plans.
- NCDM coordination should be strengthened. The RGC should consider placing project management experts in the NCDM, with the aim of creating an effective, pro-active response capacity. Management skills need to be developed in order to better manage meetings, create action plans, and coordinate diverse and geographically separate groups. A common understanding of accountability needs to be incorporated into all emergency response agencies.

#### **Recommendations for the Donors:**

- Funds should be made available to support the disaster management programme in Cambodia through training and strengthened disaster preparedness action plans at village and communes levels where floods, droughts and other disasters may occur.
- Financial and technical support should be provided to NCDM to improve the quality of disaster management in Cambodia.

#### **Recommendations for the NGOs:**

- Technical support should be provided to all levels of ministries and local authorities in developing a clear strategy for disaster preparedness, relief, mitigation and rehabilitation with coordination from NCDM.
- A response plan should be developed for disaster preparedness and mitigation and integrated into the long-term programme strategy.
- Disaster risk reduction strategy should be integrated into sustainable development policies and work plans.

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#### **References**

- (i) Ramage, I et al, (2003): Final Evaluation Report: Disaster preparedness action planning in Prey Veng. CARE Cambodia Project. Phnom Penh.
- (ii) MoP/Council for Social Development (2002): National Poverty Reduction Strategy 2003-2005. Phnom Penh Kingdom of Cambodia, 20 December 2002.
- (iii) ECHO (2003): CARE, NCDM and WFP 2002 Joint Food Security Assessment. Phnom Penh. ECHO and CARE Cambodia April 2003.
- (iv) HAP International evaluation report (April 2003) by Prudence Lambert Khan on The Humanitarian Accountability Project Field Trial in Cambodia that took place from August 2002 to February 2003.

## **AGRICULTURE AND RURAL DEVELOPMENT<sup>11</sup>**

### **(i) Introduction**

Around 80 % of the Cambodian population lives in the rural areas, and they make their living primarily through agriculture, especially rice cultivation. Agriculture represents the largest share of both GDP and employment. Most of the 250,000 people joining the national workforce annually must be absorbed into the agricultural sector. To improve the socio-economic situation in rural areas of Cambodia, the following key issues should be addressed in rural development policies and strategies:

### **(ii) Key Issues**

- Problems related to food insecurity<sup>12</sup> and malnutrition are still widespread in Cambodia, especially due to low rice productivity, limited options for agricultural diversification, insufficient income to buy food among poor and landless farmers, lack of access to land resources to produce food, as well as limited awareness on how best to maintain nutrition and health.
- Increasing numbers of rural youth are facing an uncertain future, as non-agriculture employment opportunities are limited, and they are not equipped with the necessary skills and knowledge to create or exploit other economic opportunities.
- Farmer organisations have slowly emerged, especially with support from NGOs, Government, and bilateral projects, but they are still fragmented. Also, they have not developed in terms of coherent policy and collective action for the economic benefit of the farmers, especially in the field of marketing and credit.
- Limited access to technical information and agricultural materials/inputs, especially piglets, seeds, seedlings, fingerlings, and market information, pose constraints on agricultural diversification and the development of more market-oriented family agriculture.
- Problems related to agrochemical use in Cambodia, especially pesticides, are still widespread in many parts of the country due to uneven law enforcement, loose control over the importation of illegal pesticide, and a lack of adequate public education and awareness programs, as well as limited research and outreach on environment and health-friendly agriculture. This poses potential food safety hazards for consumers and producers alike.
- Very limited or unreliable access to water is widespread in farming communities mainly due to a lack of investment in small and medium-scale irrigation, and limited capacity of the community to operate and maintain the irrigation systems.
- Domestic insecurity at the community level is widespread, especially the theft of livestock, making farmers feel uncertain about making investments in agricultural development. This also negatively affects communal solidarity and trust.

### **(iii) Recommendations**

The following recommendations focus on strategic approaches to address food insecurity, poverty, and social issues among farmers in rural areas of Cambodia:

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<sup>11</sup> Prepared by CEDAC, with input from Oxfam America, Oxfam GB, JVC

<sup>12</sup> According to data from Ministry of Planning (2005), the proportion of population below the food poverty line is estimated to be around 20 % in 2005.

1. In order to solve the problem of rice food insecurity, we strongly recommend that the priority of agricultural development programs should be disseminating the principles of the System of Rice Intensification (SRI) throughout the rice farming communities in Cambodia<sup>13</sup>, and to support farmer training and farmer-to-farmer extension. In addition, crop diversification within integrated farming systems should be encouraged as a strategy to improve nutrition and income for small farm households.
2. Experience has shown that self-help and community-based producer organizations, (e.g., farmer associations or cooperatives, saving groups, etc.) are keys to rural development in Cambodia, as they bring economic benefits to small farmers and enable farmers to play effective roles in overall community development. Thus, existing programs with participatory approaches to assist farmers to organize themselves (e.g., Farmer and Nature Net) should be assessed and further developed for nationwide support of farmer organizations. We also recommend that training centres run by farmers' organizations be established with NGO support, to provide responsible and practical training services to representatives of farmer organizations.
3. Rural education should be improved to respond to the needs of the rural youth, especially in term of agricultural skills, environmental conservation, and community development. In addition, community-based professional and vocational training programs and training centres for rural youth should be supported.
4. Widespread public awareness and education programs on sanitation, health and nutrition – particularly vegetable production and consumption - and raising animals to prevent diseases including bird flu and mad cow disease should be supported. This requires strong cooperation among the agriculture, health and education sectors.
5. Resources for agricultural research and extension should not be organized in terms of 'transfer of packages of technology' to farmers, but rather how to support farmer experimentation and farmer-to-farmer sharing and learning, as well as the establishment of community-based input supply enterprises (seeds, piglets, fingerlings, etc.).
6. The subsidization of fertilizers and pesticides with donor money should be stopped as this practice does not help to improve the lives of small farmers in the long run; instead it will make farmers dependent on external aid and external inputs, while also having some adverse impacts on the environment. The content of agricultural extension should include some training in basic business management, marketing, saving/credit, and organizational skills. Donors should support the implementation of laws eliminating illegal pesticide use. Donors should also support research on the environmental and health impacts of pesticide and chemical fertilizers.
7. At this stage of rural development in Cambodia, external financial resources could be used more productively by investing in small and medium-scale irrigation systems which are manageable by farmers themselves, and the capacity of the water using community itself should be developed by using a genuinely participatory approach.

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<sup>13</sup> As of 2005, around 50,000 farmers are using SRI methods to improve rice productivity. With increased rice productivity (50 to 150 % increase), they are able to diversify part of their rice fields to other crops and species.

## LAND REFORM

### (i) Introduction

According to a recent assessment by the World Bank<sup>14</sup>, poverty has been reduced across the Cambodian population, but inequality has increased. The standard of living of the extreme poor grew at the slowest rate. Over 90 percent of Cambodia's poor are living in rural areas and more than 70 percent of Cambodians depend on land for their livelihood. Land tenure security and improved access to land and natural resources are therefore main pillars for the country's strategy on poverty reduction. The World Bank report, however, found that landlessness has risen rapidly, from more-or-less equal distribution in 1989 to 20 percent of rural households lacking land in 2004. On the other hand, approximately 2.7 million hectares have been approved for concession management and large land areas are being kept by non-producers for speculation, which results in there being no land for the people who need to farm for their livelihood. The ongoing land-grabbing carried out by powerful people has not been resolved yet. There are urgent tasks that need the government's attention. Despite the Royal Government's repeated commitment to combat illegal land encroachment<sup>15</sup>, real political will to enforce the relevant articles of the 2001 Land Law still appears lacking.

It has been several years since the Land Law entered into force on 30 August 2001. The RGC, in particular the Ministry of Land Management, Urban Planning and Construction, has been responsible for institutional restructuring, staff capacity building, policy development, and legal documentation that the Land Law requires. To strengthen this effort, the RGC has passed the Strategy of Land Policy Framework (2002) as well as a series of key Sub-Decrees<sup>16</sup>. The signing of the Sub-Decree on State Land Management and the Sub-Decree on Economic Land Concessions by the Prime Minister last year marks a milestone towards increased transparency and accountability in the use and management of the state's natural assets. However, the effective implementation of the two Sub-Decrees will require firm commitment and support from the RGC and its development partners.

Over the past decade local and international NGOs have significantly contributed to the shaping of a pro-poor policy and legal framework for land reform in Cambodia. NGOs welcome continued cooperation between the RGC and civil society to support and speed up implementation of land related laws and policies.

### (ii) Key Issues

#### **1. Land administration**

Only about 20 percent of land owners in Cambodia hold secure title to their land<sup>17</sup>. In 2002 the Land Management and Administration Project initiated a pilot project on systematic land registration in 10 provinces and the municipality of Phnom Penh. The project aims to register 1 million parcels by 2007 to improve peoples' livelihoods by providing secure tenure through the systematic issuance of titles that are legally enforceable. However, NGOs are concerned that if the land registration process is not

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14 World Bank (2006): Cambodia: Halving poverty by 2015? Poverty Assessment 2006.

15 See for example the speech by Prime Minister, Samdech Hun Sen, at the Conference of the Ministry of Land Management, Urban Planning and Construction on 6 February 2006

16 This includes the Sub-Decrees on Systematic Registration, the Sub-Decree on Sporadic Registration (2002), the Sub-Decree on Organization and Functioning of the Cadastral Commission (2002) and the Sub-Decree on Social Land Concessions (2003).

17 World Bank Poverty Assessment 2006

opened up to community participation and supported by effective public awareness activities it will not only cause a deteriorating effect on peoples' livelihoods, but it will also increase landlessness.

The majority of people in rural areas are illiterate, and as a result it is difficult for them to understand the process and procedures of land registration. They are often ignorant of their rights, especially in relation to their immovable property. The results of the 2006 poverty assessment by the World Bank show that the likelihood of obtaining a legal land title increases with income. There is anecdotal evidence that carelessness in some areas of systematic registration has allowed for opportunistic people to take advantage of the land registration process. As a result the landowner becomes landless, and powerful people who already have substantial land acquire more land legally. This is clearly in contradiction to the poverty reduction strategy and the land distribution policy committed to by the RGC.

### **2. Land conflict**

The problems created by legal loopholes in the 1992 Land Law and the lack of a comprehensive land policy have been compounded by the transitional hazards brought on by the expansion of the free market, and it appears that in the rush toward privatization, huge swathes of land have come under the ownership of a small handful of people. Land disputes started to emerge in Cambodia in the early 1990s, often involving powerful people who grabbed land from poor farmers. In response to this, the RGC under the 2001 Land Law has created the Cadastral Commission system; a mechanism to replace the pre-existing 1999 Land Dispute Settlement Committees that had failed to adequately address this problem.

A study made by a group of national and international organizations on the level of land disputes<sup>18</sup> and the effectiveness of dispute settlement in Cambodia has shown that at least 1,551 land disputes have occurred between 1991 and 2004, with disputed land totaling more than 380,000 hectares, and affecting more than 160,000 farming families. According to the study, land disputes increased 50 percent in 2000 compared to 1999. After a decrease in land disputes in the period after the new Land Law was enacted in 2001, the number of disputes increased again by 50 percent in 2004 compared to 2003. Almost two-thirds of the dispute cases that were recorded in interviews have yet to be resolved. In one-third of these cases the claimants have given up hope and no longer pursue the case. As an overall result of the survey, the efficiency of land conflict resolution through both the Cadastral Commission and the court system is highly questionable.

### **3. Land distribution**

No groundwork on land distribution has yet taken place. Demand for land has steadily increased with a significant proportion of landless families (for example young married couples) having never owned land. In 2003 the RGC adopted the Sub-decree on Social Land Concessions, but the results of piloting the transfer of private state land to landless poor remains to be seen. NGOs are concerned about possible allocation of social land concessions in forested areas or areas under rightful claims by indigenous communities.

Even though the 2001 Land Law prohibits further encroachment, land encroachment is still happening. The increasing value of land, especially fertile land with agricultural potential, is leading to the twin phenomenon of landlessness with good land held idle by rich and well-connected people for speculative purposes. This land as well as unused economic concession land could serve as an asset for a social land concession program.

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<sup>18</sup> Note that the survey only recorded major land dispute cases that involve one or more powerful actors and more than one family.

#### **4. Management of State Property**

In a period where there is a clear lack of legal support and legal documentation for the management of state property<sup>19</sup>, some such properties have gradually become legally owned assets of private individuals or companies through the sale, exchange or grabbing by powerful, local and international opportunists. These properties have been lost without the notice of the general public, which is to say there is no participation from the public, who are recognized by the 1993 Cambodian Constitution as the owners of the country with equal right to benefit from these properties.

In addition to the provisions in the 2001 Land Law relating to the management of State property, the RGC has recently adopted two legal texts with the aim of ensuring and protecting immovable property of the State. The Sub-Decree on State Land Management and the Sub-Decree on Economic Land Concessions are believed to serve as effective legal tools for the transparent and accountable management of state land. Although the legislation is reasonably sound, the question remains whether a more complex and technical legal framework can resolve the problem of illegal acquisition of state land where an easily manageable legal system has previously failed. Instead of focusing on the drafting of new legislation, more support for implementation of existing laws and regulations is needed. The enforcement of Article 18 of the 2001 Land Law is an indicator for the political will to regulate private transactions of state land.

#### **(iii) Recommendations**

- Real political will to carry out changes in the area of land reform is critical if the above issues are to be addressed. This includes renewed commitment to the 2004 cross-cutting monitoring indicators for agriculture and natural resources.
- After extensive pilot testing, systematic land registration should now be implemented in areas that most urgently need registration, including those in high profile land disputes or undergoing disturbing rates of illegal land acquisition. Moreover Government should cooperate with NGOs to improve community participation and public awareness in the systematic land registration process.
- The Cadastral Commission system needs to be reviewed and participation of representatives of civil society in reconciliation teams in district and provincial levels Cadastral Commissions ensured.
- Effective and urgent actions need to be taken to reconvert unused land and unexploited economic concession land to state private land for the implementation of an effective social land concession program. Pilot social land concession projects on non-forested, vacant land should be implemented as soon as possible.
- The RGC, in accordance with the Sub-Decree on State Land Management and Economic Concession should seek to redress the loss of State land that has been sold, and is now owned by an individual or investment company. Further expansion of informal land markets on state land needs to be prevented by immediate enforcement of Article 18 of the 2001 Land Law.
- The economic land concessions review process outlined in the Sub-Decree on Economic Land Concessions should be properly and speedily implemented. The RGC should invalidate any contracts whose concessionaires commit a serious violation of the contract or the Land Law, and shall ensure that other contracts be compliant with laws.

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<sup>19</sup> See Article 15 of the 2001 Land Law for a definition of State public property.

## FORESTRY AND PLANTATIONS DEVELOPMENT

### (i) Introduction

The forestry sector in Cambodia stands at a crossroads. The concession system has demonstrably failed. More equitable and sustainable forest management alternatives need to be promoted that adequately protect the long term economic and environmental values and services that forests provide Cambodian people, and in particular their contribution to poverty reduction. In Cambodia, there is an increasing trend towards conversion of natural forests to other uses based on the false perception that maintaining areas under natural forest cover is contrary to Cambodia's poverty reduction and development goals. NGOs are not "anti-development", but too often development planning ignores the real contribution that natural forests make to the national economy and local livelihoods.

Natural forests play a crucial role in the Cambodian economy and should be viewed as valuable resource to sustain into the future. Non-timber forest products (NTFPs) are essential to support local livelihoods and provide a significant percentage of family incomes in many areas<sup>20</sup>. Indigenous communities are particularly dependent on NTFPs, with some communities routinely using well over 200 different types of plant products. Natural forest foods provide a safety net to which people can rely upon in times of need and thus help to prevent malnutrition and the potential for urban migration. Increasingly important is the fact that forests mitigate climate events (generating rainfall and protecting against drought, while at the same time reducing flooding and soil erosion by absorbing runoff<sup>21</sup>). Flooded forests and mangroves directly support fisheries, but forests in upland areas are also critical to the productivity of Cambodian fisheries by preventing soil erosion and protecting water quality. In addition, forests provide timber for housing and other construction materials within Cambodia. Managed sustainably, Cambodia's forest resources will provide the country with a great deal of social, ecological and economic security. Over the past decade local and international NGOs have played a leading role in all aspects of forestry reform, notably efforts to strengthen community management, conservation, and resource governance.

Cambodia is still fortunate to have sizeable forest cover, while other countries in the region are expending great sums of money replanting or naturally regenerating their forests through drastic protection measures. We commend the Royal Government of Cambodia (RGC) for designating about 25% of the country, most of which is forested, under protection. On the whole, the draft legislation for protecting these areas is reasonably good, and boundaries of some of the protected areas have already been demarcated. We also appreciate the RGC's efforts in developing regulations for community based management of forest areas. We have found that there are many committed individuals within government who are trying their best to improve forest management, be it for forest conservation, improved forest management or both.

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<sup>20</sup> Studies by the Royal University of Agriculture in forested parts of Pursat Province in 2005 found households gained an average of \$90 per month from renewable, sustainable NTFPs.

<sup>21</sup> The Cardamom Mountains receive more than 5 meters of rainfall per year, and forests help to prevent the massive flooding in Koh Kong, Battambang, Kampong Speu, Kampong Chhnang and Pursat provinces that might occur if they were logged.

## **(ii) Key Issues**

### **1. Threats to government officials and civil society actors working to support improved forest management**

Recent incidents point to increased violence against people involved in promoting improved forest management and restrictions on those monitoring their destruction and raising their concerns in public. Examples include the visa ban on foreign staff of Global Witness and violence against people involved in forest protection. Two rangers were murdered in Phnom Aural Wildlife Sanctuary on 27 September 2005, a ranger working for the Natural Resources Protection Group NGO was murdered in August, and there was an attempted shooting of two community forest activists in Kompong Thom in July.

### **2. Concessions**

We commend the Royal Government for releasing a list of economic land concessions; though note that it is incomplete. We are grateful to the Ministry of Environment for inviting comment on the ESIA's (Environment and Social Impact Assessments) of a number of concessions. Furthermore we welcome the delay of the ilmenite mine in Koh Kong province due to concerns over potential illegal logging activities initiated by the Royal Government. The Sub-Decree on Economic Land Concessions has been passed, as has the Sub-Decree on State Land Management.

However, the issue of concessions and plantations remains problematic in Cambodia. Logging concessions, land concessions and plantation schemes remain key threats to Cambodia's forests. While the government is to be commended for maintaining a moratorium on concession operations, and consensus seems to have been reached amongst donors that the 15 remaining logging concessions should be cancelled, large scale logging continues. In the Samraong Wood concession in Siem Reap and Oddar Meanchey this has led to the cutting of hundreds of villagers' resin trees. In Ratanakiri logging is being permitted to supply luxury wood for the new National Assembly building. The granting of this logging license violates several existing laws, not least the 2000 Subdecree on Forest Concession Management which prohibits the re-allocation of cancelled concessions. The license entailed the non-transparent allocation of a forest area to a company lacking forestry expertise, in disregard of the population living in the area, and in a manner that invites timber theft. The process points to the threat that the proposed system of annual coupes poses for forests and communities.

Some progress was made in improving the transparency of government decision making through the release of details on economic land concessions, though the list of concessions is incomplete. Another positive development is that the Ministry of Environment invited comments on the environmental and social impact assessments. However the government continues to view economic land concessions as a preferred use of forest areas and a central rural development vehicle. In recent months, numerous new economic land concessions have been granted or are being reviewed, particularly in Stung Treng and Preah Vihear. Too often, in assessing areas for economic land concessions, forests are arbitrarily designated as "degraded" and their ecological and social values are ignored. Concessions are also being promoted in protected areas, including for resort and mining developments in Phnom Aural Wildlife Sanctuary, and a tourism development in Ream National Park. Additional threats to forests, and to protected areas in particular, are mining concessions. These are being granted without adequate consideration of their environmental and social impacts including subsidiary impacts linked to the opening up of previously inaccessible forest areas.

### **3. Migration and land-grabbing**

Migration into forest areas continues at an alarming rate, often associated with new road developments. Land grabbing in forest areas also continues to be a major problem, despite numerous statements that warn against it.

#### **4. Military**

There have recently been very strong statements made against the military appropriation of land, and some military units have been relocated outside of forest areas. Joint enforcement operations have been conducted in some areas (such as Aural Wildlife Sanctuary) with military support. However, military personnel continue to be involved in many of the forest crimes that are committed, including in protected areas. Since 2004, more than 50% of the forest crime offenders apprehended by Ministry of Environment Rangers in Phnom Aural Wildlife Sanctuary were soldiers, and more than 25% were soldiers in Phnom Samkos Wildlife Sanctuary<sup>22</sup>.

Locations of military development zones have yet to be disclosed, and the development of these areas is often associated with logging operations and violence against local communities.

#### **5. Planning and Approval**

PLUP (participatory land use planning) has received support as a mechanism for involving local communities in land use planning, and now has a formal legal foundation through the Sub-Decree on State Land Management. PLUP has been carried out in many areas, with government and donor support. Though PLUP results are still recognized only locally, they have been able to play an important role in regulating local land use.

However, decisions on land use continue to be made at higher levels with little or no consultation with local communities or local authorities, and without transparency. Decisions on concessions are often not made by the appropriate technical ministries. Within protected areas, decisions on development activities are commonly made without formal delineation as to where the activity is to be allowed. Likewise, decisions on commercial forest resource use and forestland conversion continue to be made in the absence of the crucial delineation of the Permanent Forest Reserve.

Environmental Impact Assessments (EIAs) have been mandatory since 1999 for most private or public projects. However concessions are often approved before EIAs have been submitted and EIAs are often viewed by concessionaires as a mere formality. EIAs are typically of low quality, and their acceptance regularly occurs without sufficient consultation of affected communities and other interested parties.

#### **6. Legislation and enforcement**

Positive developments include the draft Protected Areas Law submitted to the National Assembly and the inauguration of protected areas management in Cambodia's east. But while the draft law has the potential to provide legal support to the protected area system, a concern is that it contains provisions that are likely to be used to authorize development activities that will over time undermine their integrity.

In relation to enforcement issues, logging appears to be on the rise in much of the country.<sup>23</sup> This logging, most or all of which is illegal, occurs with impunity. Few forest crimes go to court, and of those that do, few punishments are of sufficient a magnitude to deter those breaking the law. There seems to be a lack of political will and there is a lack of institutional capacity to enforce existing forestry legislation. It is thus vital that independent forest monitoring (IFM) be revised and

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<sup>22</sup> Figures by Ministry of Environment (MoE) quoted in annual report of the MoE-FFI Cardamom Mountains Wildlife Sanctuaries Project 2005.

<sup>23</sup> A prime example is Sandan district in Kompong Thom where logging is occurring on a massive scale, involving the cutting of hundreds of resin trees.

strengthened. The current independent monitor has proved unwilling or incapable of addressing underlying causes of forest crime and should be replaced. NGOs stand ready to contribute constructively to an overhaul of the IFM framework.

## **7. Community access and tenure**

We commend the Royal Government for its increasing support of community forestry, evidenced most strongly by the launch of the National Community Forestry Program (NCFP). Furthermore, the draft Protected Areas Law also makes good provision for communities to secure access to forest resources and to manage and use forested Community Protected Areas. A number of CPAs have already been granted by the Ministry of Environment.

However, severe restrictions on community forestry remain. The Forest Administration has documented over 200 community forestry sites for its national database. However, no community forests have been recognized by the Forest Administration and the *prakas* giving guidelines for community forestry has not yet been passed. Informal community forestry is not respected, although providing legal recognition and financial support to pre-existing or informal community forestry practices continues to hold the greatest promise for improved forest management.

There is also increased interest in partnership forestry, recommended by the Independent Forest Sector Review. However, there is still only limited support to commune councils for forestry management or effort to explore this concept within the legal system.

### **(iii) Recommendations**

Significant progress was made in promoting forestry reform for a period in the late 1990s, for which the government deserves considerable credit. More recently, however, the momentum generated has dissipated and gains have been reversed. Opportunities remain to move the agenda forward however, notably by implementing recommendations from the Independent Forest Sector Review and expanding community forestry. These critical next steps must be accompanied by sincere efforts from the government to tackle the vested interests that are currently robbing rural Cambodians of the forest and land on which their livelihoods depend. In this regard, particular emphasis should be placed on measures to strengthen law enforcement and increase transparency.

#### **Recommendations include:**

- The involvement of state institutions in the management of natural resources and the approval of private development schemes should be made more transparent through immediate and regular public disclosure of existing contracts and the compliance status of contracts governing economic land concessions, mining concessions, and forest concessions.
- Donors and government need to agree on a timetable and resources required for the demarcation of a permanent forest reserve. This should occur without delay and involve a participatory process for zonation of protected areas taking into account provisions in the proposed Protected Areas Law.
- The recommendations of the Independent Forest Sector Review and World Bank to terminate the concession system should be followed by the government taking measures to cancel all remaining logging concessions. In their place management models supportive of Cambodia's rural population should be enacted including community and partnership forestry. Steps should also be taken by the government to approve various community forestry and community protected area *prakas* and implement the National Community Forestry Program.
- The moratorium on approving new economic land concessions must be reinstated, and a transparent and consultative review of existing economic land concessions conducted. Land concessions based on contracts in violation of the law must be cancelled, and concessions greater than 10,000 hectares reduced in size. ESIA procedures need to be made more comprehensive and transparent.

- A moratorium must be imposed on the construction of roads into forest areas and protected areas until the permanent forest reserve is demarcated.
- Military units must not be based in and around forest areas and a policy of zero tolerance for soldiers involved in logging and land grabbing implemented. For a number of years civil society actors have called for the disclosure of the location and legal status of all military development zones. Release of this information should be used by donors as an indicator of progress on improved governance.
- Based on wider initiatives supporting judicial reform, donors should seek to promote new legal and transparency initiatives to hold the powerful accountable for forest crimes including the appropriation of forestland.
- The institutional framework within which independent monitoring might operate needs to be revised and strengthened. This should be done by initiating a period of public education on its potential role and wide consultation on the terms of reference. A qualified independent monitor should be appointed on the basis of an open bidding process.
- The media must be given space to be able to freely report on environment and forestry issues and the visa ban on Global Witness' foreign staff lifted.

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## HYDROPOWER

### (i) Introduction

Large-scale hydropower development has created enormous social and ecological problems in many countries. Cambodia, the downstream neighbor to Vietnam and Laos for three major Mekong tributaries, is already experiencing a range of costly and uncompensated impacts in the northeast from upstream hydropower activity. Planned and operating foreign dams with potential or current cross-border impacts on Cambodia are too numerous to list in full, but they include Vietnam's 720-MW Yali Falls and 330-MW Sesan 4, as well as Laos's 300-MW Xekamen. A number of projects are also in the early planning stages within Cambodia. Throughout the Lower Mekong Region, hydropower development is accelerating.

As countries, including Cambodia, move to exploit the Mekong River Basin's hydropower potential, the challenges posed by such development will mount. In neighboring Thailand, the Pak Mun Dam destroyed fisheries and local livelihoods until prolonged popular protest led to its partial decommissioning. Besides disrupting fisheries, large dams can make river flow unpredictable for downstream communities (causing drownings, lost property, and reduced riverbank agriculture), impact water quality (with potential health affects), and alter natural flooding. Indigenous Cambodian communities, who live downstream from the Yali Falls Dam on the Se San River, already suffer from such impacts and have had their livelihoods harmed accordingly. "After the construction of the dams, the fish have disappeared ... Now the river is unusual. The river can be so dry one day and rise ... the next day. It is unpredictable," explained Mrs. Nuan Moum, Pong Village, Ratanakiri Province (quoted in *Watershed*, June 2005). Beyond downstream impacts, large dams are traditionally sites of corruption with hidden costs and unrealistic projected benefits, especially when the planning process lacks public participation and transparency.

The Royal Government committed itself to strong regional water governance when it joined the 1995 Mekong River Agreement, and subsequent actions, such as the sub-decree on Environmental Impact Assessments Process (EIA) and the "5 Solutions" negotiated with Vietnam in 2000, were also positive. Cambodian NGOs have worked with local communities for over five years to document cross-border hydropower impacts and raise villager concerns with the government, the Mekong River Commission (MRC), and other stakeholders, but this dialogue has not translated into effective action and results.

### (ii) Key Issues

We have the following main concerns:

#### 1. Availability of information could be significantly better and could include greater public participation.

EIAs produced for cross-border dams continually fail to consider complete downstream impacts and are not provided in a timely manner, such that many stakeholders are unable to participate in the planning process. While Electricity of Vietnam, with assistance from Nordic consultants, is conducting cross-border Se San and Sre Pok River impact studies, which are supposed to include recommendations for mitigation, Cambodian stakeholders have not had access to the consultants' recommendations, nor has a neutral forum or third-party oversight been made available to ensure the representation of Cambodian viewpoints.

The government has taken few steps to ensure that diverse stakeholder information is included in the hydro development process, though there has been preliminary work made towards setting transboundary EIA guidelines through the MRC. When information on hydropower planning and operation is provided to the Cambodian government, it is often difficult for NGOs and affected-communities to gain access.

For downstream communities in particular, once dams begin operating, vital information, such as notification for dam-related water releases, is given insufficiently.

**2. Government and donors could dramatically improve how villager complaints concerning cross-border hydropower impacts are considered and addressed.**

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

To date, these concerns remain insufficiently addressed. Although there have been recent MRC-led water quality and hydrodynamic modeling studies, there has been little assessment and no specific compensation for past and current harms, even when such harms have been officially acknowledged. International donor agencies and Mekong governments continue to advance hydro development along these rivers without seeking consent from or providing compensation to downstream villagers.

**3. Government and donors could promote compliance with existing laws and guidelines and also strengthen regulatory bodies.**

A framework already exists for cross-border and domestic hydropower development with the MRC, and that body has approved requirements for public participation in project planning. Additionally, Cambodia's and Vietnam's own domestic laws prescribe EIAs that are in compliance with international best practices. National bodies such as the Cambodian National Mekong Committee and the Standing Committee that coordinates border dams are specifically tasked with overseeing hydropower development affecting Cambodia within the Mekong Basin and along the borders, respectively. Despite these safeguards, large dam projects advance without complying.

**4. Government and donors should recognize that hydropower development is likely to compromise food security and have impacts beyond individual rivers.**

Extensive hydropower development throughout the Mekong Basin will inevitably affect the hydrological cycle of the Mekong River to an as of yet unevaluated degree. The Tonle Sap Lake's fisheries productivity is known to be directly linked to the Mekong River's flood cycle (*see Van Zalinge et al., 2000*), in that fish production is a function of the amount of area of flooded forest submerged by the annual flood together with the length of time of inundation. Damming along the Mekong will 'flatten' out the flood cycle, leading to less extensive flooding during the rainy season and higher water levels during the dry season. Were fish stocks of the Tonle Sap Lake to decrease, and taking account that the Lake's ecosystem is already exhibiting signs of stress from intensive fishing activity, this will have a serious, potentially catastrophic, impact on Cambodia's food security. The fisheries of Tonle Sap Lake have been estimated to provide between 40 and 70% of the Cambodian population's protein intake.

### **(iii) Recommendations**

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

#### **1. Access to information and public participation**

- Work with the Vietnamese authorities for more effective water-release notification and water-level monitoring systems along the Se San River to provide downstream villages with immediate, credible information through best-available technology that minimizes human intermediaries.
- Use preexisting baseline studies, impact studies, and community petitions from the northeast's three river basin for a participatory dialogue on cross-border hydropower management between Cambodia, Vietnam, and Laos that includes all stakeholders.
- Fully disclose information about hydropower development planning and promote participation of people in hydro planning, policy development, and decision-making in the region. Ensure that transboundary and domestic hydropower EIAs comply with national law and international best practices. These studies should include complete stakeholder input, which was missing from the recent, quickly-produced, CNMC- and VNMC-endorsed Sre Pok and Se San EIAs.
- Any existing or proposed legislation affecting transboundary water governance should include the World Commission on Dams' principles and guidelines.

#### **2. Addressing villager concerns**

- Strengthen dialogue with dam-affected villagers to address their concerns and investigate reported harms. Identify strategies for reducing social and environmental harm, particularly relating to environmental flow, and for implementing a transparent, neutral remediation mechanism or process.

#### **3. Strengthen compliance and regulatory bodies**

- Provide support for a strong national body, properly resourced, to address cross-border dam issues and ensure effective public participation.

#### **4. Broader issues**

- As a component of basin development planning throughout the Mekong basin, a basin-wide computer simulation should be developed and multiple scenarios analyzed, including worst case scenarios, to predict the cumulative impacts of hydropower developments throughout the Mekong Basin. The range of likely impacts on the hydrology of Tonle Sap Lake, and therefore Cambodia's fisheries, should be evaluated. The Mekong River Commission (MRC) should be authorized to develop such a model, and empowered to objectively evaluate and openly report planning scenarios.
- A 'Comprehensive Energy Options Assessment' for the Greater Mekong Subregion should be conducted to evaluate all possible energy generation options beyond hydropower development. Potentially economically feasible and environmentally sound alternative energy solutions exist including microhydropower, biogas, wind turbines, and solar energy systems.
- Major International Financial Institutions, including the Asian Development Bank and the World Bank, working on hydropower should be required by Mekong riparian country Governments to formally accept and incorporate into their operational policies the recommendations made by the 'World Commission on Dams' in 2000.

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## **TRADE AND ECONOMIC DEVELOPMENT**

### **(i) Introduction**

Cambodia's first full year of membership in the WTO was marked by a global debate on the unequal nature of the world economic order and the unwillingness of trade superpowers to surrender a portion of their advantage for the sake of developing nations. This debate culminated with the 6<sup>th</sup> WTO Ministerial conference held in Hong Kong last December – an event widely regarded by NGOs as generally ineffective at setting policies likely to promote development.

Even a deal offering tariff and quota-free access to rich country markets for products from “least developed countries” (LDCs) is far from a guaranteed boon for Cambodia (itself an LDC); with the United States expected to continue restricting textile imports and Japan proposing limits on imports of rice and fish. The agreement by rich countries to allow the tariff-free import of value-added products from LDCs however, may, in the future, aid the much-discussed development of Cambodia's agro-processing industry.

Meanwhile, here at home, the much-feared end of the Multi-Fiber Agreement (MFA) has yet to take the disastrous toll on the Cambodian garment industry that many had anticipated. In fact, it was reported that 9,000 new garment sector jobs have actually been created over the past year, with the value of exports to the US increasing by 16.6% through October,<sup>24</sup> due in large part to the continued resistance to Chinese garment imports by the EU and the US. Citing such positive data, as well as the expansion of the tourism, telecom and construction sectors, the World Bank upgraded Cambodia's economic growth forecast for 2005 from 2.6% to 6.1%.<sup>25</sup>

However, 2005 was also yet another year marked by growing criticism and concern over the stifling effects on the economy of patronage, corruption and the failure to tie economic growth to broad-based poverty reduction. Despite the continuing din, institutions and policies that funnel the benefits of growth away from Cambodia's poor and into the hands of the politically connected persist. Forward-looking members of the RGC must keep pushing ahead in their difficult fight to distribute both the benefits of growth, and the stock of national capital more equitably, in order to better meet development goals.

Placing trade, finance and industrial development high on its agenda, while issues of poverty, decent work, environmental protection and universal education remain unresolved, will ultimately serve to limit the extent to which any nation's economy is able to prosper.<sup>26</sup> In addition to concerns over corruption, ineffectual governance, and a myriad of social challenges, there is cause to remain critical of the economic system itself, and to consider the sustainability of a policy approach that has led to disappointing results in many countries across the developing world.

### **(ii) Key Issues**

#### **Measures of Development**

The 2005 UN HDR is explicit in its warning that “export growth” and “export success” are not the same things. The former alone is not a sufficient indicator of development and converting a growing

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<sup>24</sup> The Cambodia Daily, “Garment Jobs Grow; Buyers Talk Rights” Thursday, December 8<sup>th</sup>, 2005

<sup>25</sup> Cited from XinhuaNet, 11 August 2005, available at <http://www.cdri.org.kh/webdata/flashrep/2005/Nov05.pdf>

<sup>26</sup> UNHDR 2005, Chap.4

volume of export production into higher incomes and improved living standards can be difficult.<sup>27</sup> We see this in Cambodia's own garment sector, where a 2005 ADI survey found that despite the importance of the workers' remittances home, their incomes tend to simply meet the daily needs of those they support, while contributing little to savings, investment or a meaningful rise in living standards.<sup>28</sup> The income and employment opportunities generated by garment manufacturing are typically more of a poverty stopgap than an avenue through which Cambodians can escape the poverty trap.

An impending demographic shift resulting in a million new job-seekers entering the labor force over the next four years,<sup>29</sup> an under-educated population, limited productive capacity and WTO regulations that disallow technical transfer and local content requirements on foreign investment projects, are all conspiring to make Cambodia's climb out of poverty more difficult.

### **Regional Markets and the Need to Compete Better**

Cambodia's integration into the open, trans-national markets of Southeast Asia, while promising to reduce her dependence upon the whims of US and EU trade policy and market preferences, could either be a blessing or a detriment to Cambodia's future economic development, with investors gaining reduced-tariff access to the entire regional market regardless of which ASEAN nation they invest in. Thus Cambodia may find itself in even greater competition with its neighbors and perhaps forced to cater more aggressively to investor demands.

With endemic corruption and an insufficiently educated population already acting as major inhibitors of legitimate foreign investment and negating much of the country's comparative advantage,<sup>30</sup> one fears that many of the potential benefits arising from regional economic integration will remain unrealized, particularly when one recalls the important contribution that a well-educated, national labor force made to the development of Asia's most successful economies.<sup>31</sup>

### **Social Impacts of Orthodox Trade Policies**

Cambodia's economy, like the global economy, has been growing for years, and still poverty persists at levels that most agree are unacceptably high, while inequality worsens. Often, the success of a growth-based economy is measured in terms of the surplus (profit) created. Of course, the owners of this surplus are generally not the poor. Some benefits trickle-down, typically in the form of low-paying employment. The poor are necessary participants in the economy's "basic toil" but unless growth is sustained at a rate that satisfies the investor class, even the benefit of employment will be taken away<sup>32</sup>.

Regarding the trade of agricultural goods, policy-makers in Cambodia should not confuse building a future with exporting it. Reform focused on export-oriented farming receives tremendous government and donor support. This may generate foreign exchange, as well as jobs for a limited number of rural people, much the same as commercial concessions do, but its results merit close attention. Such an industry does not guarantee improved livelihoods for the farmers producing for non-export markets or on a small scale. Export efficiency can lead to lower levels of food-security, a loss of local capacity for producing necessary goods, and an expanding rural wealth gap<sup>33</sup>.

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<sup>27</sup> (Ibid.)

<sup>28</sup> (Ibid.)

<sup>29</sup> Cambodia Economic, Watch volume II 2005; Executive Summary, Economic Institute of Cambodia

<sup>30</sup> (EIC/World Economic Forum, 2005)

<sup>31</sup> ADB Asian Economic Cooperation and Integration p.7

<sup>32</sup> Steady State Economics by Herman Daly, Chapter 5, 1973

<sup>33</sup> UNHDR, 2005

As extractive industry, tourism services, commercial agriculture and aquaculture have emerged in Cambodia as the sectors most expected to grow alongside the garment industry, we have seen a scenario develop in which the rich increasingly compete with the poor for the same limited supply of natural capital. Land-grabbing, opaque land concession agreements, the displacement of both rural and urban communities, and hydro-electric projects undertaken without proper social and environmental assessments can weaken eco-systems and degrade the present and future supply of available, natural capital.

If development policies degrade this capital without sufficiently replacing the wealth and livelihood opportunities that it once provided, the displaced poor will be forced to compete with one another for the limited quantity of replacement livelihoods that the nascent industrial economy is capable of creating for them. The limited number of Cambodians being employed at the Svay Rieng Special Economic Zone (SEZ) and the dearth of employment opportunities available to even vocationally trained youth in that community may foreshadow the troubles that lie ahead.

### **Strategic Resistance to the Economic Policy Dictates of External Forces**

IFI and WTO efforts at creating a global policy convergence based upon the uninhibited flow of goods and capital, rather than social stability and poverty reduction, have failed to achieve the stated WTO intentions of “ensuring full employment,” “preserving the environment” and attending to different countries’ “respective needs and concerns at different levels of economic development.”<sup>34</sup> And yet the RGC is prevented (by both policy constraints and lackluster governance) from manipulating the economy in a way that may better meet ensure that such pressing social needs are addressed.<sup>35</sup>

## **(iii) Recommendations**

### **To the Donors:**

- Coordinate a national working group on alternative, small-scale, and ecologically sound economic development.
- Promote the development of the rural economy not just in terms of its economic integration into the global economy, but also in terms of its capacity to sustain itself and maximize the use of local resources for local benefit.

### **To the Government of Cambodia:**

- Promote the deconcentration of wealth and wealth-creating opportunities by redistributing land and other productive assets among the rural poor.
- Offer the same level of facilitation, financial and policy support to local cooperatives, sustainable forest and fisheries management, and small and medium enterprises (SMEs) that large-scale, capital-intensive ventures now receive.

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<sup>34</sup> The Marrakesh Agreement establishing the WTO, available at: <http://www.wto.org>

<sup>35</sup> UN HDR 2005, p. 121

- Heed the recent World Bank advice to promote “small-holder, rather than large, concession-based agriculture” and quickly address issues of landlessness through accelerated titling and social land concessions.<sup>36</sup>
- Seek to negotiate with China, and other regional trade partners, greater levels of technical exchange and local content for all investment projects
- Ensure that the new Special Economic Zone (SEZ) board under the authority of the CDC be transparent, accountable, and judged primarily on its effectiveness in protecting the rights and welfare of workers, generating employment and ensuring that the local environment is protected.

**To the NGOs:**

- Network, share best practices, and facilitate dialogue between communities currently participating in alternative, small-scale, economic development projects.
- Continue gathering and disseminating on the ground research that indicates the effectiveness or shortcomings of economic development programs.

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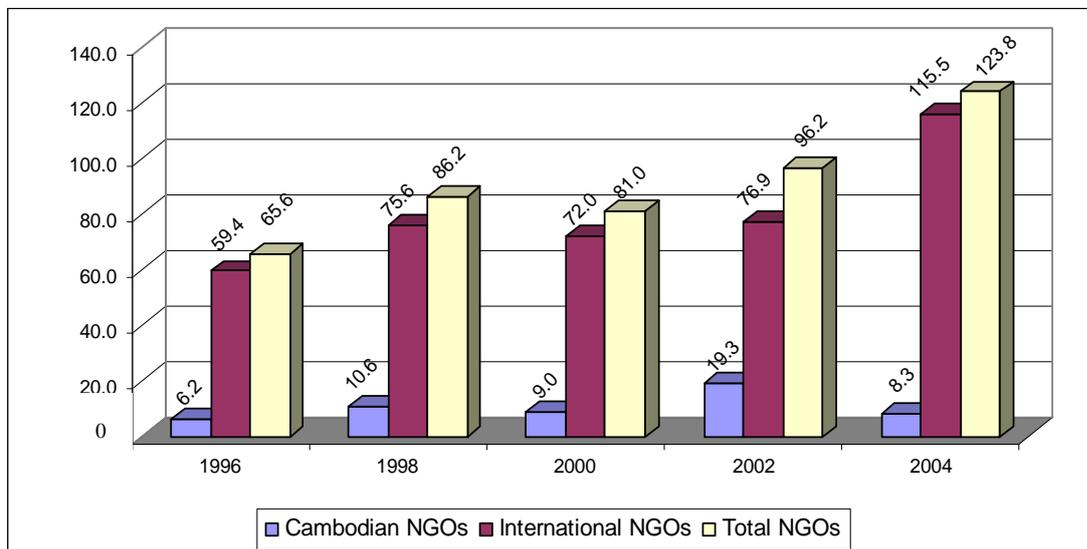
Tel: 023 990-063, Email: [ngoforum@ngoforum.org.kh](mailto:ngoforum@ngoforum.org.kh).

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<sup>36</sup> “Poverty Assessment-consultation draft” a World Bank Presentation to Civil Society Partners, Phnom Penh, Cambodia, January 24<sup>th</sup>, 2006

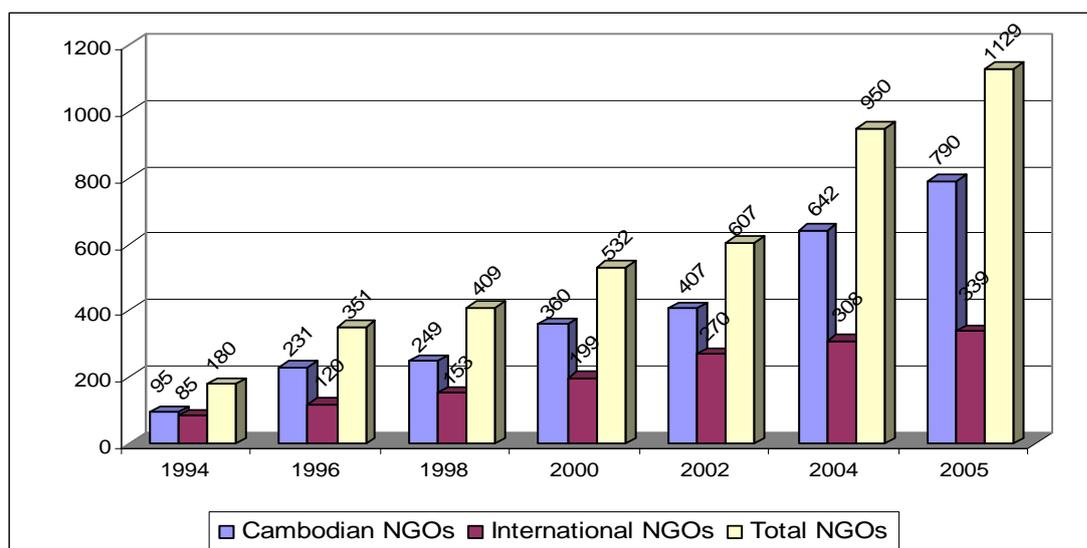
## ANNEX: NGO PROFILE

**GRAPH 1: Summary of NGOs Contributions (US \$ millions)**



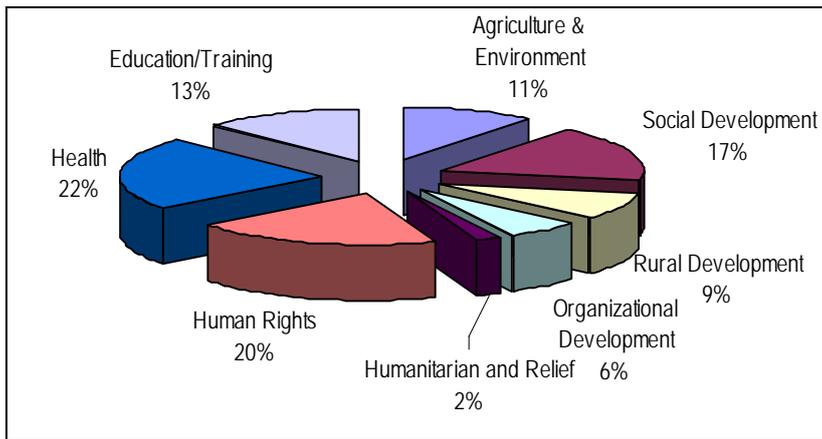
Sources: NGO Statement to the CG Meeting on Cambodia 1997-2004; Non-Governmental Organizations in Cambodia 1998 by CDC; 1998-2004 Development Cooperation Reports for Cambodia by CDC; 1999 Cambodian NGO Resource Directories by Ponlok; CCC Directories 2000-2004 (Note: 2004 figures are projected estimated budget figures only) (NGO figures inclusive of bilateral, multi-lateral and core/own resources)

**GRAPH 2: Number of NGOs and Associations in Cambodia**



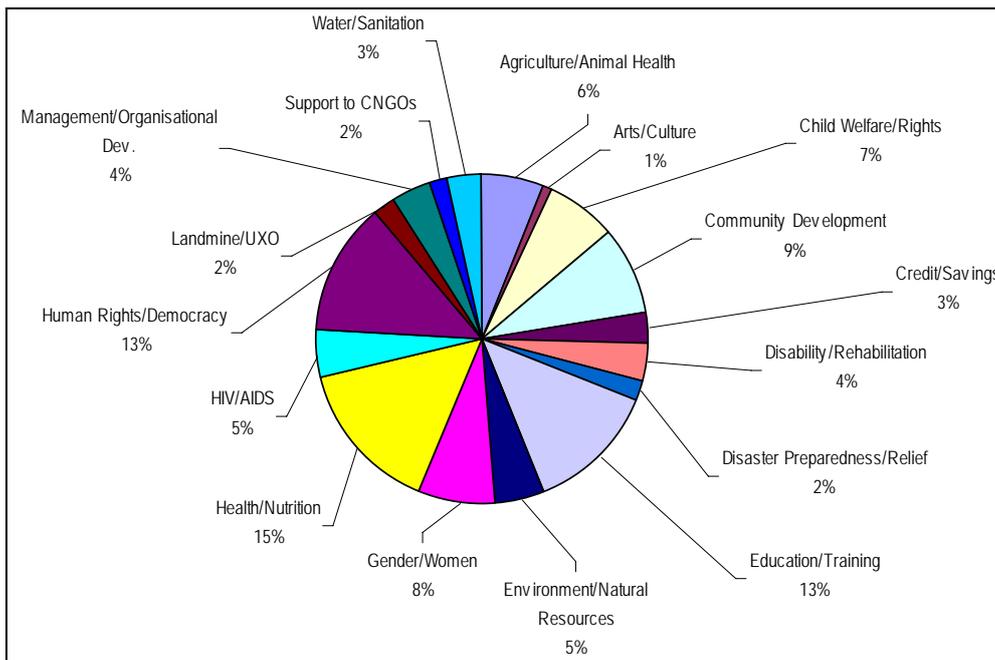
Sources: CCC International Humanitarian/Development Assistance and Cambodian NGO Directories (1992-2004); Non-Governmental NGOs in Cambodia by CDC (1998, 2004); Statistic of Associations, LNGOs, and INGOs registered in Cambodia, by CoM

**GRAPH 3: NGO Projects in Cambodia by Sector - summary**



Sources: CCC NGO Database, June 2004

**GRAPH 4: NGO Projects in Cambodia by Sector – detail**



Sources: CCC NGO Database, June 2004