



Responsible Land Governance: Towards an Evidence Based Approach

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CONTRIBUTION OF OPEN DATA TO THE PROTECTION OF INDIGENOUS PEOPLE'S LIVELIHOOD, LAND SECURITY AND NATURAL RESOURCE SUSTAINABILITY

RATANA PEN, MANE YUN, TRY THY
Heinrich Boell Foundation, Phnom Penh, Cambodia
ratana.pen@kh.boell.org

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Abstract

Cambodia remains a country in which the large majority of the people still live in the countryside. It is therefore more complicated to assess the diversity of people's livelihoods, and to conduct an accurate population census, in comparison to more urbanised countries. The need for information is crucial in Cambodia, in order to facilitate decision-making, to preserve indigenous people's way of living, and to conserve some of the country's greatest assets: its natural resources.

The current lack of transparency regarding Cambodian development highlights the potential opportunities for open data in the country, which would serve both the Cambodian people and official authorities, as well as anyone interested in the country's evolution. The knowledge spread by open data initiatives also contributes to enforcing the rule of law in Cambodia, for it provides people with a better understanding of their rights and duties, while underlining the potential flaws of the existing policies. Land titling, land concessions, and land disputes including the territory of indigenous peoples are among the hottest current issues in Cambodia. A group of NGOs in Cambodia believe that open data helps clarifying these types of conflicts, and could be useful both for indigenous people and to representative authorities in their legal enforcement duties.

Key Words:

Open Data, Land Rights, Indigenous People, Open Government

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CONTRIBUTION OF OPEN DATA TO THE PROTECTION OF INDIGENOUS PEOPLE'S LIVELIHOOD, LAND SECURITY AND NATURAL RESOURCE SUSTAINABILITY

Ratana PEN, Mane YUN, and Try THY,

I. BACKGROUND AND OBJECTIVE OF THE PROJECT

Cambodia is a multi-ethnic society of 14.8 million people with majority of ethnic Khmer. Besides Cham, Chinese and Vietnamese, the remaining population is composed of indigenous peoples (IP). The non-Khmer population as per the Cambodia inter-Census Population Survey 2013 is 3.2 million with 80% of the IP population residing in rural areas (Ministry of Planning, 2013). The United Nations Population Fund (UNFPA) has said that there are 24 different indigenous groups made up of 383,273 people.

There are inconsistent statistics on Cambodia's indigenous peoples. The inter-census population survey based their calculations on the 2.3 percent of households that speak a minority language as their mother tongue. The statistics in the National Policy of Indigenous People quotes 1.34 percent or 179,000 people from the total Cambodian population (MRD 2009). The National Institute of Statistics (NIS-MOP) defines indigenous peoples as ethnic minorities only under the commune database that is generated on an annual basis from provincial departments but not widely shared and used. The commune database only shows 10 provinces with 16 indigenous peoples' groups, while the Ministry of Rural Development (MRD)'s records indicate that IP are present in the following 15 provinces: Mondulkiri, Ratanakiri, Kratie, Kompong Thom, Preah Vihear, Stung Treng, Odor Meanchey, Kompong Cham, Pursat, Kompong Speu, Koh Kong, Battambang, Preah Sihanouk, Banteay Meanchey, and Siem Reap. Those records also show that there are 24 indigenous groups in Cambodia including: Bunong, Kui, Tompourn, Kroeung, Brov, Karvèt, Stieng, Kroal, Mil, Karchak, Por, Khoan, Chorng, Sui, Thmoun, Loun, Soauch, Rodè, Khe, Ro Orng, Spong, Loeun, Charay and Samrè. There are believed to be others that have not been identified yet.

According to the list of indigenous peoples from the National Decentralization Committee of the Ministry of Interior issued on March 6th, 2009, there are 458 communities/villages, 130 communes, 40 districts in 13 Provinces in Cambodia. The confusion on the concept of 'indigenous people' creates misleading official statistics that may cause a bias against IP in development projects. Putting the proportion of indigenous people at a miniscule 1.4 percent may lead to inappropriate and irrelevant development outcomes if government and NGOs merely replicate lowland development approaches across all marginalized groups. Although there are small estimates of their numbers, IP are settled in scattered areas over about 20% of

Cambodian territory, mostly in the northeast provinces of Mondulakiri, Ratanakiri, Kratie, Stung Treng, Preah Vihear and Kampong Thom.

Statistics on the IP communities along the Cardamom mountains remain unclear for documentation of demography, population numbers, ethnicity and information relating to households. Without accurate information, it is difficult to develop prior and post-development planning in order to engage with indigenous communities about the challenges they face. Often, there are many stakeholders working with indigenous communities that request clarification on the number of ethnic groups, populations, households and location, etc. So far, no organization or institution has established comprehensive data on this yet.

This inconsistency provides a rationale to further explore the concept of indigenous people among Cambodian NGOs, development agencies and government institutions. The Cambodia Indigenous Peoples Organization (CIPO) finds that reviewing and verifying the existing data is very important to determine the most accurate data in order to contribute to the development preparation plans of government institutions, UN agencies, NGOs and other concerned groups. The most important objective is to understand the current situation of land conflicts and how these are impacting IP communities, and seeing this clearly as the context around the needs of indigenous peoples for future inclusive development plans.

The overall objective is to follow up on the research that aims to understand how indigenous communities' statistics have been widely used in development projects in Cambodia. The specific objectives of this proposal will update data on indigenous peoples in Cambodia to make them more specific and accurate. The data will then provide a stronger basis for development planning and allow better situation analysis of indigenous people's needs around current and future projects. Moreover, the study will call for a collaboration and contribution from both local and international organizations and donor agencies that are interested, for both data contributions and funding support.

II. CAMBODIA OPEN DATA CONTEXT

In Cambodia, the terminology defining open data is still very vague. The core principle of open data should be looked at under the conceptual and legal frameworks. The proposed freedom of information and access to information law is still under way.

Open data is defined by the words ‘open’ and ‘data’. Open data has its origins in Western democracies, which often point out the power of openness to strengthen democratic processes, focusing on the specific conditions under which data is publicly accessible or available (Stagars, 2016). Data is very important for the public to use to analyse the impact and benefit of any policy as it is creating applied and actionable knowledge. According to Manuel (2016), the knowledge pyramid is defined by data, information, knowledge and wisdom. The pyramid describes the processing of information to become knowledge and the link to conceptualize datasets by transforming them into knowledge through organization (adapted from Adler, 1986 and Kitchin, 2014).

Open data has always been characterized (Manyika, Chui, Groves, Farrel, Kuiken, & Doshi, 2013) by four elements:

- accessibility
- machine readability
- cost
- rights

Accessibility is a wide-ranging permission for the users to access the data which can be processed by machine readability. The cost does not limit the users in exercising their rights in terms of using the data supposedly under public access and domain. It is not characterized by the type of data as normally open data can be big or small in term of dimensions or quantity. For example, in Cambodia, the census data contain a lot of information that the government could provide without focusing on cost and rights.

The Open Knowledge Foundation from UK has done an annual survey which showed that Cambodia has no official open data portal (Manyika, et al., 2013). The aggregate Open Data Index is focusing both on the data from the Government and private initiatives from official sources. The assessment was done independently by users of each country citizen perspective based on:

- National statistics
- Government budget

- Government spending
- Legislation
- Election results
- National map
- Pollution emissions
- Company register
- Location datasets
- Government procurement tenders
- Water quality
- Weather forecasts
- Land ownership.

These are becoming benchmark tools to engage the Government to open the data for public and to make sure there is no confusion among the public.

There have been a number of initiatives to introduce and expand the open data concept. The EU, ASEAN and the OECD countries are working to develop open data to support their work. An early initiative in the form of an international event where public sector information was discussed publicly took place in Seoul in 2008 organized by the Ministerial Meeting of OECD on Internet Economy (Ritter, 2014). In Asia, the general knowledge required to determine the indicators for a knowledge economy index is still relatively new. However, according to Ritter (2014), the the work of international organizations, research institutes, consultancies and think tanks is using different tools such as:

- Knowledge Economy Indicator/ World Bank 2012
- Networked Readiness Index / World Economic Forum 2013
- Internet Penetration / World Internet Statistics 2012
- Prosperity Index / Legatum 2013
- World Press Freedom Index / Freedom House 2014
- Corruption Perception Index / Transparency International
- E-Government Readiness / UN 2013
- Democracy Index / Economist Intelligence Unit 2012
- State of the Internet / Akamai 2013

In his report,Ritter showed that the government of Cambodia has been using only three major data generating sources: National Institute of Statistics at the Ministry of Planning, the Ministry of Interior

working through commune councils for local planning, and other ministries getting data from their line departments at provincial level. The National Strategic Development Plan is the main tool for government to address the concerns around the quality and standards of Government data. The indicators and data-generating processes across line ministries are still in need of improvement, with a need for greater capacity in Government personnel.

Open data can be used to promote economic gains, administrative efficiency, transparency and accountability, social progress and citizen participation (Stagars, 2016). Generally, the concept of open data should be defined for Cambodia in terms of:

- ***Economic gains*** – provide public sector information on new products and services which will benefit the private sector
- ***Administrative efficiency*** – create more effective administrative procedures through improving the organizational efficiency, data sharing in administration and shortening the duration required for administrative processes
- ***Transparency and accountability*** – of the public sector in general
- ***Social progress*** – address societal challenges through, for example, crowdsourcing for innovative solutions
- ***Citizen participation*** – provide empowerment for better integration of citizens in political and social life.

In order to make open data become more valuable, the principles that can be used to validate it and make sure there is no confusion are

1. Provide open data by default
2. Ensure quality and quantity
3. Make it usable by all
4. Release data for improved governance
5. Release data for innovation.

So far, the Government of Cambodia has been introducing open data without support or assistance from international organizations through working with NGOs or directly supporting ministries to improve the datasets. The draft law of freedom of information and access to information has been proposed for a decade, but there does not seem to be any interest from the government to push this legislation forward (Ritter, 2014). Datasets are available for the public, but the readability or availability of up-to-date versions comes

at a very slow pace. Most of the datasets have been supported by INGO or NGOs whose work reduces or finishes after the ending of funding from the donors or INGO support. The government budget is hardly sufficient to see above principles fully applied.

III. PARTNERS WORKING ON INDIGENOUS PEOPLES

For the last three decades, the NGOs working in Cambodia have been playing a pivotal role in joining the Government to develop socio-economic growth in this country. So far, the function of local NGOs who getting funding from International NGOs and donors are to support the rehabilitation, reconstruction and development efforts which aim to offer the alternative models and approaches for participation, equity, gender sensitivity and environmental sustainability (CDC, 2002). However, after operating for so many years, the NGOs' role has become narrower and narrower due to competitiveness among NGOs and INGOs, the enforcement of the Law on Associations and NGOs, the departure of development partners and lack political will to support the freedom of information and access to information. The current working environment still offers some room for NGOs to advocate for national reforms which focus on the improvement in education, health, the legal system, public/social services, women's and children's rights, human rights, land, environment and natural resource management. The background information for NGOs working in development work related to indigenous peoples is poorly coordinated among NGOs and government. It is difficult for indigenous communities to understand how to develop within the broader concept of other communities in their province and other provinces.

Key bodies working on IP community development include:

1. **Cambodia Indigenous People Organization (CIPO):** CIPO was established with grave concerns for the future of Cambodian indigenous peoples in relation to social, cultural, traditional and customary rights to land and natural resources. The main goal of CIPO is to make sure the indigenous people's communities gain ownership and partnership with government to manage forest, land, and natural resources. This is the way to develop social, economic and cultural harmony, poverty elimination and secure livelihoods which enable them to adapt with climate change and globalization. It was established in 2014. Website: <http://www.cipocambodia.org>.
2. **Highlander Association:** This association is run by purely indigenous peoples with their board of directors mainly from the elders of ethnic groups in Cambodia. The mission of the association is to strengthen the indigenous people's traditional systems with strong solidarity. They believe collective work will help them to empower and develop their communities to engage in policy discussion to ensure equity and justice in natural resource management and livelihood improvement. This organization does not have its own website.
3. **Cambodia Indigenous Youth Association (CIYA):** CIYA was established in 2005 by a group of Cambodian indigenous students in Phnom Penh and registered in 2008. The purpose is to

mobilize indigenous youth to work together and actively participate in the social networks in the city and their communities, and support them to act within their peer groups and serve their communities in the future. In 2016, CIYA had more than 600 individual members located in 9 provinces from 12 ethnic groups.

4. **NGO Forum on Cambodia:** This is an umbrella or membership organization that consists of more than 100 member NGOs. It acts as the representative of CSOs and NGOs in dialogue and debate about development policy with the Government, and it works for information sharing. As a specific example, the Indigenous People's Network is coordinated by the Indigenous People Land Rights Project and the Forestry Rights Project of the Land and Livelihood Program of the organization. These are operated in close collaboration with national and international organizations working in the forestry and indigenous people's land rights sectors in Cambodia on advocacy work for the protection and respect of rights on land and tenure security. Website of NGO Forum on Cambodia is: www.ngoforum.org.kh.
5. **Indigenous Community Support Organization (ICSO):** ICSO was established in 2006 by a group of international organizations and indigenous elders. There is a governance board and National Program Coordinator. In 2008, it was changed to be led by an Executive Director. The main activities of ICSO are to support the indigenous peoples' communities in Ratanakiri and Mondulakiri province to enhance the capacity, institution building and networking to address IP issues such as land, natural resources, and cultural and social matters. Website: <http://www.icso.org.kh>
6. **Development Partnership in Action (DPA):** DPA developed as a local entity out of an international NGO called CIDSE. The strategic objective DPA is to strengthen the capacity and empowerment for poor people and vulnerable groups, especially rural people. In rural areas it supports effective partnership in environmental protection and sustainable natural resource management and development and equity to improve livelihoods consistent with national and internal laws and policies. One of the three main program goals of DPA is to build the partnership and support the NGOs, community-based organizations (CBOs) and agricultural co-operatives, providing capacity building for their organizational management and funding support for their activities. DPA is also known as the main actor working in communal land titles for indigenous peoples. Website: <http://www.dpacam.org/>
7. **Organization of People Kui Culture (OPKC):** The strategic objective of OPKC is to strengthen rights and community empowerment, especially upholding the rights of women and vulnerable people to have a voice in development ownership. It works with community wishes to collectively practice the sustainable use and management of natural resources, and it supports

- biodiversity conservation. The operation of OPKC is in two provinces: Preah Vihear and Kampong Thom. There is no website of this organization.
8. **My Village (MVI)**: The main objective of My Village is to enhance indigenous community livelihood through community organizing, supporting the rights of indigenous peoples, community livelihood development programs and strengthening natural resource management. The office is located in two provinces of the Northeast, Mondulkiri and Stung Treng Province. The official website of MVI is <http://www.mvicambodia.org>.
 9. **NTFP-EP Cambodia**: This body is also known as Cambodia NTFP Working Group. The main activity of NTFP-EP Cambodia is to strengthen the capacity of forest-based communities and their support organizations for forest conservation, land rights and governance, food and health security and income generation. The approach is to integrate with the work of local and international organizations, government offices, and community-based organizations working for sustainable livelihoods. <http://ntfp.org/>
 10. **Indigenous Rights Active Members (IRAM)**: this is a network operating under support from an ICSO program. There are 99 members (of which 23 are females) located in 67 villages, 30 districts and 15 provinces. There are 49 communities. The aim of the network is to improve the knowledge of indigenous peoples on land and natural resource management rights, protecting their culture and tradition. The next move of this group is to transform to Indigenous People Association Cambodia.
 11. **Cambodia Indigenous Peoples Alliance (CIPA)**: The first assembly of Cambodia's indigenous peoples introduced the Banlung Declaration of the first general assembly of indigenous peoples in Cambodia, formally launching the Cambodia Indigenous Peoples Alliance (CIPA). Most of the IP-led NGOs, networks and other CSOs run by indigenous people are involved. There were more than 100 delegates of 17 indigenous peoples from 12 provinces that attended this assembly and agreed to this Declaration. They also created the CIPA Executive Council as the provisional governing body of the Alliance.

This is only a summary of the key active NGOs that are working at provincial and national level to promote and protect the indigenous peoples directly or indirectly through their programs or membership mechanisms.

The next section will discuss the relationship of these NGOs with communities and the Government. There are huge gaps of information that should not exist any longer.

BANLUNG DECLARATION OF THE FIRST GENERAL ASSEMBLY OF INDIGENOUS PEOPLES IN CAMBODIA, December 12, 2015

107 delegates of 17 indigenous peoples from 12 provinces as their national alliance (Bunong, Kroeung, Tampuon, Jarai, Kui, Suoy, Por, Prov, Kavet, Luon, Krol, Stieng, Mil, Khornh, Chhong, Kachok, and Saoch, coming from the provinces of Ratanakiri, Monduliri, Stung Treng, Kratie, Preah Vihear, Kampong Thom, Kampong Speu, Pursat, Battambang, Koh Kong, Kampong Sam, and Tbong Khmom, gathered at Yeak Loam, Banlung, Ratanakiri Province, in a historic First Assembly to strengthen our ties, efforts and plans for the future of the next generations of our peoples;). They also created the CIPA Executive Council as the provisional governing body of the Alliance. Reflecting on the almost 15 years of activism that saw several Indigenous Peoples' Human Rights Defenders (IPHDRS), mostly women, face harassment, threats, inducements to abandon their causes, feeling alone in the struggle several times, the Assembly realized that through time, disorientation had crept into their struggle. There was recognition that the organizations veered towards operating as non-government organizations (NGO) that lost their umbilical link with the communities, with activists turning into implementers of NGO projects instead of immersing themselves in their communities. Summing up their experiences, and identifying their lessons, the delegates decided to reclaim, revive, renew and move forward with their collaboration to work together collectively to advance their rights and welfare.

Function: CIPA as our national network: CIPA is an alliance of indigenous communities and peoples' organizations, associations, and networks. It serves as a platform for solidarity, cooperation and coordination of actions for the promotion and assertion of the collective rights of indigenous peoples in Cambodia within the framework of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Royal Government of Cambodia voted favorably for the adoption of the UNDRIP at the United Nations General Assembly in 2007.

Source: <http://iva.aippnet.org/historic-launch-of-the-cambodia-indigenous-peoples-alliance-a-success>

IV. LEGISLATION SUPPORT FOR INDIGENOUS PEOPLE'S RIGHTS:

CAMBODIAN LEGISLATION:

Cambodian Constitution¹: shall recognize and respect human rights enshrined in the Universal Declaration of Human Rights, all conventions and covenants related to human rights, women's and children's rights (Article 31). Further, under the Constitution all citizens have the same rights and freedoms, regardless of race, color, language or religious belief. The property (lands) can be owned only by Khmer citizens, be they physical persons or legal entities. Also, it can be owned individually or collectively (Article 44).

Land Law (2001): This law explicitly recognizes the concept of collective land ownership by indigenous communities, namely in the form of communal land titles with strong interim protection before titling (Land Law, 2001. Chapter 03).

Forestry Law (2009): Under Chapter 9, the law recognizes religious/spirit forests of local communities/IPs and ensures the traditional user rights of local communities to collect and use forest by-products and recognition of community forests.

Protected Areas Law (2008): This is the law that affirms the State recognition of the secure access to traditional uses, local customs, beliefs and religions of local communities and indigenous ethnic minority groups residing within and adjacent to protected areas. The includes the authority to allocate land to communities residing within or adjacent to a protected area as community protected area.

Besides the national laws passed by the national assembly, the Government has been introducing a number of legal instructions which would help the ministries and local authorities to implement the laws effectively. The legal instruments that have been issued by the Government and are actively implemented by Government institutions include:

- Sub-Decree on the Procedure for the Registration of Communal Lands 2009
- Inter-ministerial circular on provisional measures to protect communal lands that the indigenous peoples have applied for registration, May 2011,

¹ <http://www.cambodiainvestment.gov.kh/the-constitution-930921.html>

- National Policy on the Development of Indigenous Peoples 2009.

The Current Government Reform Program – Environment and Natural Resource Code

In early 2016, the Government introduced a reform program. The National Committee for Sub-National Democratic Development was assigned to review the amendment of the Forestry Law, Fishery Law and Natural Resource Protection Law, but so far the progress of the reviewing and proposed amendments is unclear. One step ahead of this committee, the Ministry of Environment released a draft Environment and Natural Resource Code, offering a new model of cooperation among Government ministries².

The Code introduced the new concept of open government around forest production and conservation. The previous jurisdictions of the Ministry of Agriculture, Forestry and Fishery, the Ministry of Environment, the Ministry of Interior, the Ministry of Mines and Energy, and a few other ministries have been modified to ensure smoother cooperation in terms of administrative processes and better cooperation to enhance the response to the demand and need for the public service. However, there are defensive attitudes toward changes under the concept of open government.

As stated in the draft Environment and Natural Resource Code from late 2016³, the local communities (including all types of community groups from forestry, fishery and indigenous peoples) are offered policy support for their management plans, livelihood improvement activities and conservation activities. They are offered a more dynamic role such potentially being promoted to being forest guardians. The draft Code set the framework on how the local communities automatically receive support through the co-management within their own land with local authorities and line provincial departments without lengthy administrative process and the high cost of obtaining title.

A reliable system to guarantee the accountability and transparency of Government does not exist yet to encourage government personnel to adopt new approaches. Even though they work for the same Government, it is still patron-client. This new draft Code will help to offer better coordination. Delegating the responsibility to provincial and local authorities is a key priority for the Government. However, to fulfill their mandates, local authorities require clear coordination and

² <https://www.cambodiadaily.com/news/new-code-protect-environment-theory-120636/>

³ <http://www.vishnulawgroup.com/index.php/publications/60-nr-e-code-draft-7-final-31-dec-16>

support from the national level. Competing national level interests and unclear mandates among ministries will only confuse local authorities and prevent them from fulfilling their new responsibilities. The clear jurisdictional arrangements will enable more focus on capacity building work, more efficient natural resource management planning, and more effective implementation at the local level. It will also enable clearer and more effective monitoring and corrective measures when needed.

INTERNATIONAL LEGAL INSTRUMENT

The Royal Government of Cambodia has voted in favor of international instruments, such as (Pen & Chea, 2015):

- Convention on Biological Diversity (in 1992)
- International Covenant on Economic, Social and Culture Rights
- UN Declaration on the Rights of Indigenous Peoples (in 2007)
- The ILO Convention No. 111 on Discrimination in Employment and Occupation
- ILO Convention No. 169 on Indigenous and Tribal Peoples (This has not been ratified.)

These instruments should ensure that Cambodia will become one of the countries that respect indigenous peoples' rights. Due to poor implementation and enforcement, however, the success in improving and securing the land rights and indigenous peoples rights has been very limited. The Royal Government of Cambodia has given communal land titles to only 14 communities⁴. The lengthy administrative procedure and cost of organizing the community from the sub-decree on the Procedure for the Registration of Communal Lands 2009 have become the main obstacles.

V. CHALLENGES FOR INDIGENOUS PEOPLES DEVELOPMENT IN RELATION TO OPEN DATA

TRANSPARENCY, ACCOUNTABILITY, AND CITIZEN PARTICIPATION

While international instruments and national laws have described the right of indigenous peoples to manage the natural resources, forest and land, there is a fundamental requirement for accurate

⁴ List of Land Registration under Communal Land Title accessed Jan, 2017.

open data to better understand the social and culturally diverse groups and identities and to improve the protection of culture and identity, and other rights toward the promotion of livelihood and self-determination.

The sensitivity of ownership and local community empowerment of Cambodian culture and concept remain a contentious issue among Government bodies at national and sub-national level. There is still inconsistency among Government agencies at national level and sub-national level about how community rights related to natural resources management, land management, forest management and other type of decision making should take place and can be exercised.

The draft Environment and Natural Resource Code has tried to introduce cooperation and a new open governance system in natural resource management in Cambodia to incorporate the development paradigm. However, conservation management has struggled with the pressures from economic development. Natural resources are a public good not well-managed by any group in Cambodia. There are number of free-rider groups that could try to access the resources. Due to the open market policy, limited rule of law, and lack of knowledge of users to conserve the natural resource and properly manage extraction, the dangers on the natural resource become significant. The draft Code is regulating to get the proper use and management of natural resources, working toward sustainable development.

The multi-stakeholder participation mechanism is one approach to ensure transparency, accountability and citizen participation. This is to prevent mismanagement and corruption (Petrov, Gurin, & Manley, 2016).

In Cambodia, data on indigenous people's livelihood, ethnicity, culture, and population is not public available or displayed among stakeholders such as Government ministries, NGOs working with indigenous people, and sub-national level bodies. There is a limited data from the population census and demographic surveys, but the information is not enough to effectively analyze. Most agencies are holding information only for their own organization to generate their own policy or project development. There is very limited access for other stakeholders.

The challenge is how to ensure environmental sustainability through transparent data that can help reduce discrimination against indigenous people, conserve natural resources, and build resilience to climate change.

IMPROVING THE INFORMATION-SHARING WITHIN GOVERNMENT, NGOS AND CSO

Regarding the data on IP communities, there are still limited communication mechanisms between NGOs and a limited will to share data. This varies from one NGO to another working on indigenous issues. Because holding information offers power to gain benefits in terms of funding from donors, there may be a reluctance to share information in order to secure funding for an organization. Donors have a role to play to make sure data is available for everyone. Beside competition among NGOs, Government ministries are also in the same situation. The Ministry of Rural Development should be the one that has full data in hand on indigenous people, but there is not enough coordination with other ministries such as the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Land Management, Urban Planning and Construction and the Ministry of Planning to generate full data on indigenous people. As seen in the communal land titling process for indigenous people, limited information sharing among stakeholders, strict rules around information, and lengthy procedures from one ministry to another mean this process has been taking years before granting ownership and rights to indigenous communities (Pen & Chea, 2015).

PUBLIC SERVICE TO IMPROVE EFFICIENCY, EFFECTIVENESS AND COVERAGE OF PUBLIC SERVICES

In rural Cambodia, indigenous communities find it very difficult to access public services. The public services are crucial for implementing Government policies and strategies to make sure most citizens have access to basic needs. The organic law has introduced the concept of decentralization to promote the transfer of central government systems to local government to manage the communes independently both in finances and planning. In order to promote this effectively, open data and access to information for local government officials must be available.. The Government has built the capacity in governance, finance, and planning for local government (NCDD, 2016). The transfer of power from central to local level is very problematic and political. However, the role of Government to offer effective public services to its citizens should not cut out the involvement of local government. They are living and working closely with citizens and can respond to immediate needs and offer better support to their people.

For many years, indigenous communities have been disconnected with the central part of Cambodia due to poor infrastructure. But by the early 2000s, the Government has restored many major roads to connect them to the developing parts of Cambodia. The connection between the northeastern and

northern part became easily accessible which led to many development projects bringing new light to those communities. Healthcare, schools, and other major services have been expected to be improved. However, globalization has been impacting on social life, culture, natural resource and livelihoods. The public services that are expected to be delivered have not improved life in a sustainable way.

In indigenous peoples' communities, the difficulty to maintain their identity through the ID-Card is clear. In early 2000, when the ID-Card was issued, it contained the detail of ethnicity. But later on the ethnicity was removed and replaced by Khmer (Cambodian citizen). This is misleading information for younger generations. The Government policy on indigenous people is not strong enough to support the implementation of ethnic self-identification. Generally, there is no clear data on how many ethnicities there are in Cambodia. Through the project implemented by CIPO, the discussion and documents on ethnic identification have been raised to the ministry level to make sure they will be recognized.

In education, to understand the rich culture of each ethnic group is very important. IP communities enrolling their children in primary school would help to support the strategy on improving their education using their languages and Khmer. In Mondulkiri where most people of Bunong ethnicity live, the group has advanced their education by developing their language by using Khmer characters and Latin characters in their language. But this is an only one case.

National identity is important in Cambodia and very sensitive as well. So, the openness of the Government to include ethnic information in the population census is one of approaches to conserve ethnicity identity. It will become easier when a community is asking to process registration of their community organizations. The recognition from commune council, district and provincial hall on self-identification will be improved (achieved faster). There will be no more questions to prolong the process of communal land titles.

The most crucial thing is tenure security. The indigenous communities are heavily affected by land lost to development projects. Communities find it very difficult to get support from the sub-national services for registration as part of the process for collective land title from the Ministry of Rural Development, the Ministry of Interior and the Ministry of Land Management, Urban Planning and Construction. There are three main phases in the process and procedure that indigenous peoples need to go through to be granted collective land titles as indicated in existing legal arrangements. Those phases are (Pen & Chea, 2015):

1. Self-identification and determination – the Ministry of Rural Development
2. Registration as legal entity – the Ministry of Interior
3. The Ministry of Land Management, Urban Planning and Construction will prepare to issue collective land titles for the indigenous community. Interim protective measures are available while this is undertaken.

Different government institutions take care of each phase and process respectively. These steps are a long administrative procedure in which each step can take years to finish. This shows the service delivery to the poor communities are not effective and fair compared to the service that private companies have received. If the public services are offered very transparently and effectively, the service users (citizens) will be feel more comfortable. These steps might be carried out faster than current the pace.

VI. LESSONS LEARNT AND RECOMMENDATIONS

The Government has recognized the indigenous peoples but there is very limited commitment in terms of enforcement and implementation around policies. The lack of information, coordination and cooperation among Government ministries, NGO partners and development partners has become a barrier for communities wanting to protect their livelihoods, defend their rights, their lands, and their natural resources from developers and land-grabbers. While there is a reluctance in sub-national Government to offer the public services to communities, the private companies are enjoying the full service as they are able to pay the service fees the communities cannot.

The implementation of the indigenous peoples survey project has brought a new cooperation among Government, NGOs and communities. The mobilization of each ministry to meet and discuss has been encouraging. Even the existing laws have been defined to accommodate the project to improve the indigenous communities to gain better livelihoods and knowledge. The Ministry of Rural Development and the Ministry of Planning are now taking more positive steps to support and work with a group of NGOs and indigenous communities. They are planning to strengthening the network. The committee to coordinate this work has already been proposed and the terms of reference are being finalized. Based on the experience of implementing the network coordination, in order maintain the momentum and sustain the activities, a looser structure for committee to rotate the chair and own the process will have more chance of surviving in the long run.

The steps to issue the collective land titles for indigenous people's communities are in the hands of three ministries. The central Government (specific ministry) is very strong in holding the planning and managing role of the process for each community. The collaboration and partnership between the Government ministry to Government ministry, the Government ministries to NGOs, the Government ministries to indigenous communities can help establish better public services, access to information and open data to support the lives of indigenous peoples as well as the vulnerable groups or minority groups. According to Petrove (2016), with open dialogue, collaboration and joint problem-solving, the Government and service users will both benefit from the potential of open data for generating social and economic value.

According to feedback from the community (CIPO, 2016), both the community leaders and statistical analyzers believe in the benefits of open data. Across ministries, officials must develop and design the right policies leading to needs-based and culturally sensitive development responses.

For the public service, another initiative that is already running is the one window service. The organic law from 2008 defines the role of sub-national Government to handle more jurisdiction and power. However, due to limited knowledge around planning and financial management, the delegated power is not fully exercised by local authorities. This service is showing some progress but still does not cover all communes in the country. The commune one windows service office offers services by sectors: tourism, agriculture, forestry, and fishery, land management, registration (legalization documents: birth certificate, death certificate, marriage, ...etc.), education, youth and sport, health, culture and fine art, industrial, transportation, commerce, and construction (OWSO, 2017). The service has not yet reached indigenous community areas.

POLICY OPTIONS AND ACTIONS

Cambodia Census data has been gathered in 1998 and 2008. The government is currently planning a future census in 2019. In 1998 and 2008, the data of indigenous peoples were disaggregated from the public. The lesson learnt from the partnership and collaboration of the IP Survey is to publicly show the data on indigenous peoples from census 2019. There is optimism that further data analysis of the next census may be possible where inclusive design may allow more in-depth analysis on topics such as disability, migration, environment, ethnic minorities and land ownership.⁵ By building trust within the multi-ministries, the CIPO has taken one step to reach the integration of indigenous peoples in the next census 2019. There is a strong

⁵ The Phnom Penh Post July 7, 2016, "The Cambodia Population Census: leaving no one behind"

commitment from the Ministry of Planning of taking a step to coordinate this task for better information among Government ministries.

The most critical policy implication from this project is that the Ministry of Planning and other mandated Government institutions and development agencies should allocate funds from the national budget to undertake an updated data analysis of old government data in relation to indigenous peoples, and, simultaneously, but no less importantly, examine possible shortcomings from previous statistical collection methodology and analysis, in order to produce an proper dataset within the upcoming 2019 census.

It is vital that national budget funding be allocated to support an in-depth analysis. The 2008 census methodology was defective and inappropriate. There is now a fundamental need for accurate information, which is reliable, consistent, visualized, and properly disaggregated to underpin planning in the design of any support programs for indigenous peoples in areas such as education, health, agriculture, gender, land, forestry, maternity support etc.

Based on the UN SDGs, as well as the national platform objective of “no one left behind” in addition to general statements made in the National Strategic Development Plan, and the National Policy for the Development of Indigenous Peoples, the Ministry of Planning, and other mandated agencies should advocate for an allocation in the national budget to do a detailed consolidation of all raw data statistics on indigenous peoples in the upcoming 2019 census, and undertake to include a comprehensive data collection scheme during that process.

The results of this primary finding and validation provide a framework for further analysis, which requires more open data from all current holders, and potential creators, of datasets. The suggested, more detailed, disaggregation of data, coupled with a complete dataset from IP communities is the optimum model. When combined with a careful and structured integration of historical commune database sets, population censuses, and agricultural censuses which can be analytically compared, this will provide a crucial information resource for any historical claims.

The striking absence of reliable data indicates that there is a need to establish an Institute dedicated to indigenous statistics to facilitate cross-ministerial and civil society collaboration. This will hopefully involve modernization of data collection methods, digitization of data, and proper hard documentation, which can be transparently reviewed by Government and the public alike.

One possible option may be a steering committee on indigenous peoples' data with the role of updating and integrating data which inform assumptions on national development key indicators present within the national policy platform which attempts to reflect SDGs.

REFERENCES

- CDC. (2017). *Council for the Development of Cambodia*. Retrieved January 21, 2017, from http://www.cdc-crdb.gov.kh/cdc/ngo_statement/general_ngo_information.htm
- CIPO. (2016). *Strategie Plan*. Phnom Penh: Cambodia Indigenous People Organization.
- Manyika, J., Chui, M., Groves, P., Farrel, D., Kuiken, S. V., & Doshi, E. A. (2013). *Open data: Unlocking innovation and performance with liquid information*. McKinsey Global Institute.
- OWSO. (2017). *One Window Service Office*. Retrieved January 21, 2017, from http://www.owso.gov.kh/?page_id=265&lang=kh&lang=en
- Pen, R., & Chea, P. (2015). *LARGE-SCALE LAND GRABBING IN CAMBODIA: FAILURE OF INTERNATIONAL AND NATIONAL POLICIES TO SECURE THE INDIGENOUS PEOPLES' RIGHTS TO ACCESS LAND AND RESOURCES*. Phnom Penh: Heinrich Boell Foundation.
- Petrov, O., Gurin, J., & Manley, L. (2016). *Open Data for Sustainable Development*. World Bank Group.
- Ritter, W. (2014). *Open Data in Asia: An Overview of Open Data Policies and Practices in 13 Countries*.
- Stagars, M. (2016). *Open Data in Southeast Asia*. Singapore: Springer Nature.