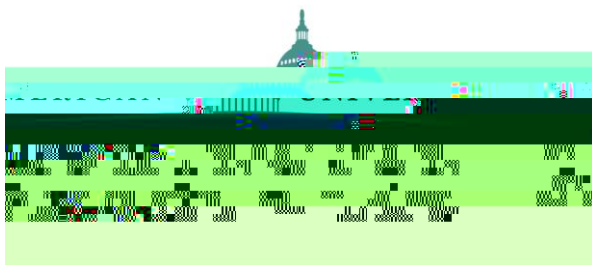




The community guide to legal issues in natural resources management is a guide to empowering local communities and indigenous peoples to engage in decision-making related to their land by using participatory Land Use Impact Assessments (LUIA).

Community Guide to Legal Issues in Natural Resources Management Manual

*A How-to manual for community activists in Cambodia to realize
their legal rights in natural resource management*



Community Guide to Legal Issues in Natural Resources Management Manual

A How-to manual for community activists in Cambodia to realize their legal rights in natural resource management

Acknowledgements

This manual has been prepared by Sath Kanyara, Executive Director of Community Empowerment and Development Team (CEDT), under the supervision and guidance of Brian Rohan, Legal Advisor in Environmental Law and Governance, and Melissa del Aguila and David Hunter from American University (AU), with vital support from staff members from Law and Policy of Sustainable Development Research (LPSD) and Earth Rights International (ERI).

Special thanks to the youth volunteers, community representatives and members of Busra and DekDarm Commune in Phnom Namler Wildlife Sanctuary, Santepheap and VeunSai commune in VeunSaiSiempang Wildlife Sanctuary and Monks and local people in Phnom Chi, Kompong Thom Province in Prey Lang Wildlife Sanctuary and local authorities for their enthusiasm and participation in the pilot testing of the manual.

This manual has been made possible with support from the U.S. Government through American University.

List of Acronyms

LUIA- Land Use Impact Assessments
NGO- Non-Governmental Organization

Content

- I. INTRODUCTION 6
- II. INITIAL PRIMARY ASSESSMENT 7
- III. COMMUNITY ASSESSMENT 8
- IV. NETWORK DIAGRAM 12
 - 4.1. Stakeholder Mapping 12

THE COMMUNITY GUIDE TO LEGAL ISSUES IN NATURAL RESOURCES MANAGEMENT

I. INTRODUCTION

The community guide to legal issues in natural resources management is a guide to empowering local communities and indigenous peoples to engage in decision-making related to their land by

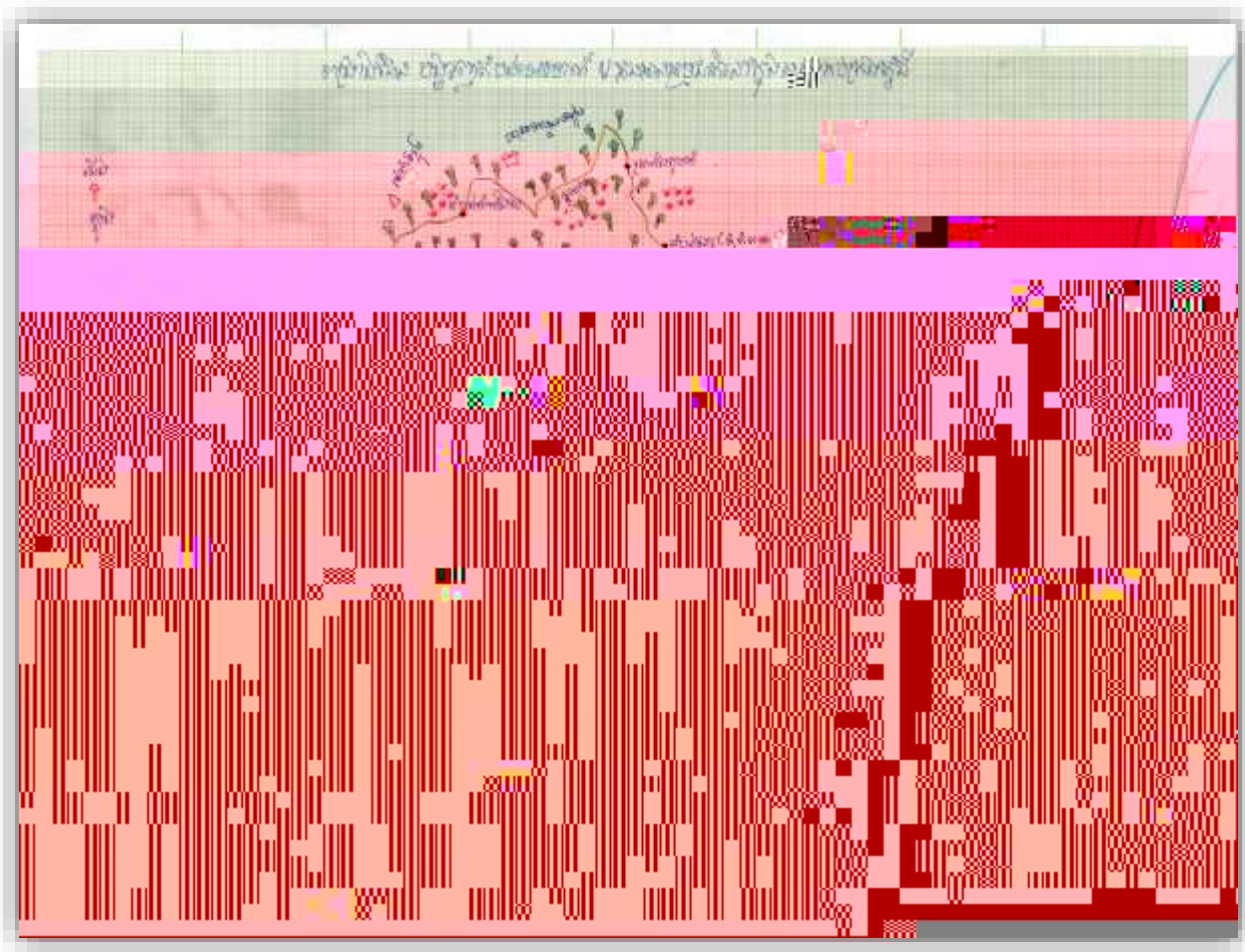
II. INITIAL PRIMARY ASSESSMENT

Purpose: The purpose of the Initial Primary Assessment is to discuss the upcoming development project by companies/investors and the government once a community has been informed of the pending project.

At this stage, the community should come together and have a discussion to understand the facts of the project, the nature of the development, and possible conflicts. During this discussion, the community should consider different steps that can be taken, define the key actors involved, and identify its community structure and information.

*Note: A **facilitator** is a person or organization who works closely with the local community. Facilitators could be lawyers, paralegals, Non-Governmental Organizations (NGOs), spiritual leaders, community leaders, etc. A **partner** is a person or organization selected by the community to assist them. A partner may also*

international conventions,



Sketch Mapping on Community Natural Resources Map in Phnom Chi, PreyLang Wildlife Sanctuary

Community Assessment Guided Questions

Note: Facilitators within the community should lead the process of collecting community assessment information as it may take time for the local people to process on their own. Facilitators should lead

challenges better than an NGO or other outsiders. For example, if a community is spread out, it is important to travel to all parts of the community and this travel, to each person, will take time. Also, communities may not traditionally have regular meetings or may not work together closely in everyday life. If a community has knowledge about its land and background, it may be held by multiple people and passed through oral tradition rather than written. Each of these possible challenges makes gathering information for community assessments time consuming and difficult. This shows why it is important to involve local leaders and gather the community for a large meeting, if possible, and to have facilitators help the community gather this information and turn it into a profile.

| Community Features | Considerations | Information Collecting Tools |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| A: Demographics | <ul style="list-style-type: none"> ' Population: total families, houses, population, age, gender, ethnic/indigenous, etc. ' Levels of literacy, prior education, prior training and knowledge transfer received ' What is the main source of income/livelihood for the people in the village? ' What are cultural/traditional activities within the village or communities? ' What percentage of the community is employed and when do they work? | River of life |
| B: Village History | <i>f</i> | |

| | | |
|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| <p>Part D: Current Issues</p> | <p><i>f</i> What are the issues (community land, housing, forestry, land concession, human rights violations, etc.)?</p> <p><i>f</i> Who is directly impacted by the issue?</p> <p><i>f</i> Are there any issues related to the private sector/company or government land?</p> <p><i>f</i> If there are issues regarding the private sector, how much do you know about the company?</p> <p><i>f</i> What processes/discussions have occurred between the community and the company/government? What are the notes following these interactions (including the format of the meeting/discussion, the level of information sharing, the appointees from either side, how the parties worked together, etc.)?</p> <p><i>f</i> Does the community know about the company/government complaints? If yes, has the community filed a complaint?</p> | <p>Community hand-drawn maps (very brief to highlight overlapping boundaries)</p> |
| <p>Part E: Previous engagement with government agencies</p> | <p>' Assess the relationship status between the communities and authorities (village, commune, district, municipal, provincial, etc.).</p> <p>” Has previous engagement with the government been largely positive or negative?</p> | |

IV. NETWORK DIAGRAM

This section includes information for communities, facilitators, and NGOs, but it is explained more for NGOs and lawyers. It is the responsibility of NGOs and legal professionals to help facilitators move through this process with the community. Additionally, this process is fluid and does not need to be followed step by step. The community knows what it needs better than anyone else and should be allowed to proceed in this process in

for the evaluation process and can help the community to develop strategies for working with partners.

| | |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 3DUWQHUV • V | Considerations include |
| Goals and objectives | <ul style="list-style-type: none"> ' Why engage this partner? ' What do you hope to achieve from this engagement? |
| Political and policy environment | <ul style="list-style-type: none"> ' What level of political support or motivation exists to support your communities? |

3. Explain ideas related to the community vision, strategy, possible ways partners and your community can cooperate, and resources that will be committed toward resolving the dispute.
4. Discuss important documents your community needs. For example: community maps, zoning maps, community history and documentation of your rights, family documentation on land rights, by-law/regulations, community structure, and governance, etc.
5. Ask partners for their opinions and discuss their thoughts related to the dispute.
6. Raise important questions to get a better understanding of partners' thoughts and ideas as well as community situation. The following are guide questions:

| The aspects | Considerations include |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| General information about the case | <ul style="list-style-type: none"> <i>f</i> What is the source of conflict? Land, forests, fisheries, wildlife, etc.? <i>f</i> Who are the parties involved in the conflict? Outsiders, government authorities, or company? <i>f</i> Who are the other actors involved in the conflict? |
| Community situation | Background of community: demographics, statistics, history of occupancy, community structure, etc. (Based on |

Goals and objectives from community

including contract, maps, management plan, and investment plan, etc.

- f* Any surveys/interviews with local people related to Environmental Impact Assessment (EIA) and Social Impact Assessment (SIA) or Human Rights Impact Assessment (HRIA) and Free Prior Informed Consent.
- f* What is their local network? Is it through construction workers hired from community, mediator, or local authorities (commune, district)?
- f* Which ministries/tycoons are involved in the investment project? Any connection to international or local companies?
- f* Do they have any meetings with community? To explain the proposed project, contract, and company's annual profit and revenue from the investment (**Refer to section III**)
- f* Any threats or violence?
- f* What are the legal strengths and weaknesses for this investment project?
- f* What are the goals and objectives for your community?
- f*

Judicial approach: filing complaint through the

5. List the skills and knowledge of the partners and your community. Identify what skills the two parties need to develop.
6. Seek opinions from community members (women, youths, and ethnics and minority groups) to design their

- f* Represent the community through communication with the company and government authorities (provincial and ministries) by writing letters, making phone calls, emailing, etc.
- f* Assist the community in data collection and analysis, legal research (Legal analysis), and presentations on the research.
- f* Provide legal consultations to the community when

2. Who will participate in this identification, and how will the facilitator ensure that the process is as inclusive as possible?
3. Are there actual or potential divisions within the community?

6.2.

6.4. Rules and Regulations and Decision Making

The main roles of the interim committees are to support the community members in the resolution of their case and to support community member decisions. Other responsibilities may include:

- f* Making decisions related to the development project and conflict resolution based on the results of transparent and democratic voting;
- f* Organizing and facilitating regular meetings within each village and network;
- f* Helping local people coordinate with local authorities and develop and adopt their own regulations, management plans and mapping on natural resources;

7.2. Documentation of Community Natural Resources Profile

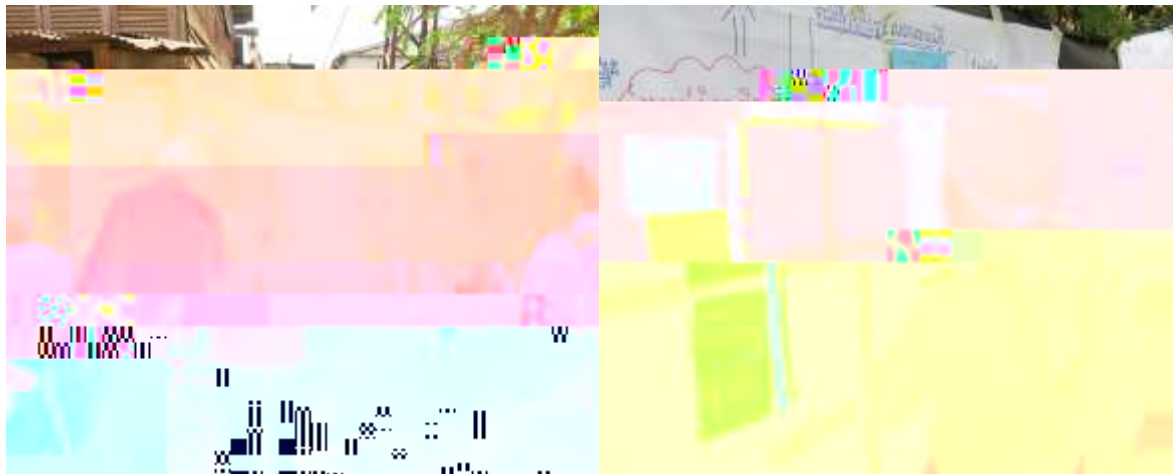
Documentation of the community natural resources profile helps gather clear information relating to the background of the community. Facilitators, with community help, will make a survey to collect this information to create a community natural resources profile.

PROCESS

4. A group discussion with the community will be organized to determine what community information they, and you, would like to include in the final survey, such as the background of your community, current governance structure, geographic areas, natural resources, etc.

Carrying out the survey

5. Once the survey is finalized, the facilitators train the community surveyors on survey techniques, including role-play and other participatory methods.
6. Divide the roles and responsibilities of surveyors, including who will do: GPS marking and tracking, record information into the survey sheet, interview community members, etc.
7. Once the survey team is familiar with the process, they can conduct the survey in the community.



Land Plot Measurement and Housing Design Layout

Digitalize GIS Maps and Documentations

8. Partners (local or international firms) can assist the community in digitalizing the sketched maps into GIS maps.
9. The resources surveys should be encoded and documented in your community resources profile.
10. The facilitators will organize and publish display information of both maps and resource profile for your community members to correct.
11. After correction, the facilitators will combine all relevant information into one document including sketched maps, GIS maps, and resource profiles.
12. The document can be kept with your community and also shared with the local authority and other stakeholders.

Note: All portions of the communities should be involved in collecting necessary information and preparing the profiles. Especially:

Women who have specific knowledge about NTFP locations and optimal land use.

Youth who have knowledge and understanding of technology, such as GPS and computer software.

Elderly

5. Clarify roles and responsibilities between your communities and lawyers, including roles of lawyers (mediator, dialog, representatives, etc.), responsibilities of each party, and termination of each party, and property rights to information (similar to the terms of agreement)
6. Set up a work plan to conduct these activities including setting a timeline, responsible persons, number of participants, budget, etc.

Legal education: Community members or representatives should become familiar with sub-national, national, regional and international laws and policies. Although in-depth knowledge is not necessary, being able to summarize key points, analyze situations related to community strength and weakness (based on current evidence, legal rights, community solidarity, current politic, etc.) and investors/development projects (the legal procedure to receive the grant) would be beneficial.

Community rights under national laws:

- ™ Rights of communities related to basic land and natural resource rights, constitutional laws, and other relevant national laws (Land Law 2001, Constitutional law, Law on Environmental and Natural Resources Protection, etc.)
- ™ Economic land concession process, Cambodian Civil Code Concerning Land Law (2007), Environmental and Social Impact Assessment, Customary laws, and other investment ventures

Reference:

- Blackmore, E., Bugalski, N. and Pred, D., 2015. Following the money: An advocate's guide to securing accountability in agricultural investments.
- Charnley, S., Fischer, A.P. and Jones, E.T., 2007. Integrating traditional and local ecological knowledge into forest biodiversity conservation in the Pacific Northwest. *Forest Ecology and Management*, 246(1), pp.14-28.
- Corrigan, C. and Hay-Edie, T., 2013. A toolkit to support conservation by indigenous peoples and local communities: building capacity and sharing knowledge for indigenous peoples' and community conserved territories and areas (ICCAs). *Cambridge, UK*.
- Daley, E. ed., 2013. *Governing Land for Women and Men: A Technical Guide to Support the Achievement of Responsible Gender-equitable Governance of Land Tenure* (No. 1). Food & Agriculture Org.
- Golub, S. ed., 2010. *Legal Empowerment: Practitioners' Perspectives*. Rome: International Development Law Organization.
- Goodwin, L. and Maru, V., 2017. What do we know about legal empowerment? Mapping the Evidence. *Hague Journal on the Rule of Law*, 9(1), pp.157-194.
- Harper, E., 2010. Promoting legal empowerment in the aftermath of disaster: an evaluation of post-tsunami legal assistance initiatives in Indonesia. *Legal Empowerment and Development Journal*, 1(1), pp.1-14.
- Harper, E., 2011. Legal empowerment in the aftermath of disaster: an evaluation of post-tsunami legal assistance initiatives in Indonesia. *Ecological applications*, 10(5), pp.1210-1214.
- Kanyara, S., Dara, O., and Sherchan, D., November 2009. Community Mapping Training Manual. Cambodia: Center on Housing Rights and Evictions (COHRE) and Community Managed Development Partners (CMDP).
- Knight, R., Brinkhurst, M., and Vogelsang, J., 2016. Community Land Protection Facilitators Guide. NAMATI.
- OXFAM and FIDH., 2012. Community-Based Human Rights Js