

Shadow Report on Women's Land Rights in Cambodia -

Analysis of the status of compliance with CEDAW articles 14, 15 and 16



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Wish you all with good health and prosperity to continue to support women for standing to claim their full rights.

Acronyms

ADB	Asian Development Bank
AIDS	Acquired Immune Deficiency Syndrome
ARV	Antiretroviral
ASEAN	Association of Southeast Asian Nations
BMC	Banteay Meanchey
CDHS	Cambodia Demographic and Health Survey
CDP	Commune Development Plan
CEDAC	Cambodian Centre for Study and Development in Agriculture
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CMDG	Cambodian Millennium Development Goals
CNCW	Cambodian National Council for Women
COMMIT	Coordinated Ministerial Mekong Initiative Against Trafficking
EPS	Employment Permit System
FAO	Food and Agricultural Organization
GADC	Gender And Development for Cambodia
GTZ	German Agency for Technical Co-operation
ICRC	International Committee Red Cross
ILC	International Land Coalition
ILO	International Labor Organization
IPM	Integrated Pest Management
MAFF	Ministry of Agriculture, Forestry and Fisheries
MoEYS	Ministry of Education Youth and Sport
MFAIC	Ministry of Foreign Affairs and International Cooperation
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoSAVY	Ministry of Social Affairs Veterans and Youth Rehabilitation
MoWA	Ministry of Women's Affairs
NTF	National Task Force
PDWA	Provincial Department of Women Affairs
RACHA	Reproductive and Child Health Alliance
RGC	Royal Government of Cambodia
SK	STAR Kampuchea
SPFSUNO	Special Programme for Food Security of United Nations Organization
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNFPA	United Nations Population Funds
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNHCHR	United Nations High Commissioner for Human Rights
UNICEF	United Nations International Children Funds
UNIFEM	United Nations Development Funds for Women

Executive Summary

The vast majority of Cambodians, approximately 80%, resides in rural areas, earning their livelihoods through subsistence agricultural land, fisheries and forestland which they basically depend on for daily needs and as an economic safety net (MAFF, 2006). Therefore, land forms the basis of social welfare in Cambodia, and it is this crucial dimension that this shadow report attempts to capture information on, with respect to compliance with CEDAW articles 14, 15 and 16.

To this end, a desk study; a series of consultations with provincial and commune government officials, key CSOs, and women and men CSO representatives from communities of 3 provinces were undertaken. Consultations also took place in communities in Cambodia (that STAR serves) in Romeas Hek and Chantrea Districts in Svay Rieng Province; Kandieng and Krarkor Districts in Pursat Province; and Malay and O'Chrov Districts in Banteay Meanchey Province. The results and findings of the community consultations and case studies including the initial draft of this Report were presented to the target communities to gather feedback.

Following such collection and compilation of relevant information on issues of women's land rights, this report begins by introducing the centrality of the issue of women's land rights, the developments in this context, and the remaining challenges with respect to complying on Articles 14, 15 and 16 of the CEDAW on the particular issue of women's access to land and related resources. This is followed by recommendations for various key actors who are involved in ensuring the related compliance.

One key point noted in this report is that while formal guarantees exist in law and practice, enshrining women's access to land – a key resource which can form the basis of their social welfare, substantively, this has not been the case in practice. Culture and prevailing practices have resulted in women being ill-informed of their land and resource rights and unable to have the relevant laws and policies enacted for their benefit. Moreover, the issue has been further complicated by large-scale land acquisition, which has taken place without the provision of free, informed and prior consent of the people or adequate, just compensation. Women, who are most vulnerable, are unable to resist such acquisition, which can lead to the dispossession of their land and livelihood, and can cause a further descent into poverty due to the accumulated debts and migration they have to undertake in order to find some means to support themselves and their families.

At the end, as ILC Director, Dr. Madiodio Niassé says, there is “no ready-made solution” to address the issue of land reforms and access to land and related resources for the different populations and groups in a country. Instead, equitable and fair access to land and resources can be only formed on the basis of “socially negotiated decision-making”, and women as equal members of our society need to have a say in this decision-making. Equally, women need to be heard in order to ensure their equal rights and guarantee to the land and resources of our country.

1. BACKGROUND

1.1 Women and Land Rights in Cambodia

Rural women are responsible for 80% of food production and play a key role in ensuring the food security of their families. They make up 56% of the primary workforce in subsistence agriculture in Cambodia, and 54% of the country's workforce in market-oriented agriculture. However, despite their significant contribution to household income, women endure continuing gender inequality in access to land-based resources, paid employment, financial capital, and skills training (MAFF, 2006). Land registration and issuing land titles are therefore a critical resource for women as it can make a difference on their ability to be self-reliant and participate and influence decision-making in marital, family and livelihood matters. Land ownership can potentially bring a positive impact for women as it can strategically contribute to balanced and equitable gender and power relations¹.

In Cambodia, despite the inclusion of the strategic protection of women's equal rights in land ownership in the Land Law (2001), women are more likely than men to be landless or have significantly smaller plots of land. Landlessness is especially significantly higher for women who are household heads. They are twice as likely to have sold their land compared to male-headed households. Landlessness for female-headed households is one in five (21%), compared to one in eight for households in general.²

Despite government's efforts to take into account gender issues into land reform laws and policies, a gender analysis carried out by USAID in 2006 reported that the confusion and costs certifying ownership right have had negative impact on women's land rights, especially for female-headed households.³ As a significant number of women have little or no schooling at all, especially among the indigenous groups and ethnic minorities, they have limited or hardly any understanding of the land law and the titling procedures. As such, this group is most vulnerable to having their land rights ignored, and persistently face challenges in judiciously protecting their equal rights to access and ownership of land. Another important challenge is that the joint title between husband and wife does not necessarily confer legal rights, as customary practices may not fully recognize women's ownership rights.

A more serious recent setback is a surge of violent land disputes and conflicts due to government-bestowed commercial and agri-business leasing of tracts of land, including protected areas and forests.⁴ Due to economic growth and development, the demand for land increases, and the land becomes more expensive. The resulting speculation, privatization of public lands, mega projects, large scale infrastructure development, industrial farming, and establishing free trade and investment zones (Special Economic Zones) has inevitably resulted in massive dispossession of lands and livelihoods of thousands of land poor, rural and urban communities. This has especially negatively affected women and ethnic minorities who are engaged in a wide range of activities in land and common natural resources, and whose voices and interests are often ignored. An Amnesty International report (2011) on land

¹ Velasco, E, and S. Tous. October 2010. Analysis of Gender-Responsive Policies in Forestry, Land, Agriculture, Disaster Risk Reduction and Climate Change Adaptation. Study supported by Oxfam Great Britain in Cambodia.

² World Bank Gender Assessment, 2010.

³ USAID, Cambodia. March 2006. Gender Analysis and Assessment.

⁴ As of April 2010, the government has granted Economic Land Concessions (ELCs) to about 87 companies covering land area of slightly over a million hectares of the total 18 million hectares of land of the country. Further, since January 2011, agro-farm businesses have been allowed to exploit 237,000 hectares of land in 12 conservation areas in Cambodia with some concessions including primary forests at the heart of several national parks

evictions in Cambodia found out that while forced evictions have a negative impact on entire communities, they are particularly hard on women because of the breakdown of community support networks and the separation of families caused by husbands leaving far-flung settlements to find work⁵. This leaves many poor families in an even more destitute and desperate situation. Following our discussions with the communities, outlined in the methodology given in the annexes, many people in similar situations are forced to remove their children from school, especially girls. Many suffer health problems, including emotional and psychological illnesses, as a result of compounded losses of homes, livelihoods and incomes, and an insecure future for their children and families.

1.2. Developments for Women's Rights in Cambodia

While the previous section highlighted the issues of women's land rights in Cambodia, this section will stress on important developments with respects to women's rights in Cambodia. Accordingly, the analysis will focus on measures undertaken by the key actors who promote and can provide legal basis for women's access to and control over land and related resources.

Government

Cambodia ratified CEDAW on 15 October 1992 and has incorporated women's rights in the Article 31 of the Constitution: "The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights and the Covenants and Conventions related to human rights, women's and children rights". As a signatory country of CEDAW, Cambodia is obligated to provide legal measures to guarantee and protect women's equal rights in all aspects of development, and is obliged to submit periodic reports to the CEDAW Committee at the United Nations on its progress in meeting its CEDAW commitments. To strengthen the CEDAW legal mechanisms, Cambodia in 2011, signed *the Optional Protocol*, which establishes procedures whereby women may file complaints requesting investigation of violations of their rights.

The Royal Government of Cambodia has made a number of provisions in the Constitution (Article 45) and the Penal Code guaranteeing full equality of women and men in the protection and enjoyment of human rights including protection of women from all forms of discrimination. Further, the Government passed the Law on Prevention of Domestic Violence and Protection of the Victims. The Promotion of Women's Rights Project was implemented by the Ministry of Women's Affairs. The German Agency for Technical Co-operation (GTZ) supported capacity-building within the Ministry of Women's Affairs to enable the Ministry to implement the Law on Prevention of Domestic Violence and Protection of the Victims, and to identify organizations to implement the National Plan of Action against domestic violence in the field of social services and media campaigns. The project developed guidelines for interpretation and explanatory notes on the implementation of the law

In 2001, the Cambodian National Council for Women (CNCW) was established through the (Preah Reach Kret) Royal Decree No. NS/RKT/0201/036 of 14 February 2001. CNCW is the mechanism for coordinating and providing opinions to the Royal Government on matters relating to promoting the status and roles of women and the social welfare of Cambodian women and to eliminate of all forms of discrimination and violence against women.

⁵ Amnesty International, 2011. Evictions and resistance in Cambodia: Five Women Tell Their Stories

One of the main roles of the CNCW is to assist the Royal Government of Cambodia (RGC) to coordinate, follow up the compliance with international treaties concerning the rights of women and the implementation of national laws, and provide recommendations for supporting and promoting the implementation of national policies, laws, orders, and measures relating to the promotion of status, roles, and social welfare of Cambodian women⁶. In the sub national levels – province and commune – there is one woman at each level who is responsible for the women and children issue. Such institutions and legal bases can be utilized to advocate for the rights of women to be recognized, including over land and related resources.

Civil Society Organizations (CSOs)

The Cambodian NGO Committee on CEDAW (NGO-CEDAW) was established in 1995 and is chaired by LICADHO since May 2008 – a coalition of 72 local organizations working to advance the status of women in Cambodia. NGO-CEDAW focuses on monitoring the compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by the government.

The work of NGO-CEDAW also includes research; advocacy and lobbying; awareness raising and capacity building; and information exchange between its members. Until mid 2009, it was an informal coalition with limited activities, especially the last two years. Since then, NGO-CEDAW activities gained momentum and we have witnessed noticeable progress⁷. NGOs can work on the ground to directly support the rights of women to land and natural resources.

1.3. Objectives of this report

It is against this context (Section 1.1. and 1.2.) that this project attempts to create a strategic and effective advocacy platform in ensuring the guarantees and protection of Cambodian women’s equal rights to land and natural resources through a Women’s Land Rights Report that will complement the CEDAW Shadow Report.

Specifically, the report aims to:

1. Ensure the progress, issues and obstacles related to Articles 14, 15, and 16 of the CEDAW are appropriately addressed in the shadow report of Cambodia;
2. Strengthen the analysis of the issues on women’s land rights in the shadow report; and
3. Identify and assess potential areas for advocacy and action at the national and local levels on ensuring and protecting women’s land rights consistent to CEDAW commitment and compliance.

STAR Kampuchea has taken the initiative to contribute to the CEDAW shadow reporting process to assess the Cambodian government’s compliance in light of its commitment to ensure and protect women’s equal rights to land.

⁶ www.cncw.gov.kh

⁷ www.ngocedaw.org

2. CHALLENGES FOR COMPLIANCE WITH CEDAW - Articles 14, 15 and 16

While there are institutions and a prevailing legal basis for compliance with CEDAW, there have been certain challenges with respect to such for compliance, both in the given societal and cultural context of Cambodia, as well as specifically, with respect to **Articles 14, 15 and 16** of the CEDAW, which can have direct impact over woman's ownership of or access to land and related resources. Accordingly, through the methodologies described in the annex, these challenges show what need to be addressed to ensure more effective compliance with the articles of the CEDAW.

2.1. Overall challenges

Firstly, the traditional and **cultural mind set still influence women**. Most of them have less years of formal education than man, so they do not have the confidence to speak up. Also the rural women still face exploitation, harrassment, rape and migration.

Secondly, the participation of rural women for the social and development activities is limited. In some districts of the study, the commune councilors accepted and allowed women representatives to join and raise the issue to integrate in the commune investigate plan (CIP). However, there is a **limited amount of influence by women representatives on decision-making**. In some districts, the commune councilors did not allow any women representative to join the CIP, except women who are also commune councilors.

Moreover, the rural women **do not yet have access to adequate health care facilities**, including information, counseling and services in family planning; because the health center is far from the village and the road is difficult to go there easily.

Further, the women who were consulted by SK **do not have access to agricultural credit and loans, marketing facilities; and appropriate technology**. Their access to land and related resources is also complicated by the fact that land and agrarian reform, as well as land resettlement schemes are facing problems.

Further, **following incidents of large scale land acquisitions without providing adequate information or compensation to the affected women and men has led to a loss of land and livelihood** for women and their families. For example, in O'chrouv district, such dispossession of land and its resources has led to massive debts for families, which has led to the temporary migration of the women in the district or their immediate family members to Thailand to search for work (*full case-studies are available in Annex I of this report*).

2.2. Specific challenges on compliance with Articles 14, 15 and 16 of CEDAW

Article 14: Rural Women

Articles 14 of the Convention requires the State Parties to take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

The State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: (a) To participate in the elaboration and implementation of development planning at all levels; (b) To have access to adequate health care facilities, including information, counseling and services in family planning; (c) To benefit directly from social security programs; (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency; (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment; (f) To participate in all community activities; (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes; and (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Against this article 14, the CEDAW Committee has made specific comments⁸:

CEDAW Committee Comment (#31): *The Committee expresses concern at the higher levels of poverty among rural women, who constitute the majority of women in the country. While noting the efforts to give preference to households headed by women in land distribution under the Land Law, the Committee is concerned about the overall implementation of the Law. It is also concerned that women lack both awareness about their rights and understanding of the legislation and land registration process. The Committee is particularly concerned about the situation of female heads of household who have lost their livelihoods as a result of the confiscation of land by private companies and are excluded from decision-making processes concerning land distribution.*

CEDAW Committee Comment (#32): *The Committee urges the State party to pay special attention to the situation of rural women so as to enhance compliance with article 14 of the Convention, to ensure that rural women have access to education, health services and credit facilities and that they participate fully in decision-making processes. The Committee also urges the State party to disseminate information on the Land Law and the land registration process and to take appropriate measures to eliminate all forms of discrimination with respect to the ownership and administration of land by women. It further calls on the State party to place high priority on rural women in its efforts aimed at eradicating poverty.*

Further, through discussions, which formed the basis of this study, it was found that many legislators, enforcement agencies and government authorities in both national and local governance structures are not aware and well-informed of CEDAW despite the countrywide capacity building on gender issues and concepts, and gender planning and mainstreaming strategies for many years now. Many key and responsible government officials have still very limited capacity to make meaningful comments and assessments of the gender issues of their Ministry or sectors and develop strategic actions or policies to effectively address them. A number of interrelated reasons are cited: (1) gender and women's issues are not taken seriously by authorities and government officials, and are only given "lip service" and "token

⁸ Committee on the Elimination of Discrimination against Women Thirty-fourth session 16 January-3 February 2006, Concluding comments of the Committee on the Elimination of Discrimination against Women: Cambodia

attention”;(2) weak political will from the central and the local authorities to promote women’s empowerment and gender equality as evidenced by pervasive impunity and weak judicial mechanisms on crimes against women and violations of their human rights especially when they involve the interests of the wealthy and powerful; and (3) lack of technical and financial resources to effectively carry out the line ministries’ gender actions and mainstreaming plans, and thus make lasting changes. **Currently, the Government of Cambodia only allocates 0.66 % of the national budget to women’s affairs.** There is limited public awareness and advocacy of the many laws and policies intended to protect women, uphold their rights, and giving them fair representation and voice in matters and issues concerning them and their families.

In rural areas, it is common for anti-discrimination laws to be overlooked or ignored, and are often not communicated to the rural population or local authorities. Compliance of the law at the sub-national levels is weak and corrupted. In many cases, even if the authorities are aware of the laws, but because of corruption and gender biases, they do not enforce the laws when women would attempt to assert their legal rights. In many reported cases, the authorities responsible for enforcement of anti-discrimination provisions regularly accept informal payments or bribes by those accused of discriminatory practices and gender-based violence, and as a result there is virtually no enforcement of anti-discrimination provisions and the law on domestic violence. Through interviews made by the NGO CEDAW Committee (as well as some studies conducted), it is not uncommon for judges to favour men over women in judicial hearings, either because of gender biases, or because the male has more money and power and can therefore influence the judge (NGO CEDAW Report 2013). With pervasive biases against women, weak law enforcement and widespread impunity, ending discrimination and violence against women will not be easily achieved in Cambodia.

Article 15: Women and Men Equality Before the Law

Article 15 of the Convention requires State Parties to accord to women equality with men before the law. It requires to accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

State Parties should deem null and void all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

***CEDAW Committee Comment (#33):** While taking note of the Marriage and Family Law, the Committee is concerned about the lack of enforcement and an effective monitoring mechanism thereof. The Committee is concerned that traditional and cultural factors are preventing women from exercising the full enjoyment of their rights within the family, in particular the right to enter into marriage with free and full consent, as required under article 16 of the Convention. It is further concerned about the difference in the age at which women and men may enter into marriage.*

There are ample legal bases and mechanisms to guarantee the equal rights of women and to ensure their equality with men in all aspects of development including in legal and social protection. However, the 19th century customary law on women’s role and behavior – Chbab

Srey, is deeply rooted in Cambodia's culture and widely imposed on women, particularly in the rural areas where 80% of the population lives. Women are subservient to men and are expected to be submissive and obedient to their husbands. Gender prejudices and stereotypes continue to harm women and girls preventing them to take positions of equality with men in all aspects of development included in the ownership and registration of tenure over land – which is elaborated upon in the analysis of Article 16 (below). This cultural practice is clearly not consistent with the core principles of the CEDAW Convention and is conflict to the national laws on women's equality with men and non-discrimination of women. As such, in Cambodia, the most serious and persistent challenge lies in the Government's sincere action to remove such cultural barriers to women's equality through transformative education on gender relations and equality in all sectors and groups in society, alongside effective delivery of legal provisions and mechanisms to ensure protection and access to justice for women.

Currently in Cambodia, women generally have less power to make spending, employment, and family decisions than men⁹. Cambodian culture demonstrates a confidence in men's abilities to handle family finances and decision making, while women are not perceived as fully competent in these areas¹⁰. Examples of domestic violence as a consequence of women overstepping the bounds of their stereotypical gender role are too common in Cambodia. One such interview revealed a case in Prey Veng province where a husband would consistently fail to provide for his family, and his wife would encourage him to work and take care of the family financially. Her husband believed that it was not her role to make decisions such as occupational selection for the family, and he resorted to domestic violence¹¹.

Article 16: Equality in Marriage and Family Law

Article 16 of CEDAW requires State Parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women. It requires that: (1) The same rights and responsibilities during marriage and at its dissolution; (2) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount; and (3) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

CEDAW Committee Comment (#34): The Committee urges the State party to widely disseminate information about the Marriage and Family Law and to address the cultural and traditional factors that perpetuate discrimination against women. The Committee urges the State party to raise the minimum age of marriage for women and men to 18 years, in line with article 16 of the Convention, the Committee's general recommendation 21 and the Convention on the Rights of the Child.

This article is particularly important for women's equal rights to land with respect to official registration of land tenure.

Land tenure has become an integral part of the economic reform process in Cambodia. Within the context that the issuance of private ownership titles will increase land tenure

⁹ "Politics in the Kingdom: Increasing Female Representation." 30. *Cambodian Center for Human Rights*. March 2013.

¹⁰ NGO CEDAW. Group Interview. June 7, 2013.

¹¹ NGO CEDAW. Personal Interview. June 12, 2013.

security and thereby promote efficient land markets in support of economic growth, the Royal Government of Cambodia (RGC) has initiated a series of legislative reforms, including a passage of *Land Law* in 2001. Following the adoption of the Land Law, the Ministry of Land Management, Urban Planning and Construction (MLUPC) launched a systematic land registration campaign and began implementation of the Land Management and Administration Project (LMAP). LMAP has delivered undisputed benefits, including the registering and titling of slightly over one million parcels of land. Other successes include institutional strengthening, enhancing the land policy and legal framework, and strengthening cadastral commissions.

The Government of Cambodia's policies on land included a **strategic protection of women's rights embodied in the Strategy of Land Policy Framework**, which states, *"It is recognized that for land policy to meet the needs of all Cambodian, it must be responsive to the needs of women. One main principle of such responsiveness is that land titling will continue to be available as joint ownership between husband and wife. Furthermore, the principle will be emphasized that women should be represented in the various commissions and committees, such as Cadastral Commission and in the Participatory Land Utilization and Planning (PLUP) procedures"*

It is well acknowledged that land registration and issuing land titles are very important for women. It is a critical resource that can make a difference on their ability to be self-reliant and claim their equal rights in decision-making in marital, family and livelihood matters. Joint land titling recognizes that land ownership is an equal right of both husband and wife. Land ownership can potentially bring a positive impact for women as it can strategically contribute to transformed balanced and equitable gender and power relations. In the event of separation, divorce, abandonment, multiple relationships or death of husband, land ownership under these circumstances can mean the difference between dependence on family support and the ability to form a viable, self-reliant, female-headed household.¹²

Women's lack of decision-making power in the family also means that their interests and rights to own land will not be respected and taken into account. Though Cambodian law officially states "all persons, individually or collectively, shall have the right to ownership"¹³, in practice women often do not have the ability to own land. Women can typically only own land with the approval of their husbands; even though following interviews with NGO CEDAW members, the overwhelming majority of women are perceived by society as capable of running businesses or managing money in any large capacity¹⁴.

One of the key efforts of the Government of Cambodia is to take into account gender issues and perspectives in land reform laws and policies is issuing land titles to both husband and wife, therefore legitimizing their equal ownership of the land with equal entitlements and rights. However, there are important issues on the implementation of these gender-responsive land policies. A number of cases revealed that due to many poor women's lack of education and access to information and understanding of the new land law, particularly the provisions on private and joint land ownership, many women especially from the rural areas did not register their properties or unwittingly registered them as joint properties with their husbands. In some cases, the women are sole owners of the property but registered it on the husband's

¹² Brown, Jennifer and Firliana Purwanti. "Registration of Land and Women's Land Rights on Java: Why so many married couples register marital property in the name of one spouse and what has been the impact on women's land rights. Rural Development Institute, 2002.

¹³ Constitution of Cambodia. Article 44.

¹⁴ NGO CEDAW. Personal Interview. June 10, 2013.

name or as joint property. This has led to confusions and conflict especially during separation and divorce, with women often finding themselves dispossessed, impoverished and significantly losing their negotiating position with men and authorities. Moreover, as in customs and traditions, many women believed that even when her name does not appear on the land title it can be still considered a joint property, though that may not be the case.

3. Recommendations

Following the analysis of the challenges of the compliance with CEDAW articles 14, 15, 16 in Cambodia, here is a list of recommendations which can be considered for more effective compliance with CEDAW in order to realize equality between men and women on the issue of access to land and related resources.

3.1. Recommendations on compliance with CEDAW Articles 14, 15 and 16

- More gender-disaggregated information needs to be collected at various levels of the state, particularly about livelihood systems, rights and responsibilities, and values and attitudes toward key resources. More analysis is also needed on how gender roles are changing in response to market forces, out-migration, and the growing numbers of women-headed households. Such information will enable various stakeholders to identify the gaps in the formulation and implementation of laws and policies, and to address the changing context.
- Decisions about land/resource management need to be equitable and transparent. Daily decisions, in particular, reveal the opportunities and constraints, incentives and disincentives that men and women face, both individually and collectively. Priorities and interests frequently differ, and to build real consensus, different perspectives must be discussed to determine realistic management plans. For this reason, representation by women in their communities and subsequently, high level decision-making is key in ensuring that decisions taken at the various levels of community and state are accountable to different groups, resulting in fair access and governance of natural resources.
- The current mechanism that was created (from the national to local level) has to be implemented actively to disseminate the CEDAW convention, general recommendations, and optional protocol to all people, in particular to women, so that they can lobby for and exercise their rights.
- All national laws (such as Land Law 2001), which can benefit women's access to land and related resources needs to be widely communicated, enforced and made understandable to the women at the local level. Local CSOs and community organizers can take active part in such dissemination, along with local government bodies.
- Safeguards for large-scale land acquisition; provision of free, prior, informed consent; and adequate and just compensation for acquired lands needs to be provided equally for both women and men.
- Training and support schemes need to be available for women who may be dispossessed of their land.

- Women self-help groups need to be created in all villages, with women given the opportunity to attend and speak up on all development activities in their communities
- Lastly, civil society organisations should work together to regularly assess the status of women's land rights and on that basis, develop recommendations to the government and other CSOs to ensure compliance with CEDAW.

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- Law on Family and Marriage (1989)
- Law on Monogamy (2006)
- Law on Prevention of Domestic Violence and Protection of Victims (2005)
- Law on Social Security Schemes for Persons Defined by Provisions of the Labour Law (2002)
- Law on Suppression of Human Trafficking and Sexual Exploitation (2008)
- Law on Suppression of Kidnapping, Trafficking/Sale and Exploitation of Human Persons (1996)
- Law on Tourism (2009)
- Penal Code (2009)
- Royal Decree No. 38 KRCH on Agreement and Liabilities (28 October 1998)
- Royal Decree No. NS/RKT/0201/036 on the Establishment of the Cambodian National Council
for Women (14 February 2001)
- Royal Decree No. NS/RKT/0796/52 on the 12-year General Education System (26 July 1996)
- Sub-Decree No. 115 ONKR-BK on the Transforming of Royal University of Agriculture into the
Public Administrative Institute (27 December 1999)
- Sub-Decree No. 102 RNKRBK on the Separated Fund Allocation for the Implementation of PAP of MoEYS (3 October 2002)
- Sub-Decree No. 22 ONKR/BK on Decentralization of Power, Roles and Duties to the

- Commune/Sangkat Councils (25 March 2002)

Annex 2 - Methodology

The project's methodology used the following interrelated strategies:

1. **Desk Review** of periodic official and shadow CEDAW reports of Cambodia, including UN CEDAW Committee Concluding Observations and Recommendations and the Government Report on Cambodia's responses, as well as reports and researches in light of progress, challenges and obstacles to compliance of Articles 14, 15 and 16 of the Convention, focusing especially on women's land rights (WLR).
2. **Consultation – Discussion meetings with key NGOs** responsible for the CEDAW Shadow Report for Cambodia and with other stakeholder NGOs such as ADHOC, Cambodia Legal Education Centre, Gender and Development / Cambodia, and Gender Works to:
 - (i) gain inputs on the parallel shadow report focusing on WLR
 - (ii) understand potential areas where STAR can strengthen WLR analysis in the main CEDAW report
 - (iii) lobby and mobilize support for strategic advocacy on WLR using the reporting and monitoring mechanisms of CEDAW
3. A series of **Consultation Meetings at Provincial Level** to gather inputs for STAR CEDAW report on WLR from relevant civil society organisations, provincial authorities and the media.

It was as Sub National consultative workshop that was done in Pursat province which the representative of the women provincial and district governors, and representatives of NGOs in the three provinces (BMC, Pursat and Svay Rieng) that had a total 34 Participants that included 28 women. These participants are:

- 3 women deputy provincial governors
- 3 women provincial councillors
- 6 women deputy district governors
- 6 women district councillors for women and children
- 10 women representative of CSOs in provinces
- 6 men representative of CSOs in provinces

The workshop was held on 5 August, 2013.

4. **Conduct community consultation and field visits** of strategically selected districts / communities that STAR works in: Romeas Hek and Chantrea Districts in Svay Rieng Province; Kandieng and Krarkor Districts in Pursat Province; and Malay and O'Chrov Districts in Banteay Meanchey Province. Case studies documenting and highlighting core issues in women land rights relevant to the CEDAW Shadow Report were carried out in selected communities. The results and findings of the community consultations and case studies including the initial draft of the Report were presented to the target communities to gather feedback.

No	Place	# Participants	Profile
1	Chantrea Pagoda	33 included	Citizens from Chantrea and Romeas Hek

		20 females	districts
2	Neak Kouch Pagoda	38 included 17females	37 citizens and 1 commune councilor focused person from Kandieng and Krakor districts
3	Ou Beychorn Pagoda	23 included 14 females	Citizens from Ou Beichorn and Malay districts

5. Consultation / Presentation Meetings at National Level to:

- (i) present and gather feedback on STAR Report on WLR including the case studies
- (ii) lobby the NGOs responsible for the CEDAW Report to include STAR's analyses on WLR issues

The consultation workshop was done on the 16 August, 2013 in Phnom Penh with the 33 participants that are CSOs representatives.

Consultative meeting in provinces



Sub National workshop in Pursat



National Workshop in Phnom Penh.



Annex 3 - Sample case studies from local communities

Case Study 1 (land dispute)

The community people and Pheaphimex Company, in Krakor District, Pursat

The case happened in the year 2012, at Kla Krapoeu and Anlong Thnot villages. The people living there depend on their farming products, as well some of them went to forest and pick up the leaf to sell in markets. The people suggested to government authorities to keep some part of forest as forest community. There was an order from the Prime Minister as guiding to the Pheaphimex Company who bought the Economic Land Concession (ELC) to keep 400 hectares of forest land for people in order to reserve for the community forestry. However, the local authorities in the area did not follow the order from that letter; they cut down the lands of the people. Among 29 families are included 9 families where women are head of households. So the people are not happy with this cut-down, they stand up to do the complaint letter to the province governor. The provincial governor is included in the committee to cut down the land of the people, so they did do the intervention against the people. They call the main activists in the group of the people who stand to complain for their land for threatening.

Again, the people made a complaint letter to the PM's Cabinet, but the people did not get any reply yet until now.

These lands were measured by the Youth Initiative of the PM. which is a youth group that was formed by the PM. They are volunteers for land measurement. This group has worked to measure land for the people and prepared the document for land titles. However, until now the people did not receive the land titles yet.

The information from the local authority is that they will work on this land conflict after elections in July 2013.

Case Study 2 (land dispute)

This case happened among 167 community families and a wealthy provincial official.

This case is going on since the year 2004, between a provincial officer and his group which abused the lands of the people of about 835ha.

This case occurred in a poor village in the O'chrouv district of Banteay Meanchey province. For this land the village people have land titles from the commune level from 1999.

In the year 2004, there was a new village created, it means to clean land for Economic Land Concession of around 2080 hectare. At that time there has one Oknha (a rich man) who took all land in the new village and he arranged the land as in part for sell. Each part of that land has a size 100m x500m for production.

The Oknha requested the villagers land in some parts for doing a road surrounding the village. The people did not deny, however he did not use the land for surrounding, but they took all land of the villagers. He said that he requested these lands from Prime Minister (PM) for the production. But the Prime Minister did not sign a paper yet.

Currently, the Oknha workers came to plant the fruit trees on that land too, and as well the villagers used this land for cassava and for mango trees. But the both sides can not plant because they always take out plants of the other side. This situation is happening till present.

Recently, there were youth group volunteers who were assigned by PM in order to help people in measuring the social and economic land, they did so without to confirm to the villagers. The villagers said this is hidden measure of the youth group.

In the case that youth volunteers did without inform to the villagers, it seems they have conflict with villagers. This is not transparency and accountability towards the villagers.

The piece of land that the Oknha took from the village is 835 hectares, these belong to the 167 poor villager families; including almost half are women head of households.

In solving the villagers problems, one lady raised her voice for to be the person to negotiate with Oknha. This resolution is not success, so the woman did a complaint letter to the Provincial Governor, it has no positive solution. Again she continued to submit a complaint letter to the National Authority for Land dispute and to the President of National Assembly, Samdach Heng Samrin.

For complaint letter to National Assembly President, the villagers received the letter back, dated June 18, 2013 that was signed by Samdach Heng Samrin. However till present nobody came to solve the conflict.

This land is still in conflict, the villagers planted cassava and mango trees, the Oknha workers came to clean these plants again.

Note:

Some villagers are more in debt from this conflict, they lost the land for farm production, they need money to give to local authorities for fuel in helping them to solve this conflict for taking back land in order to do the farm production. So they need to borrow the money from the micro finance institute. Currently they have no land and they have money loans, so they need to migrate to work in Thailand for saving the money to pay back to the microfinance.

Case Study 3 (Individual case in a village in Malay district, Banteay Meanchey Province)

One old woman, 65 years old, a widow whose husband died in the year 2011, her husband was disabled when he was a soldier.

This woman has no child, but she has the nephew and niece to stay with her. In year 1999, this woman cleared the forest land of around 2 hectares and she worked as rice farming for 7 years. However in year 2007, there is one soldier who took her land and said to her that this is the government land and it does not belong to her because she has no land title.

The old woman did not complain to anyone yet, because she did not know any land law and the other laws. The neighbors in the village knew that the land belongs to her.

The woman was invited by the STAR Kampuchea's community facilitator for the consultative meeting on CEDAW. She sits quiet and it was difficult to ask the question to her too. She is a woman seemingly with a bit trauma and afraid of whom has power. She joined the meeting with the community people because she wants to send her voice to complain to the government to help her to solve this problem for her.

In present, her nephew and niece are working in Thailand for income to support her, and she stays at home.