



Development and Partnership in Action



**Lessons Learnt of Communal Land Titling
for Indigenous Community in La In Village
Ratanakiri Province, Northeast Cambodia**

Preface

The Integrated Community Development (ICD) programme in Ratanakiri province is one of the programmes generated by Development and Partnership in Action (DPA), an NGO which was founded in 1994. It focuses on the areas of Natural Resources Management (NRM) and Rights to Communal Land Title (CLT) of Indigenous Community, which includes community forestry establishment and land title registration for indigenous communities. As a result of ICD's work, the indigenous community of Tompuon in La In village, Ratanakiri province received a legal collective land title which is officially recognised by the Ministry of Land Management, Urban Planning and Construction. This recognition will provide the Tompuon indigenous people in La In village with legal rights to protect their land and forest resources as well as use sustainable resources to avoid land conflict and prevent land grabbing from illegal entities.

These results would not have been achievable without the financial assistance from donors and strong support and coordination with provincial departments and relevant ministries and other institutions, particularly the the Tompuon indigenous people in La In village, and the efforts of all DPA's staff.

DPA received funding from Trocaire to compile lessons in communal land titling for the indigenous community in La In village, Ratanakiri province. Documentation on lessons learnt was done in order to enhance the knowledge of indigenous people and other stakeholders so they would understand the process of land titling for indigenous communities along with challenges encountered by the community and alternative solutions for responding to those challenges and problems.

This document is an aid designed to contribute to the consciousness of citizens in raising their awareness of the process of land titling for the indigenous community in the Kingdom of Cambodia.

Phnom Penh, November 2012

Development and Partnership in Action (DPA)

Acknowledgement

Documentation of the lessons learnt was achieved through commitment, dedication of time and contributions from numerous people. In response, DPA would like to express gratitude and respect to everyone who has been directly or indirectly involved in this documentation.

We offer a special acknowledgement to the Tompoun ethnic community in La In village, which spent their time in providing us with substantial information and participating in the process of communal land titling for their community, even though they faced difficult situations.

We'd also like to thank the Facilitation Task Force Team of Communal Land Titling for Indigenous Community as well as local authorities, for their contribution of ideas, opinions and experiences related to indigenous land titling.

We are grateful for the efforts of all ICD staff of DPA in Ratanakiri which played a key role in coordinating the process of communal land titling for the indigenous community in La In village.

Finally, we thank **Trocaire** for providing the financial support for this documentation.

List of Abbreviation

CLT	Communal Land Titling
DPA	Development and Partnership in Action
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MOI	Ministry of Interior
MRD	Ministry of Rural Development
ICD	Integrated Community Development
LNGO	Local Non-Governmental Organization
NGO	Non-Governmental Organization
ID	Identification
IDP	International Development Partner
PLUP	Participatory Land Use Planning
ICD-RTK	Integrated Community Development Programme in Ratanakiri province
ILO	International Labor Organization
PTFT	Provincial Task Force Team
NTFT	National Task Force Team
TFT	Task Force Team
ICC	International Cooperation for Cambodia
HH	Household
PDRD	Provincial Department of Rural Development
NRM	Natural Resources Management
PRA	Participatory Rural Appraisal

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Chapter 1: Introduction

1- Project background:

Communal Land Titling for Indigenous Community Pilot Project is a key element in identifying a solution to land conflicts in Cambodia. If an indigenous community has received a communal land title, it is likely to see a decline in illegal land sale (particularly large-scale of land sale), village boundary conflict, and the immigration of people from outside the area. Consequently, those indigenous people will be able to preserve their own customs, traditions and natural resources in their communities.

Hence, in December 2003, the Royal Government of Cambodia (RGC), supported by various development partners, started a pilot project on communal land tilting for indigenous communities for La Eun Kreng village and La In village in Ratanakiri, and for Andoung Kralleng village in Mondulkiri. Of the two target villages in Ratanakiri, La In is located in Teun commune, Koun Mom district, Ratanakiri province which is a target area of DPA-Ratanakiri. It consists of 1,218.56 hectares of land and provides home to 140 households numbering 638 people, 317 of which are female and most of whom are Tompoun indigenous people.

The Communal Land Titling Project in La In village was implemented in 2004, and during that time, DPA-Ratanakiri coordinated with the Ministry of Land Management Urban Planning and Construction (MLMUPC), the Ministry of Rural Development (MRD), the Ministry of Interior (MOI), Ratanakiri Provincial Department of Land Management Urban Planning and Construction and Cadastre (PDLMUPCC), Ratanakiri Provincial Department of Rural Development (PDRD), and local authorities at different levels. As a result, the Tompoun indigenous community in La In village received their legal communal land title in December 2011. This legal recognition is a significant accomplishment for the indigenous community in one of DPA's target areas.

Consequently, this documentation is an essential record outlining the success of one indigenous community in the process of land titling. It presents key findings that detail the steps and procedures of indigenous community identification, registration of indigenous community as legal entity and communal land titling process for indigenous communities.

It also provides lessons learnt, best practices and recommendations for in implementing the project relevant to communal land titling for indigenous communities.

2- Methodology for documentation

Integrated and participatory approaches were used in data collection, analysis and compilation of the document. Those approaches include reviews of secondary data, available data related to communal land titling and interviews with relevant key informants, which provide a base for documentation. Data collection was done through meetings with key informants at national and sub-national levels and includes relevant ministries and provincial departments, relevant individual persons, and community people in La In village. The collated data was analysed and reflected with all stakeholders in the process of compiling the document.

Chapter 2: Legal Framework and Procedures for Communal Land Titling (Pilot)

2.1- Laws and other relevant policies

2.1.1- Land Law (2001)

The communal land titling pilot project was initiated by the MLMUPC, which commenced in December 2003 after issuance of Land Law 2001 aiming to protect and register the possessions of indigenous community, and Sub-Decree No. 118 ANK/BK 2005 on State Land Management of the Royal Government of Cambodia.

Article 23 of Land Law 2001 “An indigenous community is a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the land in their possession according to customary rules of collective use. Also, an individual, who meets the ethnic, cultural, social criteria of an indigenous community, is recognized to have the benefit of the rights provided by this law.”

Since May 2008, the MOI, through its Department of Local Administration and Provincial Local Administration Unit at provincial level, has been involved in the process of registering indigenous communities as legal entities, following letter No. 474/1994 of the MOI. It was also realised that identity of the indigenous community is a pre-condition criteria requirement for the registration of indigenous community as legal entity.

2.1.2- National Policy of the Development of Indigenous people

Following the 1993 general election, the Royal Government of Cambodia established “an inter-ministerial committee to work with the United Nations Development Programme in the preparation of a project on the development of indigenous people” with the Ministry of Rural Development working as chairman along with an implementing agency. It then established the “Department of Ethnic Minorities Development” under the supervision of the Ministry of Rural Development aiming to upgrade the living standards of indigenous people and to safeguard their valuable culture, customs, traditions and beliefs. In an effort to fulfil these aims and to ensure the consistent implementation process in all sectors, the Royal Government set out the “National Policy on the Development of Indigenous Peoples”.

The National Policy on Indigenous Community Development of the Royal Government of Cambodia was approved on 24 April, 2009 by providing the mandate for the MRD in undertaking the identification of indigenous communities in collaboration with the MOI and other relevant stakeholders.

The National Policy on the Development of Indigenous Peoples has the following goals:

- Indigenous peoples shall have a living standard beyond starvation and extreme poverty.

- Indigenous peoples shall be provided with at least nine years of fundamental education and appropriate vocational skill training courses according to their needs and based on the geographical areas in which they live.
- Indigenous peoples will be provided with good healthcare services.
- The cultures of indigenous peoples will be carefully protected and safeguard.

2.1.3- Sub-decree on the Procedures for the Registration of Land of Indigenous Communities

Sub-decree No 83 ANK/BK on the Procedure for the Registration of Land of Indigenous communities of the Royal Government of Cambodia was approved on April, 2009. The purpose of this sub-decree is to determine principles, procedures, and mechanisms for the registration of land of indigenous communities as collective title.

The main objectives of this sub-decree are to provide indigenous communities with legal rights over land tenure, to ensure land tenure security, and to protect collective ownership by preserving the identity, culture, customs and traditions of each indigenous community.

This sub-decree also outlines the roles of stakeholders at all levels in the processes of communal land registration ranked from communities, Commune Councils, District State Land Working Group (DSLWG), District office of LMUPC, District Governor, Cadastral Administration, Provincial State Land Management Committee (PSLMC) and Provincial Governor.

2.1.4- Interim Protective Measure

For the effectiveness of implementation of policies, laws, and legal framework throughout the county, after completion of the piloting project on the land registration as collective ownership of indigenous community, the updated National Strategic Development Plan (NSDP) 2009-2013 – section on land reform – has directed to put in place an *Interim Protective Measure Protecting Lands of Indigenous Community requested for Collective Titling*, while awaiting titling process according to procedure to be completed for those indigenous communities legally registered with Ministry of Interior. On the basis of [1] the updated NSDP and [2] letter No. 525 dated May 06, 2011 of the Council of Ministers on the request for putting in place an Interim Protective Measure of lands of indigenous communities subject to collective titling [3] the evaluation report of implementation of piloting project for land registration of indigenous community in both provinces **the Deputy Prime Minister, Minister of Interior and Senior Minister, Minister of Land Management Urban Planning and Construction** decide to issue the following circular:

When an application is received requesting registration of land for collective ownership from an indigenous community, the provincial governor or head of the Provincial State Land Management Committee in the area where the indigenous community is located **shall immediately draft and submit a *deika* (local regulation)**

to the provincial council for review and issuance in order to put in place the *interim protective measure protecting lands of indigenous community requested for collective titling*. This will be done by:

1. Instructing people to temporarily cease all forms of land transactions such as selling, buying, leasing, or transferring;
2. Informing the subordinate authorities of its respective provincial territorial jurisdiction to stop certifying authentic letters concerning land transactions associated with land parcels/plots requested for such collective titling and other plots that share a boundary with the plots requested for collective titling – until those plots requested for collective titling is completed in accordance with existing legal procedure.

These two measures, however, shall exclude: *i*). plots that have been well demarcated with agreement from all neighbours and *ii*). plots that the Royal Government has agreed in principle for investment or development – prior to this measures coming into effect, any impact on legal private and public ownership of lands that have been legally occupied and agreed in accordance with legal provision may be avoided.

2.2- Process for Indigenous Community Collective Land Titling (pilot)

¹ The process of registration was defined when MLMUPC initiated a pilot in December 2003 in three indigenous communities - two in Ratanakiri province and one in Monduliri province. The other government institutions involved in the pilot project were the FA, MoI and MRD. Several local and international NGOs were actively involved in supplying technical and financial resources for the pilot project and the current process of collective land titling, including the United Nations Development Programme/Partnership for Local Governance (UNDP/PLG), International Cooperation for the Development of Solidarity (CIDSE) that is now Development and Partnership in Action (DPA), the Community Legal Education Center (CLEC), the Wildlife Conservation Society (WCS), the Highlander’s Association (HA), German Development Cooperation (GTZ), International Labour Organisation (ILO), Danida and the NGO Forum on Cambodia.

The most important tool in the pilot project was Participatory Land Use Planning (PLUP). The government provincial land use and allocation committees and land dispute resolution commissions facilitated the PLUP team, in collaboration with NGOs and donors. The process comprised 12 steps as follows:

1. Selecting the target villages
2. Forming the Provincial Task Force
3. Extending the Land Law
4. Community application for communal land titling
5. District Cadastral Administration review of participatory land use planning (PLUP)
6. Training of Adjudication and demarcation team

¹ Per. Report of Men Prachvuthy, Land Acquisition by Non-Local Actors and Consequences for Local Development: Impacts of Economic Land Concession on the Livelihoods of Indigenous Communities in Northeast Province of Cambodia, March 2011 – Page 17

7. Forming legal entity of community
8. Measurement, demarcation adjudication and survey
9. Public displays
10. Conflict resolution
11. Endorsement of agreement
12. Issuing title

However, the implementation steps for communal land titling for indigenous people were changed frequently and, in 2007, were changed from 12 to eight steps.

These eight steps include:

1. Dissemination of relevant laws and policies on communal land titling to the community.
2. Conducting training workshops and community congress about land titling awareness and other proofs for land tenure selection of indigenous communities.
3. Organising community and bylaws of the indigenous community.
4. Application for land registration as collective title.
5. Controlling village-commune administrative boundaries and drawing up a draft of village/communal land.
6. Conducting identification on map of state land and community land.
7. Practicing the procedure of registering land of the indigenous community, according to sporadic land registration procedure.
8. Issuing title.

Chapter 3: Lessons Learnt on Land Titling for La In Village in Ratanakiri

I- Successes of the project

What have DPA and working groups done successfully and what are the facilitating factors?

² With the initiative from the Royal Government of Cambodia on the pilot project of communal land titling for indigenous community, there were three villages selected for implementation. After clear detection of the target areas, an Inter-Ministerial Task Force Team was set up by the Council of Land Policy in 2004 for the Study of the Registration of Indigenous Land Rights.³

This Inter-Ministerial Task Force Team travelled to Ratanakiri in May 2004, and showed a video reflecting the process of lessons learnt on communal land titling in Philippines to the indigenous people in Ratanakiri, focusing on the two target villages. As a result, most of the indigenous people felt very interested in the visual action in the video CD. The Task Force Team then cooperated with LNGOs and International Development Partners (IDP) to diffuse the land registration for indigenous community within the three target villages (2 villages in Ratanakiri province – La In and Laeun Kreng and one village in Mondulkiri province – Andoung Kralleng), in which DPA's provided support and facilitated indigenous land registration in La In village, Teun commune, Koun Mom district, Rattanakiri province.⁴

Processes of land titling in La In village

The livelihood of indigenous people in this village revolves around farming and swidden farm land. In the past, indigenous people in La In village were affected by the loss of selling their land to others outside the community and the occupation and expansion of outsiders for many years. This practice has had serious impact on the sustainability of the communal land use of indigenous community.

“Land is the most important thing to conserve because everything comes from the land: laws, beliefs, traditional practices and community solidarity. All major cultural offerings and prayers are directed towards the land, farms, forests and streams. Thus, land creates community and family’s life.” Mr. Natt Chrong, a community member in La In village.

Initial activities in La In began with a meeting between CIDSE (now DPA) management and the Ratanakiri Department of Land Management, Urban Planning and Construction to discuss cooperation during the land titling process. Village activities initially began by asking community members which areas of the village they would like to reserve for swidden agriculture in the future. Discussions were held with the land management committee, village and krom leaders and a draft map was prepared of the area for titling.

² Per document of International Labor Organisation (ILO) “*Indigenous community bylaw development*”

³ Inter-Ministerial Task Force Team consists representatives from the MLMUPC, the MOI, the Forestry Administration, the MRD, the MOE and the MIME

⁴ Per document of International Labor Organisation (ILO) “*Indigenous community bylaw development*”

However this work had to be shelved since there was a large number of land sales happening at the time. It was seen to be impossible to delineate anything for titling as long as the boundaries were continually changing. On 25 February 2004, CIDSE conducted a meeting with 30 villagers in La In village. At that time, people were informed about the process of land titling and that they would have to delineate areas that they wanted to title. They were also informed that the Department of Land Management, Urban Planning and Construction would soon be conducting extension in the village to ask people if they wanted individual or a communal land title for the village agricultural, residential, and cultural forest areas.

The villagers responded that in 2002 and early 2003 there had not been much land selling but the end of 2003 and early 2004, had shown land sales spiraling out of control. Due to the loss of land, indigenous people in La In village initiated planning for land use into village-commune development plan in order to maintain the land for the use of the next generation. In the meantime, it was outlined that land titling was very essential for the community for the following purposes:

- improve land use and management in a sustainable manner,
- enhance living conditions of the community people,
- protect environment and natural resources from inappropriate action, which leads to contribution of the decrease of erosion and devastation,
- help the Royal Government of Cambodia in land management and prevention of anarchical land abuse,
- sustain remaining land for avoiding further losses, and
- help prevent indigenous communities from selling their land.

In order to deal with the many complex issues, it was decided after discussions with CIDSE-DPA that an extra Community Organiser was necessary in La In to begin moving the land titling work forward. The Natural Resource Management (NRM) project provided enhanced access to natural resources in the long term through a participatory process of land use mapping and land planning. NRM has assisted the local indigenous people to improve land use planning for swidden and paddy rice agriculture and thereby reduces the destruction of primary forests as well as prevents unnecessary burning of swidden plots which sometimes turned out to have unsuitable soils.

In addition, DPA-Ratanakiri worked closely with Provincial Task Force of Land Use Planning Management to implement and review the statutes of land use planning and management of La In.

A- Capacity building for community people

Registration of collective land for indigenous community is very critical. It is therefore imperative that indigenous people understand their fundamental rights in land use and participation in all steps and phases of identification of ethnic identity, registration of community as legal entity and registration of communal land as collective land. Therefore, on behalf of a supporters and facilitators in the process of collective land registration

for indigenous community in La In village, DPA-Ratankiri played a key role in promoting the knowledge of the indigenous people on their rights in legal land holding and using it in a sustainable mode.

The process of collective land registration for indigenous community is complex and time consuming. Thus, in order to receive a legal land title certificate officially recognized by the MLMUPC and the MOI, the indigenous community needs to prepare and produce a set of documents with the support of the Task Force Team of land registration for indigenous community at provincial and national level as well as NGO partners.

On behalf of indigenous community in La In village, DPA-Ratanakiri paid attention to capacity building for indigenous people, especially for community committee members. Capacity building is a high priority for improving the knowledge of community members since their knowledge is still limited, especially with regard to rights, policies and other basic laws pertinent to indigenous communities. It has been seen that effective improvement of knowledge is determined by training and regular coaching to community committee (traditional authority) in raising awareness to build public knowledge of the target community. In this regard, DPA provided a number of trainings and coachings for the community committee and community representatives in La In village.

Likewise,⁵ in 2004, in collaboration with the Provincial Task Force of Land Use Planning and Management, the DPA-RTK team conducted six training courses on land property, land law, and human rights for a total of 192 villagers (94 or 49% women) in La In village. Similarly, the team supported La In community in conducting a training course on land ownership with 31 indigenous villagers (15 or 48% women). In addition, La In community held a meeting with 35 participants (11 or 31% women) to discuss the process and preparation for submission of the statute of land use planning and management to District Office of Cadastral for approval. As a result, the land use planning management statute of La In was approved by the Provincial Governor and Provincial Department of Environment, Agriculture and Land Use Planning and Management in March 2004. Afterwards, the approval certificates of La In statute were copies and circulated to neighbouring communes for information.



In an attempt to raise awareness and understanding of indigenous villagers in human rights, the DPA team, in collaboration with ADHOC, a Local Human Rights Organisation, conducted four training courses on human rights for a total of 107 indigenous villagers (39 or 36 women) in four different villages of Teun commune. They were designed to teach about human rights, issues related to land grabbing, logging, and their rights in terms of protection of their land and forest resources. As a result of random interviews, 66% of the eight

⁵ Interim report 2004-2005 of ICD-RTK programme

participants interviewed in four villages replied that they were now able to write complaint letters to Commune Councilors, ADHOC, CIDSE, and concerned government offices and provincial department about land grabbing and illegal logging.

“In the past, villagers did not understand the implication of land selling and land grabbing and importance of natural resources. Since they are poor and need the money for their families, they started to sell their land. At the same time, powerful people from Ban Lung town realised that the road along this village would be rehabilitated from Ban Lung to Vietnam Border, and started to grab lands in my village. La In villagers realised that we were losing more and more land in our village so we asked CIDSE-DPA to help us. We all actively participated in land use planning activities including land use management assessment, mapping, and development of statute and presentation of statute to different levels. We are very happy to know that the statute of La In land use planning and management was recognised.”

Mr. Nan Chrong, Tompuoun indigenous people in La In village

The team also conducted a study tour to gain learning experience, and provided other training courses about the Constitution of the Kingdom of Cambodia on Rights of Cambodian citizens, Land Law, Forestry Law, Law of natural protected areas, Techniques for identifying boundary (use of GPS), methods in conflict resolution on boundary dispute, as well as conflict resolution with outsiders' abuse (dealers or firms, etc).

B- Extension land tenure selection of indigenous community

In order to become aware of the community's understanding and to verify the community's proposition for authorities and relevant government institutions on extension land tenure selection applied for by the community, DPA-RTK collaborated with the officer from Department of Land Management, Urban Planning, Construction and Cadastre in Ratanakiri province through Office of Land Management, Urban Planning and Construction at village level to organise a workshop on Extension Land Tenure Selection of Tompuoun Indigenous Community in La In village. This workshop was attended by provincial, district and communal authorities, relevant departments and La In villagers.

The traditional authority played an important role as facilitator in the discussion relating to land tenure selection and talked about how they would choose between individual registration or collective property registration. Additionally, after the discussion, the traditional authority was required to show the result of this discussion to all participants.

After the discussion, most of the La In villagers recognised that maintenance of indigenous community identification as well as indigenous community registration as legal entity and indigenous communal land registration as collective title were the core measures for preventing their land from losses. They realised the differences between collective land title and individual private land title. The purpose of collective land titling is to guarantee land title security and to protect common property which is neither private property or separate property of individuals. It also enables people to maintain their ethnic identity, culture, customs and tradition of their Tompuon ethnicity.

C- Self-identification and assessment of indigenous community identification

In addition to capacity building, the unity and will of the people in establishing a community are core factors because they sets the pace of the registration process for identity, village mapping and traditional land use management.

In addition, the declaration of self-identification is a symbol of unity and consensus among the people to establish a community, especially with regard to the expression of every identified ethnicity in order to inform concerned institutions how to formally recognise their identity. The declaration of self-identification is prepared in the community, where the people are currently living, with the presence of all community members and the participation of possessive commune authority.

Next, the Task Force Team of Department of Indigenous Community Development of the MRD will follow up and evaluate the indigenous community in alignment with prescribed procedures and conditions.

At this stage, the La In community must be prepared to show the MRD officers that they are Tompoun indigenous people. The community therefore needs to know and understand their ethnic roots, clothing, beliefs, language, taboos, offerings and their cultures and traditions.

D- Community application for communal land titling

After the Tompoun indigenous people in La In village decided to select land registration as collective title, DPA-RTK played a key role in coordinating and supporting them to apply for communal land titling. For instance, DPA-RTK had close collaboration with relevant government institutions to build their capacity related to how to fill in the land registration application form.

E- Review participatory land use planning (PLUP)

DANIDA, an international labour organisation (ILO), supported Participatory Land Use Planning (PLUP), which is a main part of conditions for community self-certified identification in the pilot villages of La In, Laeun Kreng and Andoung Krangleung. PLUP established rules of land use and established boundaries between communities.

According to the newsletter of the General Secretary of Land Policy on Land Registration Policy in Cambodia, it is stated that “The providing of safe land tenure for indigenous community through land use mapping is the best way to prevent land grabbing and land lost and can reach to a long goal that can reduce poverty and sustainable economic development”. Therefore, a task force team which was established to work on indigenous people’s land rights and a pilot project to implement the indigenous people’s land rights and identification was started in Mondulkiri and Ratanakiri province.

In 2006, the communal land titling of La In village was delayed due to the unclear role of concerned ministries in the process, and the difficulty in coordinating with the government. In response, the Ratanakiri team worked closely with staff from relevant government departments by involving them as counterpart staff and local consultants in the work of DPA. During PLUP implementation, conflict arose with a neighbouring commune about the placement of the commune boundary. However, a meeting was held with DPA staff, village elders and other concerned villagers to discuss a solution to the problem and the boundary lines were agreed upon. Originally there were 12 steps in the PLUP process⁶. In July 2007, there was an inter-ministerial PLUP Review Process in Stung Treng Province and the 12 steps were reduced to eight.

Participatory land use mapping in La In village took almost a year with the participation and recognition of the diverse stakeholders and neighbouring villagers. The map is used to determine the zone boundary, which is part of land registration for indigenous community. Village land management mapping and traditional land use through participatory appraisal was also used for self-certified identification of indigenous community. Village mapping needs to be done with the involvement of local authorities (commune councils and village authority), target villagers and neighbouring villagers to show their consent for their village boundary. Through village mapping, traditional land use management, which is a part of the participatory study of indigenous identification, was done for a month.

It was observed that participatory village mapping done for a month was a key mechanism to enable the indigenous community get agreement on their identity, particularly traditional land use management.

Similarly, through actual practice, La In villagers and traditional authorities, community representatives and other community members demonstrated the ownership of all steps in the process and knowledge of benefits from their land protection. Members of the community volunteered and worked in decision-making roles to participate in decisions which were recognised by local authorities.

Additionally, in 2007, the PLUP process faced some minor issues in Ratanakiri province. Although there were administrative difficulties, villagers had increased their understanding about the importance of these process and the reduction of incidence of land grabbing shows the positive impact of these activities.

F- Organising community and preparing by-law of indigenous community⁷

Proper planning and land use management for the community requires disciplines of management and natural resources protection. Meanwhile, the community themselves has to own discipline enforcement on management in an effective and sustainable way for the benefit of their next generation. Subsequently, indigenous community by-laws are restrictive for managing the indigenous community in conformity with the Laws and Policies of Royal Government of Cambodia.

⁶ See Appendix 1: Process and steps of Participatory Land Use Planning (PLUP)

⁷ For more detail please see appendix 2: Procedures in Establishing Indigenous Community and By-law

During preparation of the community by-laws, DPA-Ratanakiri closely cooperated with the Provincial Task Force Team (PTFT) to show a model of the by-laws to community representatives and directly facilitated in the process of filling in the draft of by-laws. After drafting them, DPA helped community representatives discuss the primary draft in order to get agreement and clear understanding of the essence in each article. The PTFT then prepared an informatory letter and sent it to the National Task Force Team (NTFT) with the results of the community drafted by-laws. Afterwards, the NTFT came to the target village and appraised the understanding of the entire community on their ownership and consensus on the essences of the by-law, then presented the results of their appraisal to the possessive community and the PTFT.

Next, the community organised a community assembly with DPA facilitation and engagement of other concerned institutions and local authorities. The agenda of the meeting consisted of three areas which were debated and sanctioned by the entire community, and include:

- The community drafted by-laws,
- The composition of community committee, and
- The community membership

G- Registering indigenous community as legal entity:

Registering communities as legal entities is an obligatory condition for allowing indigenous communities to become legal entities which can lead to registering collective land title for indigenous community.

After the community assembly to sanction the draft by-laws and composition of community committee, the PTFT helped the community committee prepare a request letter for official recognition on community by-laws and composition of community committee from the commune council. When the community received an approval letter from the commune council on recognition of the community by-laws and composition of community committee, the PTFT helped the president of community committee and other supportive NGOs to prepare a request letter for registration with the MOI through the authorities of commune-sangkat, district and province.

With the initiative and support of DPA in cooperation with the PTFT, Ratanakiri Provincial Department of LMUPC and PLG-Partnership for Local Governance, the MOI registered the Tompuon ethnic community in La In village as legal entity on January 04, 2007. The public announcement of the MOI was made on April 2007 in the presence of Ratanakiri Provincial Governor, chiefs of provincial concerned departments, local authorities, representatives of NGOs and other governmental officials.

H- Internal regulations for land use provision and land management⁸

In order to effectively and smoothly manage the community and maintain the collective property of the community, the legal indigenous community prepared internal regulations in consultation with the community members. The essence of the community regulation needs to be complied with the decisive mechanism of traditions, culture and customs in alignment with national policies and laws of the Kingdom of Cambodia.

⁸For detail, please see appendix 3: Internal Community Regulation of Tompuon indigenous people

Drafted internal regulations for community land use provision and management were initiated by the community committee. The community committee organised a consultative meeting on the draft of internal regulation with the participation of all community members and local authorities, and was facilitated by DPA-Ratanakiri.

I- Measurement, demarcation, adjudication and survey (village boundaries)

At this stage, DPA-Ratanakiri closely cooperated with technical and other concerned institutions to train and build the capacity of the community committee and representatives of the community in compiling an official document for registration submission of communal land titling, and improve the community knowledge of indigenous community identification, mapping, state land and indigenous community land classifications.

In La In village, the villagers reported there were no incidents of land grabbing in 2007. This positive result can be attributed to the fact that La In had been recognised as a legal entity. This information was disseminated to communities, local authorities and concerned departments, so outsiders and neighbours understood they could not encroach on these boundaries without facing intervention by the authorities. In addition, officials from Ministry of Interior and Land Management personally visited La In and encouraged the local authorities to ensure that everyone understands that the village would be granted formal communal land titling which needs to be respected. The CLT process educated people inside and outside La In about the importance of legal land title and this knowledge changed people's attitudes and behaviour.

Meanwhile, there was ongoing disagreement about the boundary of the La In village. According to La In villagers, conflict still remains with neighbours such as Trapeang Chres 4 of Trapeang Chres commune and Takeb village of Ta Ang commune. With regard to the problems in the La In village, DPA-Ratanakiri team organised a meeting to discuss a boundary agreement between neighbouring villages. As a result, participants agreed and adopted the existing boundary.

- **Review and identification of La In village boundary:**

In 2009, in close cooperation with the PDLMUPCC and concerned NGOs working in Ratanakiri, ICD-RTK organised an initial meeting at the provincial level to review and identify the boundary of La In village. There were 42 participants (13 women) who attended the meeting. The discussion emphasized the definition of state land, public state land, and private state land and showed how to produce an official map of La In village for land registration.

In March 2009, a final meeting to review the boundary of La In village was held. There were 20 participants (four women) who participated in the discussion and it was observed that only 16 participants actively participated in the discussion and understood its contents. The participants also supported La In community on the finalisation of the communal land boundary. They disseminated the results of the meeting to other villagers in the community and explained about the official territory claimed by La In community for the future. Meanwhile, most of the community people from La In village were aware of the territory of La in village and understood the meaning of private, public state and community land.

- **Determination of land use at the commune level:**

In 2009, with the active involvement of officials from the PDLMUPCC, ICD-RTK supported community in organising a meeting to determine the land use in La In village including both state land and community land at the commune level. There were nine participants (all men) from the La In community attended and the discussion discussed the procedures of the state and community land use. By using GPS, Universal Transverse McCather (UTM) points were identified in La In village territory and all the participants were taught how to use GPS and how to identify the UTM points. The participants were given a chance to practice in the field and all understood the procedures on determining the UTM points and the use of GPS.

- **Support to community in identification of the state land:**

In 2009, ICD-RTK supported the community in organising a meeting to discuss state land in La In village. There were six participants (all men) from La In village, two ICD-RTK staff and two officials from the PDLMUPCC attending the meeting. Officials explained the procedures on how to identify state land, private land and public state land in the territory of La In village to the participants. The results of identified UTM points from GPS were kept by the PDLMUPCC for data analysis and used for producing a land use map for La In village. The La In village map was produced by the PDLMUPCC and completed in early 2010. The ICD-RTK team cooperated with the community in La In village and neighbouring villages to display the map for public viewing within one month so that any territory which overlaps with private, public or state land may be reviewed.

- **Organisation of training course on the procedures of communal land titling registration at the provincial level:**

To create greater impact on the registration process of communal land titling, ICD-RTK successfully organised a training course on the procedures of the communal land title registration process at the provincial level, in which 17 participants (two women) from La in village participated. As a result, 13 of them clearly understood the procedures of communal land title registration process. All the participants were actively involved in the implementation of the communal land title activities to ensure their community would get an official land title certificate from the Royal Government of Cambodia. Sixty five percent of the participants interviewed were able to implement the communal land title process through such means as identifying UTM points, drafting statutes, dealing with conflict resolution and disseminating land law to other villagers.

- **Support to community in organising a one-day meeting to classify state land map of La In village at commune level:**

In mid 2010, ICD-RTK supported the PDLMUPCC officials to display the map of La In village territory within one month of completion. The purpose of displaying the map is to invite all villagers in La In village and other villagers from neighbouring villages to review and comment on the map, which

illustrates community land, state land, reserve land, funeral land, state private land, and housing land owned by La In village. After one month, villagers no longer are able to file a complaint letter or case on the data and map of the state and communal land in La In village. The map was agreed upon and recognised by the villagers of La In village and villagers in neighbouring villages.

- **Dissemination of state land and map of La In village to the concerned:**

On 1st February 2010, the ICD-RTK project supported four villagers consisting of two members of the land committee, the village chief and commune chief of Teun commune in attending a meeting on disseminating state land and showing La In village map to the concerned people at district level. On 17th February 2010, the ICD-RTK team organised a one-day meeting to disseminate the state land and La In village map to 55 villagers at the meeting. The purpose of the meeting was to show the villagers their official territory, particularly the state land located in La In village, and to inform them about their state private land and reserved state forest land. More importantly, the meeting aimed at showing and informing the target villagers that there would be no more land grabbing or encroachment from outsiders or people living in La In village. At the end of meeting, the ICD-RTK staff and officers from the PDLMUPCC observed that the attendants were actively involved in raising questions and clarifying their concerns, particularly with regard to issues related to future implementation of communal land when they would receive a land certificate from the government. In an estimation done by facilitators, at least 70 percent of the attended villagers clearly understood the meaning of state land located in La In village territory and were also aware of the existing map of La In village produced by the PDLMUPCC.

- **Identification of La In village boundary and production of La In village map at provincial level:**

From March to April 2010, there were 176 villagers (76 women) in La In community who cooperated with two officials from the PDLMUPCC to install 276 poles along La In village boundary. The La In community who participated in this event was very active in cooperation with the officials to identify the location of their territory as well as to negotiate with other villagers for an agreement before setting up the poles. A total of 176 people attended the meeting to identify the village boundary and set up poles along the UTM points of La In village. The officials from the DLMUPCC measured the La In village boundary by using the UTM points determined by the community and the DLMUPCC officers from January to February 2010. The results of this measurement were used for issuing a land titles and collective land certificate to the Tumpoun ethnic people in La In village. As a result, the director of PDLMUPCC organised a special meeting in August 2010 with La In community people to finally clarify the boundary of each plot of land owned by La In community before granting communal land tenure to La In community.

- **Support to La In community in commissioning the land tenure certificate and production of long term development plan at provincial level:**

From 09 to 17 November 2011, the DPA-Ratanakiri project cooperated with the PDLMUPCC to review La In village boundary with target villagers who currently own Chamkar land in La In village. The purpose of the review was to ensure all villagers agreed and endorsed the plot boundary as appearing on the map of La In village, so it would not cause complaints or disagreements before commissioning the land tenure certificate to community. There were three land committee members, five villagers and three officials from the PDLMUPCC who attended the workshop and, as a result, 37 plots of Chamkar land were reviewed, adjusted and provided.

J- Issue title

On 14 December 2011, ICD-RTK closely cooperated with the provincial and district DLMUPCC officers to organise a one-day workshop to commission a communal land tenure certificate to La In and Laenkren villages, held in Laenkren village, O'Chum commune, O'Chum district for 350 participants, 31 of whom (10 women) came from La In village. On this special occasion, Provincial governor, H.E Pav Hamphan, made a speech which stressed the history and achievement of communal land titling activity in Ratanakiri province. The Executive Director of DPA and representative of GIZ were also invited to give speeches about the support of these two organisations to La In and Laenkren communities before official remarks delivered by H.E Im Chhun Lim, the Senior Minister and the Minister of the MLMUPC.



As a result, the IP community is now safe from illegal land grabbing as well as land encroachment caused by land speculators and middleman. At this stage, the La In community has 129 households, consisting of 638 persons (317 female) and has obtained a total official land area of 1,218.56 hectares including 11.80 hectares for housing/settlement land, 735.79 hectares for reserved land, 33.24 hectares for lowland rice production areas, 425.11 hectares for upland crop production areas, 7 hectares for sacred land, 3.31 hectares for funeral land and 2.31 hectares for school construction. The La In community was highly appreciative of having communal land titling, which promised to provide long prosperity of all target community members, especially the younger generation for protection and independence on their own land.

However, based on the actual practices, communal land titling was done based on the available results of PLUP. We accepted that the results of PLUP in La In village were an outcome of the contribution of all concerned stakeholders, in particular the Forestry Authority. At the initial stage, due to the non-participation of the Forestry Administration, there was an overlap area of 4,000 ha of land in La In village, Ratanakiri province,

which was not acceptable for the zoning boundary of this village and needed reworking. This was an obstacle in the process of demarcating the village boundary and mapping, and took about one year to complete.

Thanks to the engagement of all concerned stakeholders, there were no arguments about overlapping boundaries between state and community land.

In the meantime, the process and procedures of registration for communal land titling were detailed in Chapter 2 on Principles of Communal Land Titling, Chapter 3 on Collective Land Registration for Indigenous Community and Chapter 4 on Procedures and Mechanism of Communal Land Titling, which were indicated in the Sub-Decree No. 83 ANK/BK on Procedures of Land Registration of Indigenous Communities.

2- Challenges

What are the challenges or barriers to the successes of communal land titling project for indigenous community?

Through the study and lessons learnt, we found the following challenges:

2.1- Challenges of the indigenous community:

- Illiteracy of community committee and community members.
- Lack of management, leadership and community development skills of community committee.
- Little knowledge of laws and the process of land title registration among indigenous people.
- Lack of clarity about the communal land titling purpose for some indigenous people.
- Illegal occupation of outside community people.
- Continued sale of land, lack of trust and support on the project as well as lack of trust for the Project Task Force Team (TFT) among villagers, especially indigenous people.

2.2- Challenges of the Project TFT:

- The commune administrative boundary inspection and village-commune land use mapping. Indigenous people have poor knowledge of laws and land registration process, even though they made a commitment to build their capacity. This factor led to roguish people taking advantage of diverse forms of incitement and inducing community people to sell their land. As a result, the villagers, especially some of the indigenous people, still continued to sell their land, which led to loss of confidence and support on the project, as well as the project TFT. At the same time, it also affected measurement and development of a draft village-commune land use map, so that it took a great deal of time to re-measure and redraft the land use map before sending it to the MOI for official recognition.
- Preparing the internal community regulation was a difficulty, because the Project TFT, as well as DPA spent much time in preparing the articles of the regulation and explaining how they should follow them. However, in the interim, the community members continued selling their land, which led to being omitted from the list of community members. This created difficulties in explaining to them

how to be clear on what collective possession means.

- Changes of community committee members or traditional authorities.
- Lengthy time required to complete all forms and documents related to the collective land registration process for indigenous community.
- Each concerned institution has different formats and procedures, which leads to difficulty in completion, since communal land titling is a new pilot project and there is no common format or procedure to use. Thus, each concerned institution, such as the MOI, has its own format and procedure that is different from the MRD and the MLMUPC, which caused challenges.
- Relationship between the community and local authorities was difficult due to conflict of interests.
- Lack of transportation. One of the motorbike rides which carried three people on bad roads ran into difficulties

2.3- Challenges of DPA with concerned and supportive partners:

- The selected community committee consisted of several illiterate members and led to ineffective leadership and management. Therefore, we needed a great deal of time to further build their capacity so they could explain what they had learnt to other community members, particularly with regard to land. In every stage of the communal land titling, we helped them organise meetings, conduct planning, develop community by-laws and produce internal community regulations and other requested documents.
- At the same time, there was limited engagement of technical provincial departments since they had to fulfill their core tasks, causing lateness in implementing the project activities.
- During the diffusion of the land registration, a few community members were still unclear about the process of communal land registration as collective land titling as they understood it would mean a loss of their land or negative impact on their benefits.
- During the process of land registration, we played a key role for the indigenous community of La In village in facilitating problem solving, mainly related to conflict of interest between the community people and outsiders (land dealers, companies and top-ranking people). We were also challenged these outsiders and were worried about our own safety.
- Lack of experience in PLUP.
- The steps or phases in the process of land registration for indigenous community were amended from 12 steps (2004) to eight steps (2007). Due to these changes, we found it difficult to follow up and implement activities and needed to spend more time disseminating the updated process in implementing the CLT to community.

3- Previous resolutions to the challenges

- With the assistance of the International Cooperation for Cambodia (ICC) in Ratanakiri province, bilingual education (meaning the use of Khmer letters for writing indigenous language) for indigenous people has been significantly improved, and the project TFT created instructional materials with indigenous dialects which are related to land rights. This was a key in contributing to better knowledge and engagement of the indigenous people on land issues and registration. Additionally, preparation and capacity building for indigenous people about legal frameworks and norms as well as the national policies through workshops, training and awareness raising campaigns, proved to be very important in improving the knowledge of the indigenous people in relation to the communal land titling project.
- Moreover, good cooperation and mutual trust amongst the TFT members including governmental institutions and concerned NGOs are very essential to provide a good working environment.
- Capacity building and consensus will assist the community members.
- Learning by doing
- Implementing by improving
- Educate and repeatedly discuss the importance of CLT as well as relevant laws and policies with the community

Conclusion

Through implementation experiences, we conclude that the project was a big success achieved by which DPA, supportive partners and indigenous community. The indigenous community in La In village received its collective land title, which demonstrated an undertaking and lessons learnt that can be replicated in the target villages or other areas. Nevertheless, we have faced challenges and issues that need to be solved and improved for the next step in the project. In this study report, there are some recommendations that can help overcome those problems or issues.

In summary, through active participation in the process of land use management assessment, development of statute, attendance at trainings, extension, coaching and exposure visits, villagers were able to realise the implications of land and forest losses and to be aware about how community land use planning management and community forestry activities helped and empowered them in protecting their land and forest resources. These activities also helped communities use natural resources in a sustainable way and to develop local agreement about current and future land use in harmony with development goals and available natural resources.

Similarly, implementation of Participatory Land Use Planning (PLUP) and Management and communal land titling (CLT) has been part of the strategy to prevent the land alienation, landlessness, land grabbing and encroachment, improve efficacy of land use and promote land tenure rights for indigenous people as well as strengthen community solidarity.

Recommendation

- Increase the number of JMIs (Joint Monitoring Indicators) for communal land titling for indigenous people.
- In order to pace land registration process for indigenous community, the next project should be decided and approved upon by the governmental institutions at sub-national level and NGO partners at provincial level.
- There should be a good cooperation and mutual trust among the project TFT members as well as among concerned governmental institutions and NGO partners. This practice will lead to creating good solidarity and fruitfulness.
- Continued cooperation with ICC in Ratanakiri province to provide bilingual use and educational material in dialects related to land rights of indigenous community on land issues and registration.
- Strengthening the indigenous community capacity and community committee through workshops, trainings and awareness raising campaigns for indigenous people is an essential encouragement for eliminating the sale of land and for motivating support on land titling project. These capacity building activities include knowledge of legal framework and legal norms (procedures) which need to happen before the community shows proof of property optional choices and indigenous community by-law.
- Relationship and regular deliberation between the PTFT and the NTFT are designed to reinforce support and speed up the process of community by-law development and land registration.
- Prepare the consultative process at all levels, compile all lessons learnt and document and prepare administrative documents on time to reduce delays.
- Educate the community committee by enhancing their reading and writing skills. Priority should be given to community committee members who are literate since it will speed up the registration process.
- Training and refreshing the skills of the community committee on management, leadership and community development through a simple process. Bilingual use helps in strengthening the community committee capacity. Educate and refresh the skills of indigenous people, especially the community committee, about land related-issue laws, environment and natural resources, purpose and process of land registration, and rights of collective land use. These activities also reduce frequency of compositions of community committee.
- Train how to do mapping, examination and commune administrative boundary demarcation so that they are simple and appropriate and that the indigenous community, particularly the community committee, is able to understand the techniques.
- Cooperate with local authorities and concerned NGO partners to encourage the morale of indigenous people in protection of incitement from outsiders and land sales to businessmen. This is also to reduce reworking such as measurement or demarcation of the boundary, etc.

Reference

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- Three year report 2006-2008 of ICD-Ratanakiri and ICD-Mondulkiri
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- Nuy Bora, consultant *“Review of processes and support to the development of work plans for the registration of land of indigenous communities in Ratanakiri and Mondulkiri”*, dated on January 15 2010
- Royal Decree No. NS/RKM/0801/14/30.8.2001 on Land Law
- Sub-Decree No. 83 ANK/BK/9.06.2009 of the Royal Government of Cambodia on Procedures of Land Registration of indigenous communities
- International Labor Organisation (ILO) *“Indigenous community bylaw development”*
- National policy of development of indigenous people, 2009
- Land registration task force team *“Documentation on project support and registration of indigenous people as legal entity”*2011
- Inter-ministerial circular of MOI and MLMUPC on *“Interim protection measure protecting lands of indigenous peoples, that was been requested for collective ownership titling, while awaiting titling process according to procedure to be completed”* , 31 May 2011
- Men Prachvuthy, *“Land Acquisition by Non-Local Actors and Consequences for Local Development: Impacts of Economic Land Concession on the Livelihoods of Indigenous Communities in Northest Province of Cambodia”*, March 2011

Appendices

Appendix 1: Process and Steps of Participatory Land Use Planning-PLUP (2004)

Steps and Activities	Methods and Tools
<p>Step 0: <i>Preparation to Start PLUP</i></p>	<ul style="list-style-type: none"> - Consult with various stakeholders for support activities, resources and existing data, - Assess the resources required and necessary equipment - Identify the target villages/communes - Formulate the project - Establish and train Provincial PLUP Facilitation Team - Present the proposed PLUP projects - Present the PLUP process - Obtain approval and support from local authorities and relevant line departments. <p style="text-align: center;">(4-7 weeks)</p>
<p>Step 1: <i>Set up of NRM Committee and Training on NRM</i></p>	<ul style="list-style-type: none"> - Present the PLUP project at commune level - Select Commune NRM committee - Set up Roles and Responsibilities of the commune NRM committee - Prepare Deika Khum (commune proclamation) for NRM Committee to be recognized by Commune Council <p style="text-align: center;">(2 days per commune)</p> <ul style="list-style-type: none"> - Awareness raising on: <ul style="list-style-type: none"> * Principles and steps of PLUP of highlanders * Indigenous rights related to Land and Forest Law * Conflict resolution * Mapping and GPS use * Information collection (PRA Tools) * Organise study tour for village/commune NRM committee <p style="text-align: center;">(5-7 days per commune)</p>
<p>Step 2: <i>Project Orientation at Local Level</i></p>	<ul style="list-style-type: none"> - Assign tasks among the PLUP team - Present the proposed PLUP projects - Reconfirm the request in CDP/CIP and obtain agreement - CBNRM (community based natural resources management) concepts (use, problem, vision and planning) - Select village NRM focal persons - Train village NRM focal persons on methodology of PLUP implementation information collection (PRA tools) and map reading, GPS use - Discuss problems regarding NRM and Gender and identify vision for NRM - Organise study tour <p style="text-align: center;">(5 days)</p>

Steps and Activities	Methods and Tools
<p>Step 3: <i>Data Collection and Analysis of Village Situation (PRA)</i></p>	<p>Phase I: Participatory Appraisal and Information Collection:</p> <ul style="list-style-type: none"> - Collect data and analyse socio-economic situation - Collect data and analyse institutions in community - Collect data and analyse present NR use - Collect data and analyse land and NR conflicts - Document findings and present to communities for verification/revision - Document and distribute to relevant stakeholders at provincial level <p style="text-align: center;">(5 days per village)</p> <p>Phase II: Establishment of customary village/commune boundaries</p> <ul style="list-style-type: none"> - Present and revise the village NRM sketch map - Present sketch map and transfer customary boundary to topographic map and if necessary revise with villagers - Village/Commune Workshop to discuss and revise village customary boundary with neighboring villagers - Identify overlapping boundaries and areas without clear physical features demarcating boundary and negotiate for agreement on boundaries - Collect GPS points in areas where natural features don't clearly delineate boundaries - Sign agreements between villagers on agreed boundaries - Physically mark boundaries - Produce digitised scale map <p style="text-align: center;">(30 days)</p> <p>Phase III: Declaration as village/commune adjudication area</p> <ul style="list-style-type: none"> - Present boundary map and agreements to Land Administration Office - Adjudication Officer studies the agreement and map, verifies information and declares areas as adjudication area <p style="text-align: center;">(14 days)</p> <p>Phase IV: Development of detailed land use map</p> <ul style="list-style-type: none"> - Analyse village situation and use of each zone - Identify and demarcate detailed land use zones within boundary in topographic map and aerial maps - Identify areas suitable for community land titles - Orient and collect GPS points along boundaries of each zone - Feedback to revise and agree zone boundaries with the villagers
<p>Step 4: <i>Preliminary Identification of Community Land Area and Land Suitability</i></p>	<ul style="list-style-type: none"> - Discuss/assess options to use and manage each zone - Possibly conduct technical suitability assessments - Assess land suitability and make map - Feedback to community and obtain agreement <p style="text-align: center;">(20 days per village)</p>

Steps and Activities	Methods and Tools
Step 5: <i>Selection of Village NRM Committee</i>	<ul style="list-style-type: none"> - Select village for establishing a Village NRM committee, and develop structure and by-law - Build capacity of the village NRM committee <p>(4 days per village)</p>
Step 6: <i>Preparation of Future Land Use Plan, Village Regulations, and Detailed Management Plans</i>	<ul style="list-style-type: none"> - Review options to use and manage each zone (identify state, private and community land) for preparing future master land use plan - Formulate rules and regulations for land use master plan - Feedback to community and obtain agreement on land use master plan and rules and regulations
Step 7: <i>Submission of the Land Use Plan, the Regulations and the Management Plans for Official Endorsement and Approval at Commune and Provincial level</i>	<p>Phase I: Commune workshop</p> <ul style="list-style-type: none"> - Organise workshop on NRM rules, regulations and Land Use Planning - Submit the proposal from village and commune to relevant provincial authorities <p style="text-align: center;">(2 days)</p> <p>Phase II: Provincial workshop</p> <ul style="list-style-type: none"> - Organise provincial workshop to present map and R&R for PLUP - Prepare relevant draft agreements to recognize village and commune land use - Register all types of land resources at provincial level - Commune Council, District authorities and relevant departments agree and sign on prescribed forms <p style="text-align: center;">(2 days)</p>
Step 8: <i>Monitoring and Evaluation</i>	<ul style="list-style-type: none"> - Review the enforcement of PLUP - Review the enforcement of rule/regulation - Define priority on solution - Prepare the monthly, quarterly and yearly plans - Build capacity on NRM legal framework and administrative affair

Appendix 2: Procedures in Establishing Indigenous Community and By-law

- **The study of identification (based on article 23 and 24 of Land Law)**

Traditions and customs of the life of indigenous people (definition and identity)

- Traditional structure of management
- Traditions and customs of collective land use
- Actual number of HHs of an ethnicity and other ethnicities which are living in the same village
- Criteria for identification of community members

- **Development of community by-laws (examine the procedures)**

- Understanding of by-law development
- Essences of the by-laws and their purpose
- Composition of the community committee and procedures for committee selection
- Conditions of becoming a member and withdrawing from membership
- Mode of community management
- Rights and decision making of the community
- Rights and decision making of the community committee

- **Preparation of the entire community meeting or congress**

- Develop a list of community members and number of family members (membership application form and list of voluntary membership)
- Prepare a meeting (inspect, finalise by-laws and select the community committee through traditionally simple process)
- Prepare an official meeting (sanction on by-law and composition of community committee by the concerned administrative authorities and NGOs)

- **Preparation of an official request for community registration**

- Follow the formats, procedures and Informatory Notice No. 474 dated on July 6, 1994 of the MOI
- The community produces a request letter to possessive commune council so they will officially recognise the by-laws and community committee
- Attach all relevant documents for community registration

- **Preparation of a set of documents for community registration**

- Summary of the meeting minutes and relevant documents related to community congress

- Bio-data of the president and members of community committee with three current photos of each (see format of the MOI)
- Copied ID cards of the president and members of the community committee with three copies each, which have been legalised by provincial hall authority
- List of community members and number of family members, membership applications, request letter for community registration through the authorities of commune, district and province to submit to the MOI for official recognition
- Receipt of Official Letter from the MOI on the registration and action giving permission
- Indigenous community is required to possess by-laws in terms of legal entity and physical object representing their legal entity, which is registered with the MOI
- **Principles for establishing indigenous community (main conditions of the draft by-laws)**
 - Introduction or rational statement:

General situation

- * Indigenous people are a group of human beings who live in the territory of the Kingdom of Cambodia and all members show their independency of ethnicity, socio-culture and economic, operation of their traditional living and farming on their own land in accordance with codes of measure and custom of collective land use.
- * Most of indigenous people living in the forested hilly northeast part and remote areas of Cambodia.
- * They are farmers and depend on non-timber forest products for living.
- * Presently, illegal deforestation and land grabbing instances have been significantly increasing.
- * There are roguish people who are incited to buy collective land of indigenous community.
- * Some indigenous people work for roguish people who perform slash and burn to anarchically expand the areas in the form of shifting cultivation
- * Negative impact of national park that is conserved for wildlife, environment and state public property, especially the collective land of indigenous community which is being lost, leading to negative impact on future livelihood.
- Policy framework:
 - * State land policy council has prepared a policy on state land reform, which mainly compiles the measures of land provision management system and equitable land use.
 - * Enforcement of systematic land registration system and sporadic land registration system, especially the establishment of the NTFT for collective land registration for indigenous community.
 - * Rectangular strategy of the Royal Government on strengthening local governance through people's participation.

- * Implement the policy of poverty reduction through sustainable rural development.

1 Legal framework:

- 2 Constitution of the Kingdom of Cambodia, Chapter 3, Article 42 on rights of the citizen to set up associations and political parties.
- 3 Land Law of the Kingdom of Cambodia, Chapter 2, Article 23 to Article 28 on the rights of customary land use of indigenous people. While they wait for legalisation of community by-laws, the existing groups will continue to manage the community and own property through customary practices and have to operate in compliance with this law.
- 4 Forestry Law of the Kingdom of Cambodia, Chapter 9, from Article 40 to Article 46 on the rights of use and collection of non-timber forest products with the customary practices of indigenous people.

5 Format (Designer has to emphasise the four basic essences):

- **Background:**

- 1 Letter head: The Kingdom of Cambodia, Nation, Religion, King
- 2 Title: Name of by-law

- **Preamble:** Reference judicial documents of relevant laws

- **Contents or essence:** Body text, Chapters, Articles

- **Final formula:** Final notification

– Minimum essence in the text preparation:

Each indigenous community has to prepare by-laws and main principles for management as well as becoming a member and withdrawing from membership with a written form, which indicates the following points:

A- By-law should consist:

1. Full name of the community and office address
2. Competency limitation and legal framework
3. Goal and objectives
4. Organisational structure, authority and responsibilities
5. Composition of the community committee
6. Selection of community committee to represent the community
7. Authority of community and committee president
8. Conditions or criteria for membership, loss of membership and new membership
9. Responsibilities and loss of position
10. Meeting and task performance of community representatives

11. Community property
12. Supervision and responsibilities
13. Amendment of by-laws
14. Conditions of community dissolvency

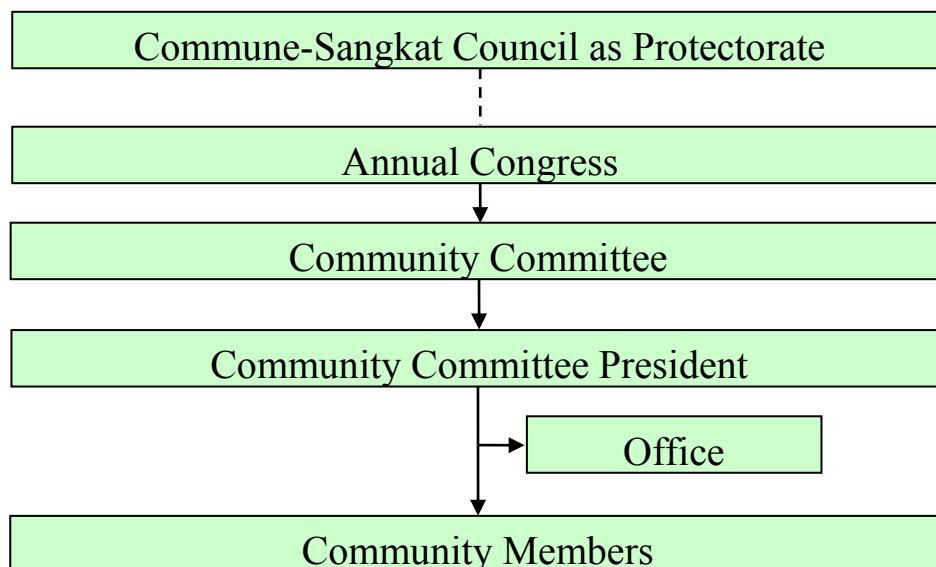
B- Main principles:

1. Collective land management of the indigenous community
2. Identification of conditions and criteria for being a community member, leaving membership in compliance with customary practice and leaving with compulsion
3. Identification of internal community regulation

C- Main conditions of the draft model by-law:

- Preamble
- Nine chapters or more
- Twenty three articles or more
- Chapter 1 can contain five articles with following essences:
 1. Name:
 2. Legal framework
 3. Definition
 4. Scopes and management framework
 5. Office address
- Chapter 2 can contain one article: Goal and objectives
- Chapter 3 can contain two articles: Organisational structure, role, tasks and responsibilities
 1. Organisational structure, role, tasks and responsibilities of the community
 2. Composition of the community committee
 3. Roles and responsibilities of community committee and customary authority
 4. Roles and responsibilities of community committee president

Community Organizational Structure



Composition of the Community Committee

<i>Village Elder (chieftain)</i>	<i>president</i>
<i>Administrative village head</i>	<i>permanent member</i>
<i>Village elder group</i>	<i>members</i>
<i>Woman representative</i>	<i>member</i>
<i>Representative of commune council</i>	<i>member</i>
<i>Chief or representative of land use planning sub-committee</i>	<i>member(s)</i>
<i>Other sub-committee</i>	

- Chapter 4 can contain four articles: Becoming a members and losing membership:

1. Membership
2. Loss of membership
3. Registering new membership
4. Being new member

Becoming a member, losing membership and registering a new member:

- *Criteria for being a member*
- *Criteria for leaving or registering membership in compliance with customary practice*
- *Criteria for losing membership by compulsion*

- Chapter 5 can contain three articles: responsibilities and loss of position

1. Offering a position
2. Losing a position
3. Filling a vacant position

Offering and losing a position:

- *Selection procedures for offering a position through simple method*
- *Procedures for terminating a position in case of: death, written resignation, loss of professional aptitude, crime, not obeying by-laws or internal regulations.*

- Chapter 6 can contain two articles: meetings and task performance

1. Organising community annual congress
2. Meeting and task performance of the community committee

- Chapter 7 can contain four articles: Financial system and community property (write separate sentences)

1. Community property
2. Income source of community
3. Land division for use
4. Account tasks and community accounting

Appendix 3: Internal Community Regulation

The Kingdom of Cambodia

Nation, Religion, King

Tompuon Ethnic Community

Internal Regulation

on

Collective Land Management of Tompuon Ethnic Community

La In Village, Teun Commune, Koun Mom District, Ratanakiri Province

CHAPTER I

General Notification

Article 1:

This internal regulation is for implementing how to use and manage collective land of Tompuon ethnic community in La In village, Teun commune, Koun Mom district, Ratanakiri province, which follows the customary living practices indicating in the Article 2 of this regulation and Article 26 of the Land Law 2001.

Article 2:

This regulation is created with the purpose of the collective land use and management and community development by the community themselves, which will not create internal conflict amongst the community members and will maintain the identity, culture, customs and traditions in land use and management with all natural resources in a sustainable mode, which contribute to the development of community and society.

Article 3:

Collective land of the community includes buried land, spirit forested land, strategic farming land, rotational cultivation land, and residential land as indicate in Article 3 of the community by-laws.

CHAPTER II

Principles of Collective Land

Article 4:

Community members of Tompuon Ethnic community in La In village are the owners of pieces of the collective land they traditionally occupy and in which they have prerogative to use and benefit from (**it is also indicated in the community by-laws**).

Article 5:

Persons are the community members, who are registered in the membership list and officially recognised by the community committee and the chief of Teun commune as having legal rights on continuation of the prerogative on the pieces of collective land they've already occupied before setting up by-laws and this internal regulation in effect.

Article 6:

Abuse of individual person or legal person on the prerogative of pieces of the collective land is prevented by the rights of collective land title certificate according to the law (**as determined in the community by-laws**).

Article 7:

Abuse on prerogative of pieces of collective land by any community member who owns the land, and has to be solved by the community committee or customary authority of the community (**as indicated in the community by-laws**).

Article 8:

Collective property of the community cannot be procured by selling, changing, transferring or passing down through inheritance to any individual person(s) or legal person(s) who are not the community members (**as indicated in the community by-laws**).

Article 9:

The plots of land used by the public in the community such as burial forest, non-timber forest products forest (bamboo forest), school land and spirit forest, which are collective property of the community, are objects to be prohibited for the purpose of slash and burn farming, residing, deforestation for business and other activities disturbing religious and cultural system.

Article 10:

Burial forests and spirit forests are customarily used for burying corpses, offering worship and collecting non-timber forest products (**Based on Forestry Law and the Draft Policy on Land Registration of Indigenous Community**).

Article 11:

The community members do not have any prerogative on the plots of burial forest land or spirit forest land. However, they contribute to the protection and care of collective interests, expenses on management, taxation and other burdens in accordance to laws (**Based on the Draft Policy on Land Registration of Indigenous Community**).

CHAPTER III

Procurement of Collective Property

Section 1: Transfer of Piece of Collective Land

Article 12:

A piece of collective land of the community can be transferred as private property of any community member's prerogative, which intends to leave the community for receiving the private property (Article 28 of Land Law). A piece of land subtracted from collective land is a piece of land or prerogative that he/she receives by occupying through exchange, pacification, and non-transferred purchase and transfer by offering by the community. Prerogative owner who left has an obligation to pay the cost of title transfer and land title certification (it also indicates in the community by-law and Land law).

Article 13:

Collective land of the community can be procured, if all the community members fully agree on the legal procedures for collective property procurement to individual or legal person who are not the community members. In any case, the procurement cannot be absolutely done on burial forest land or spirit forest land (**specified in Article 26 of Land Law can be opposite above article**).

Article 14:

Collective land property can be divided into small pieces of land for the purpose of state public benefits through certain procedures and approaches. Prerogative owners and the community members in the community are owners of collective property, and have rights to receive appropriate compensation from losses in compliance with provided compensation mechanism of the community (**indicated in Land Law**).

Section 2: Transfer or Procurement of Prerogative

Article 15:

Prerogative of collective land in La In village is the exclusive property for use and benefit of the La In village community members on the pieces of collective land. Transfer of prerogative is the internal process of changing rights of prerogative owners in collective property through recognition or approval of the community (**Article 10 of Land Law**).

Tompouon ethnic community in La In village can transfer prerogative of the community member(s) occupied in the community. The transfer of community land prerogative includes transfer by exchanging between one prerogative and other prerogative, exchange by inheritance and transfer by offering. All types of this transfer need to be complied with decisive mechanism and approval of the community committee and by eventually fulfilling the formats of the community (**Appendix attached herewith**).

Section 3: Transfer by Exchange

Article 16:

Individual members having prerogative on collective land can exchange their land with other members through reciprocal agreement. The exchange of land needs to be recognised or approved by the community (**Prerogative of piece of collective land of the community cannot be exchanged with materials or equipments at all**).

Section 4: Transfer by Pacification and Inheritance

Article 17:

A member having prerogative on community land can transfer his or her own land by land inheritance with or without admonished message (land inheritance gift) through the following indications:

- Land belonging to a deceased person held and recognised by other member in the community;
- Land belonging to a deceased person received as gift from other member in the community;
- Land belonging to a deceased person had rights of use and benefit and land was pawned for guaranteeing debt.

Article 18:

Land inheritance of a community member to another member has to be recognised by the majority of his/her family members and the community committee or admonished letter with a thumb print.

Article 19:

Inherited land which belonged to a deceased person or used for direct living cannot be requested for division or decision on this land, unless there is an agreement from all inherited family members. In case of dispute of inherited land division, the members of inherited family have to fine the community committee to solve the issue through customary practice.

Exchange or donation of piece of prerogative of the any inheritor is considered unreliable, if sale, exchange or donation is not accepted by the other members of inherited family. All dispute actions have to be punished through customary mode of the community.

Article 20:

Land belonging to a deceased person which was not inherited by any member of the community in written form, has to be treated as community land and is an object for division of the community to other(s) who do not possess land. This practice must be done through the community congress. In the case of land belonging to a deceased person who had no heir, the land will be treated as community land and will be an object for division of the community to other(s) who do not possess land. This practice must be done through the community congress.

Section 5: Transfer by Donation

Article 21:

Land donation of the prerogative owner being a community member must be done with recognition of the majority of his/her family members or with title transferring letter with recognition and approval of the community committee.

CHAPTER IV

Rights and Obligation of Collective Property

Section 1: Benefit of Prerogative

Article 22:

Land prerogative owner has the right of use, benefit and organisation of his/her own land only with members of the community, which is not opposed to what the laws prohibit. Disobedience of the prerogative owner opposed to what the laws prohibit, is the responsibility of the prerogative owner, not the community.

Article 23:

Land prerogative owner cannot use his/her land for malice or disturbance to neighbouring people in the community. Normal farming with customary practice is not treated as an interruption to neighbouring people.

Article 24:

Land prerogative owner can use the land for all farming activities, improvement, organisation and construction with his/her intention in compliance with customary practice and legal conditions.

Article 25:

Land prerogative owner is the owner of below ground and permanent things on the ground. Prerogative owner can prune the plants/trees or pick the fruits of neighbouring trees protruding onto his/her land.

Article 26:

Land prerogative owner can make a contract with the community members for guaranteeing the debt by pawning his/her land or guarantee in compliance with customary conditions with recognition of the community committee.

Section 2: Separation Products and Revenue of Prerogative

Article 27:

Land prerogative owner has rights to receive all benefits from his/her own land including products from nature and products from cultivation.

Section 3: Increase of Prerogative

Increase of Prerogative Owner by Execution

Article 28:

Constructions, crops and works done on or under the ground must be treated in the same way as the prerogative owner, except in the case of opposition.

Article 29:

If crops, constructions and organisations of the prerogative owner are destroyed by the other members, violator must pay expenses on the damage to the prerogative owner based on the dimension of the damage.

Increase of Prerogative Owner by Nature

Article 30:

Crops produced by nature on the piece of land of prerogative owner is the collective property of the owner which can be harvested by all community members. Crop harvests have to be informed to prerogative owner beforehand (**it can be opposite from this article**).

Article 31:

All community members have rights to use and benefit from natural produce which grows in the burial forest land, school land, non-timber forest product forest and spirit forest through the customary mode. If the use of and benefit from buried forest and spirit forest make an impact on customs, this person must be responsible to the customary authority.

Section 4: Lease of Prerogative

Article 32:

Prerogative owner can lease his/her own land to other members inside and outside the community. The lease must be done within a certain timeframe and with contract letter certified by the community committee. This is a temporary contract and can be stopped any time during this period by informing the owner.

Section 5: Servitude

Article 33:

Land prerogative owner being the community member has to continue servitude through customary mode to guarantee service to other prerogative owners in the community including service land (pathway) and water ways.

CHAPTER V
Conflict Resolution

Article 34:

All conflicts or oppositions occurring in the community must be solved by pursuance or reconciliation by the village elders, the community committee or bylaws.

The conflicts which cannot be solved by the community committee have to be sent to authorities and concerned institutions.

Article 35:

Types of conflicts or oppositions, which are solved by the community committee, include land conflicts, family conflicts, misconduct of customary norms, divorce, and common minority conflicts.

Article 36:

Conflicts or oppositions which are serious violations, have to be solved by the national juridical system (justice system) and are not the competency of the community committee to solve.

CHAPTER VI
Amendments of the Internal Regulation

Article 37:

Amendments of the internal regulation have to be done by the suggestion of the community committee or the community members in La In village with a minimum of 50 percent plus one majority vote.

Article 38:

This internal regulation will be effectively executed according to the sanction of La In village community members.

No. 215/07

**Seen and Archived at Teun Commune Hall
Commune Hall, 15 March 2007**

Chief of the Commune

Chamao Phang

La In village, 15 March 2007

Thump Print of the Community Chief

Mr. Nget Phen

Appendix 4: List of legislation documents related to indigenous people communal land registration

- Instructive Circular No. 0974 MRD/22.7.2009 of the MRD on Procedures and Methodology for implementing the National Policies on the Development and Indigenous Community Identification.
- Sub-Decree No. 83 ANK/BK/9.06.2009 of the Royal Government of Cambodia on Procedures of Land Registration of indigenous communities
- Policy on the Registration of Lands and the Rights to Use of Indigenous People Communal Lands approved on April 24, 2009 by the Council of Ministers
- National Policy on the Development of Indigenous People of the Royal Government of Cambodia approved on April 24, 2009 by the Council of Ministers
- Sub-Decree No. 118 ANK/BK/7.10.2005 of the Royal Government of Cambodia on State Land Management
- Notification No. 136 BK/MRD/11.09.2002 on Roles, Responsibilities and Functioning of Department of Ethnic Minority Development
- Notification No. 1950 BK/07.5.2002 of the MOI on Roles, Responsibilities and Structure of the Department of Local Administration
- Sub-Decree No. 46 ANK/BK/31.05.2002 on Procedures for Establishing Cadastral Map and Land Register
- Sub-Decree No. 48 ANK/BK/31.05.2002 on Sporadic Land Registration
- Sub-Decree No. 51 ANK/BK/21.6.2001 on Ratification on the Sub-Decree No. 78 ANK/BK/01.12.1997 on Establishment and Functioning of the MRD
- Royal Decree No. NS/RKM/0801/14/30.8.2001 on Land Law
- Sub-Decree 88 ANK/BK/01.12.200 on the Establishment of the Council for Land Policy
- Notification No. 095 BK/07.5.1994 of the MOI on the Roles, Responsibilities and Structure of the MOI
- Letter No. 474/07.7.1994 of the MOI confirmed on Land Registration and Formats
- Sub-Decree No. 72 ANK/BK/12.5.2009 on Procedures of Commune-Sangkat Land Use Planning
- Law Statute No. 100 រ/13.10.1992 on Land Law 1992



DPA Office

69 z, St. 450, Toul Tompong II, Phnom Penh, Cambodia

PO. BOX: 5, Phnom Penh, Cambodia

CCC BOX: 21

Phone: (855) 23-216 369/216 945

Email: dpa.reception@dpacam.org

Website: www.dpacam.org

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